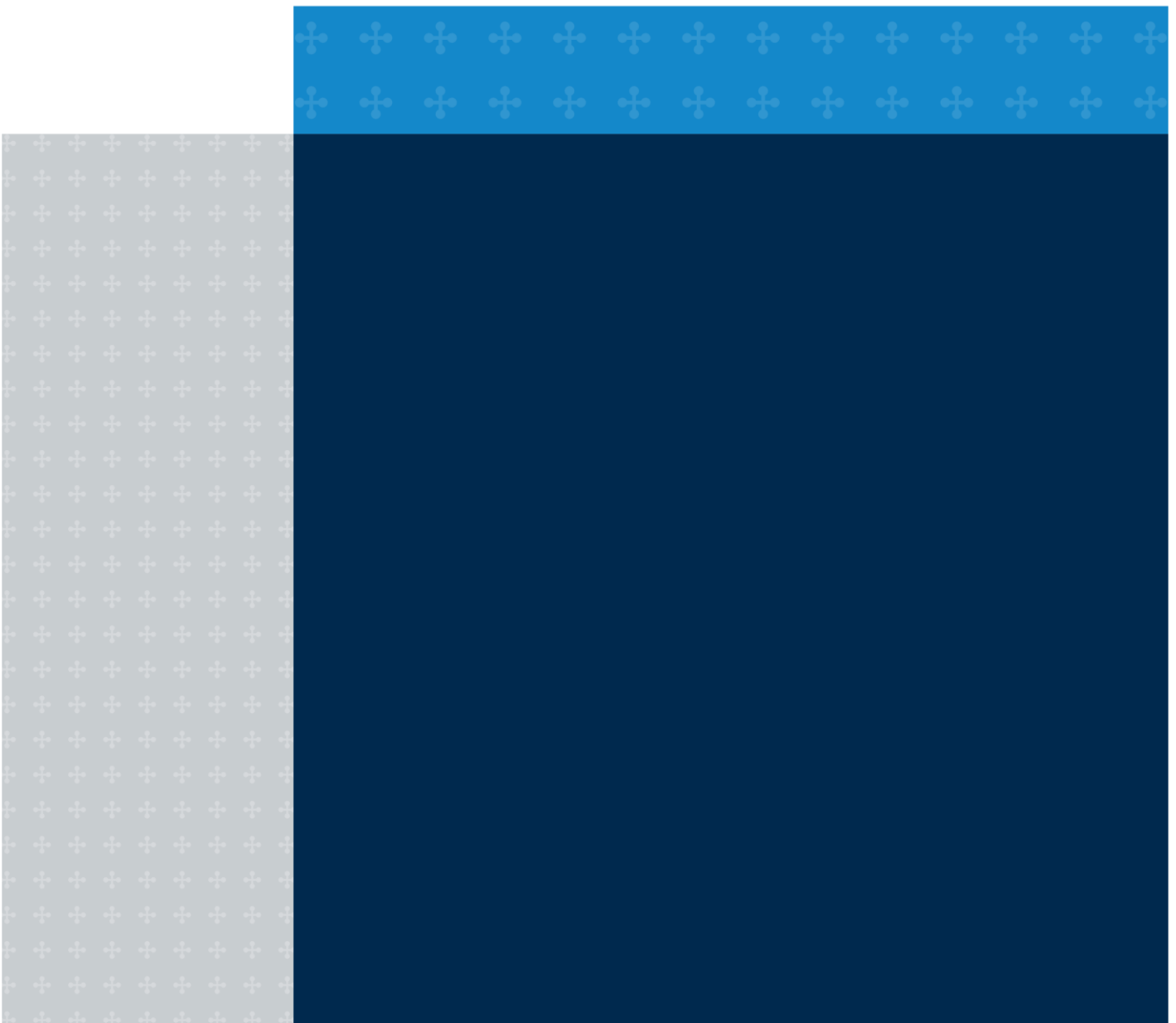




Policy Statement | PS9/21

# Operational continuity in resolution: Updates to the policy

May 2021





BANK OF ENGLAND  
PRUDENTIAL REGULATION  
AUTHORITY

Policy Statement | PS9/21

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## 1 Overview

1.1 This Prudential Regulation Authority (PRA) Policy Statement (PS) provides feedback to responses to Consultation Paper (CP) 20/20 'Operational continuity in resolution: Updates to the policy'.<sup>1</sup> It also contains the PRA's final policy, as follows:

- amendments to the Operational Continuity Part of the PRA Rulebook (the rules) (Appendix 1); and
- a new Supervisory Statement (SS) 4/21 'Ensuring operational continuity in resolution', which will supersede SS9/16 (Appendix 2).<sup>2</sup>

1.2 This PS is relevant to PRA-authorised UK banks, building societies, and PRA-designated UK investment firms currently in scope of, or likely to come into scope of, the rules (firms). The PRA is amending the definition of critical services as a result of CP20/20. For a firm to be in scope of the rules, it must receive critical services supporting critical functions, and must meet one of the three thresholds set out in Operational Continuity 1.1.<sup>3</sup> The rules apply to all firms that pose risks to financial stability, particularly those for which the Bank of England (Bank) has set bail-in or partial-transfer as their preferred resolution strategies.

### Background

1.3 In CP20/20, the PRA proposed to revise its operational continuity in resolution (OCIR) policy. The proposals were designed to improve firms' resolvability and support the Bank's approach as set out in Statement of Policy (SoP) 'The Bank of England's approach to assessing resolvability' (the RAF SoP).<sup>4</sup> The CP proposed:

- that firms should apply OCIR requirements and expectations to the operational arrangements that support the viability of the firm, and its key drivers of revenue and profit, in addition to those supporting its critical functions;
- that a firm's financial arrangements ensure the continuity of the critical and essential services it receives. The draft SS proposed expectations for how firms should go about meeting this requirement;
- that firms should undertake OCIR-specific scenario analysis and that intra-group service providers should maintain OCIR-specific minimum financial resources equivalent to 1/6th of the annual fixed overheads of critical and essential services (reduced from 50% of annual fixed overheads as in SS9/16);
- changes to the capabilities firms would need in order to continue while post-resolution restructuring is taking place; and
- to reduce the burden on firms, in light of the likely increase in the proportion of operational services for which operational continuity must be achieved. For example, the PRA proposed to introduce the concepts of 'excluded agreements' and 'excluded persons' into the rules, and to

<sup>1</sup> October 2020: <https://www.bankofengland.co.uk/prudential-regulation/publication/2020/operational-continuity-in-resolution>.

<sup>2</sup> SS9/16 'Ensuring operational continuity in resolution', July 2016: <https://www.bankofengland.co.uk/prudential-regulation/publication/2016/ensuring-operational-continuity-in-resolution-ss>.

<sup>3</sup> Critical services will be defined in the Operational Continuity Part of the PRA Rulebook (from 1 January 2023) as '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.'

<sup>4</sup> July 2019: <https://www.bankofengland.co.uk/paper/2019/the-boes-approach-to-assessing-resolvability>.

remove some requirements and expectations relating to intra-entity service provision models.

1.4 The Bank, as resolution authority, also published CP ‘Updates to the Bank of England’s approach to assessing resolvability’.<sup>5</sup> Respondents were invited to submit combined responses to the Bank’s consultation, CP20/20, and CP19/20 ‘Resolution assessments: Amendments to reporting and disclosure dates’.<sup>6</sup>

### Summary of responses

1.5 The PRA received eight responses to CP20/20. Respondents broadly recognised the rationale behind the proposal to expand the scope of those services that the PRA considers should be able to continue throughout resolution. Generally, the comments focused on the implementation timeline, the definition of the proposed new term ‘essential services’ in relation to other PRA policies, ownership of financial resources for intra-group critical or essential services, and application to groups. More detail covering all CP responses is set out under the relevant sections in Chapter 2.

### Changes to draft policy

1.6 Where the final rules differ from the draft in the CP in a way which is, in the opinion of the PRA, significant, the Financial Services and Markets Act 2000 (FSMA)<sup>7</sup> requires the PRA to publish:

- a) details of the difference together with a cost benefit analysis; and
- b) a statement setting out, in the PRA’s opinion, whether or not the impact of the final rule on mutuals is significantly different to: the impact that the draft rule would have had on mutuals; or the impact that the final rule will have on other PRA-authorised firms.

1.7 After considering responses to CP20/20, the PRA has amended the following aspects of the proposed policy:

- For the purposes of the rules, the term ‘critical services’ will refer to both critical functions and core business lines. The term ‘essential services’ will not be introduced.
- The PRA has made a consequential amendment to Operational Continuity 1.1 to ensure that the change in the definition does not change which firms are in scope of the rules. The Operational Continuity Part continues to apply to firms that perform a critical function.
- The PRA has made other minor corrections to the rules, such as a minor amendment to Operational Continuity 1.5 to define central counterparties with reference to the Glossary definition.
- Throughout the SS, references to essential services have been removed to reflect amendments to the definition of critical services in the rules.
- Paragraph 2.7 of the SS has been amended to clarify expectations relating to hosted firms’ identification of core business lines and broadly comparable outcomes.
- Paragraph 2.8 of the SS has been amended to clarify the purpose of the descriptions of service provision models;

<sup>5</sup> October 2020: <https://www.bankofengland.co.uk/paper/2020/updates-to-the-boes-approach-to-assessing-resolvability>.

<sup>6</sup> October 2020: <https://www.bankofengland.co.uk/prudential-regulation/publication/2020/resolution-assessments-reporting-and-disclosure-dates>.

<sup>7</sup> Section 138(5) of FSMA.

- Paragraphs 11.6 to 11.13 of the SS have been amended to replace the term ‘OCIR financial resources’ with the term ‘OCIR liquidity resources’ to clarify terminology relating to financial arrangements.
- Paragraph 11.8 of the SS has been amended to improve clarity regarding the calculation of annual fixed overheads.
- Paragraph 11.9 has been amended to clarify the intended outcome relating to OCIR liquidity resources.
- Paragraph 11.10 of the SS has been added to clarify expectations relating to ownership of intra-group liquidity resources.
- Paragraph 11.12 of the SS has been amended to clarify the type of assets that can be used as OCIR liquidity resources;
- Paragraph 11.13 of the SS has been amended to clarify expectations relating to ring-fenced bodies.
- Paragraph 12.2 of the SS has been amended to clarify expectations relating to management and governance; and
- The PRA has made other minor amendments throughout the SS to improve readability, increase overall clarity, and bring it into line with the current format for these documents.

1.8 The PRA considers that these changes will not have a material impact on the firms in scope, and will not have a differential impact on mutuals compared to other firms. As a result, the cost benefit analysis has not been updated in respect of these changes.

### **Implementation**

1.9 The amended Operational Continuity Part will be effective from Sunday 1 January 2023.

1.10 SS4/21 will be effective from Sunday 1 January 2023. Until then, SS9/16 will remain in place.

1.11 The proposals set out in this PS have 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>8</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>8</sup> For further information, please see: <https://www.bankofengland.co.uk/eu-withdrawal/transitioning-to-post-exit-rules-and-standards>.

## 2 Introduction to feedback to responses

2.1 Before making any proposed rules, the PRA is required by 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>9</sup>

2.2 The PRA has considered the responses received to the CP. The following chapters set out the PRA's feedback to those responses, and its final decisions.

2.3 The responses are grouped according to the chapters in the CP, with an additional chapter on the implementation timeline. The responses have been grouped as follows:

- approach to implementation;
- continuity of critical functions and core business lines, including the approach to hosted firms;
- contractual arrangements;
- financial arrangements;
- proposals to support post-resolution restructuring;
- management and governance arrangements; and
- other responses.

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<sup>9</sup> Sections 138J(3) and 138J(4) of FSMA.

### 3 Approach to implementation

3.1 CP20/20 proposed that any changes to OCIR would take effect from Saturday 1 January 2022, following publication of the final OCIR policy in H1 2021.

3.2 Five respondents commented that the proposed implementation timelines were too short. Respondents suggested that the expansion of services in scope of OCIR would take longer to implement than six months. In particular, respondents cited the significant resource needed to renegotiate the existing contracts that would be brought into scope. One respondent highlighted that it will be challenging to comply with the revised identification and documentation requirements and expectations (referred to as 'mapping') in particular, given the scale of documentation needed to satisfy the requirements. Another respondent stated that the proposed timescales for implementation of revised OCIR policy would not be practical because the work would not be incremental and is likely to be of the same scale as required for implementation of existing OCIR policy.

3.3 Respondents also highlighted resource constraints due to the impact of Covid-19 and the implementation of other PRA/Bank policies. They requested that the timelines align with those of the PRA's operational resilience policy so that the policies could be implemented simultaneously. PS6/21 'Operational Resilience: Impact tolerances for important business services' confirmed that the new Operational Resilience Parts of the PRA Rulebook will come into force on Thursday 31 March 2022.<sup>10</sup>

3.4 The PRA has considered the responses and has decided to delay implementation of revised OCIR policy by 12 months. The revised rules will be effective from Sunday 1 January 2023, at which point the expectations in SS4/21 will also apply. The PRA has taken this decision in recognition of the operational burden that Covid-19 has caused for firms, and to allow firms to implement revised OCIR policy, operational resilience policy, and outsourcing policy concurrently.<sup>11</sup> The PRA notes that the Bank has extended the deadline for 'mid-tier banks' to implement the RAF SoP, and to achieve the three resolvability outcomes set out within that SoP, from Saturday 1 January 2022 to Sunday 1 January 2023.<sup>12</sup>

3.5 It is possible that some firms have documented their OCIR service mapping using systems that cannot be easily scaled. However, the PRA considers that in most cases firms will be able to build on existing systems and processes, as these tools should be able to adapt and grow over time.

3.6 Two respondents suggested that only new and renegotiated contracts should have to be remediated in line with Operational Continuity 3.2, to reduce the immediate burden on firms. The PRA considers that the delay in implementation to Sunday 1 January 2023 provides firms with additional time to identify and remediate contracts related to services supporting their core business lines. The PRA acknowledges that, in exceptional cases, it may not be possible for firms to remediate a specific contract before Sunday 1 January 2023. In such cases, firms should alert their supervisors well in advance of that date to discuss mitigation and an appropriate plan for remediation.

3.7 Firms that are ring-fenced bodies (RFBs) are reminded that Rule 9.2 of the Ring-Fenced Bodies Part of the PRA Rulebook still applies, notwithstanding the Sunday 1 January 2023 OCIR

<sup>10</sup> March 2021: <https://www.bankofengland.co.uk/prudential-regulation/publication/2018/building-the-uk-financial-sectors-operational-resilience-discussion-paper>.

<sup>11</sup> PS7/21 'Outsourcing and third party risk management', March 2021: <https://www.bankofengland.co.uk/prudential-regulation/publication/2019/outsourcing-and-third-party-risk-management>.

<sup>12</sup> <https://www.bankofengland.co.uk/news/2020/december/boe-statement-on-mrel-and-resolvability-deadlines>.



implementation date, or the exclusion of 'excluded agreements' from Operational Continuity 3.2. Ring-Fenced Bodies 9.2 requires an RFB to ensure that its contracts for services that support core deposit taking must not permit those services to be terminated as a result of the acts or omissions of other members of the RFB's group. An RFB therefore may need to remediate a contract that supports core deposit taking, even if it is an 'excluded agreement' for OCIR purposes.

3.8 Firms are reminded that the current Operational Continuity Part and SS9/16 will remain in place until Sunday 1 January 2023. As such, firms will continue to be responsible for ensuring that they continue to meet existing OCIR policy, even as they commence their implementation of the revised policy.

## 4 Continuity of critical functions and core business lines

### Services in scope of OCIR

4.1 The consultation proposed to extend the OCIR policy to provide for the continuity of core business lines as well as critical functions during recovery, resolution and related restructuring.

4.2 Respondents broadly recognised the rationale behind the broader suite of services needed to continue in resolution, but some highlighted practical concerns with identifying and documenting these services. Some respondents commented that the expansion to include essential services may mean mapping almost every activity a firm undertakes, and that this may result in a broader scope of services than necessary. Respondents queried whether this was the PRA's intent. The PRA confirms that it is not its intent that a firm applies OCIR to every service it undertakes. The final rules define critical services as those services the failure of which would lead to the collapse of, or present a serious impediment to, the performance of a firm's critical functions or core business lines. Examples of services that might not lead to the collapse of, or present a serious impediment to, the performance of a firm's critical functions or core business lines could include services relating to marketing or events.

4.3 One respondent requested clarification on the definition of a 'serious impediment' in relation to a firm's core business lines. It is not possible for the PRA to generalise the factors that might cause a serious impediment to the performance of a firm's core business lines, which will vary across firms. For this reason, the interpretation of 'serious impediment' through which firms identify their critical services will depend on the circumstances of the firm. This is also why the PRA has not previously specified a process for identifying or assessing critical services supporting a firm's critical functions. The PRA has decided against providing further guidance regarding the term 'serious impediment' in relation to a firm's core business lines. However, the PRA considers that firms should be able to leverage their existing critical services assessment approach for its critical functions to its core business lines.

### Terminology

4.4 The PRA proposed to introduce a new defined term into the rules, 'essential services', and to expand the application of requirements and expectations to the essential services supporting a firm's core business lines, in addition to critical services supporting its critical functions.<sup>13</sup>

4.5 Respondents expressed concern over similar terminology across the PRA's OCIR, operational resilience, and outsourcing policies, highlighting potential confusion and additional resourcing impact caused by requirements to classify services under different taxonomies used across the policies. Some respondents requested a rationalisation of terms across policies. Other respondents suggested that OCIR be extended to important business services, instead of essential services supporting core business lines. One respondent suggested that, if rationalisation of terms is not possible, the PRA provide a detailed example setting out the relationship between concepts.

4.6 One respondent requested clarification on whether an essential service can also be an important business service. One respondent suggested the PRA adopt a single overarching concept to cover all services needed to support critical functions and core business lines. Another respondent requested that the PRA provide an example of a service that is both a critical service and an essential service.

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<sup>13</sup> The PRA proposed to define the term 'essential services' as those services which, if they were to fail, would lead to the collapse of, or present a serious impediment to, the performance of the firm's core business lines.

4.7 One respondent suggested that the PRA should work to develop an internationally-agreed taxonomy of terms that describe and categorise the financial services that firms provide. The PRA notes that the Financial Stability Board (FSB) has published guidance on OCIR that provides an international basis for developing OCIR policies.<sup>14</sup> While there may be some differences among jurisdictions, there are also examples of consistency between approaches. For example, the Single Resolution Board's 'Operational Guidance on Operational Continuity in Resolution' also includes within the scope of OCIR the services that support core business lines.<sup>15</sup> In addition, the PRA and Bank participate in forums that support cooperation between authorities, such as Crisis Management Groups (CMGs), and also engage bilaterally with relevant international authorities, including on firms' implementation of resolution policies. These forums can help with the resolution of firm-specific issues that arise in the context of OCIR implementation.

4.8 Having considered the feedback received, the PRA has decided not to introduce the specific term 'essential services'. The PRA has amended the definition of 'critical services' in the Operational Continuity Part to include reference to the services supporting core business lines in addition to its critical functions. This avoids the creation of a new defined term and therefore simplifies revised policy, while maintaining the outcome that the services supporting a firm's core business lines continue during resolution and restructuring. The PRA does not consider that this amendment changes the substance of the CP proposal or the services that are within scope of the revised rules. This is because the CP proposed to apply OCIR requirements and expectations to a firm's critical and essential services in the same manner. The amended definition of critical services will not come into force until Sunday 1 January 2023. SS4/21 has been amended to remove references to the term 'essential services.' References to 'essential services' in this PS are retained only when referring to CP proposals.

4.9 The term important business services is defined in Rule 4.1 of the Operational Resilience Part of the PRA Rulebook, which has an effective date of 31 March 2022. The PRA has set out related expectations in SS1/21. The PRA provided further explanation of the interaction between critical functions, critical services, and important business services in PS6/21. Compared to a firm's critical services, a firm's important business services will likely be a relatively shorter list of external-facing services for which the firm needs to build high levels of operational resilience (redundancy and back-up plans) in anticipation of operational disruption. The PRA considers the term important business services is therefore too narrow to ensure continuity of the firm during resolution, and therefore it would not be appropriate to use the term important business services to determine the services in scope of OCIR.

4.10 PS6/21 set out an example of the interaction between critical functions, critical services, and important business services. The final OCIR policy in Operational Continuity 1.5 and in SS4/21 requires firms to include core business lines in their identification of critical services. Figure 1 below updates the example from PS6/21 to include core business lines.

4.11 The example below sets out one way the concepts of critical functions, core business lines, critical services, and important business services might apply within a firm. OCIR policy does not provide a list of critical services or core business lines, nor does it prescribe at what level they need to be identified. Critical functions and core business lines may vary from firm to firm and in some cases, a firm might identify its critical services at a different level of granularity.

4.12 In this example, 'retail current accounts' is deemed to be a function the firm performs that is critical to the UK economy or UK financial stability, and so is identified as a critical function. The

<sup>14</sup> <https://www.fsb.org/2016/08/guidance-on-arrangements-to-support-operational-continuity-in-resolution/>.

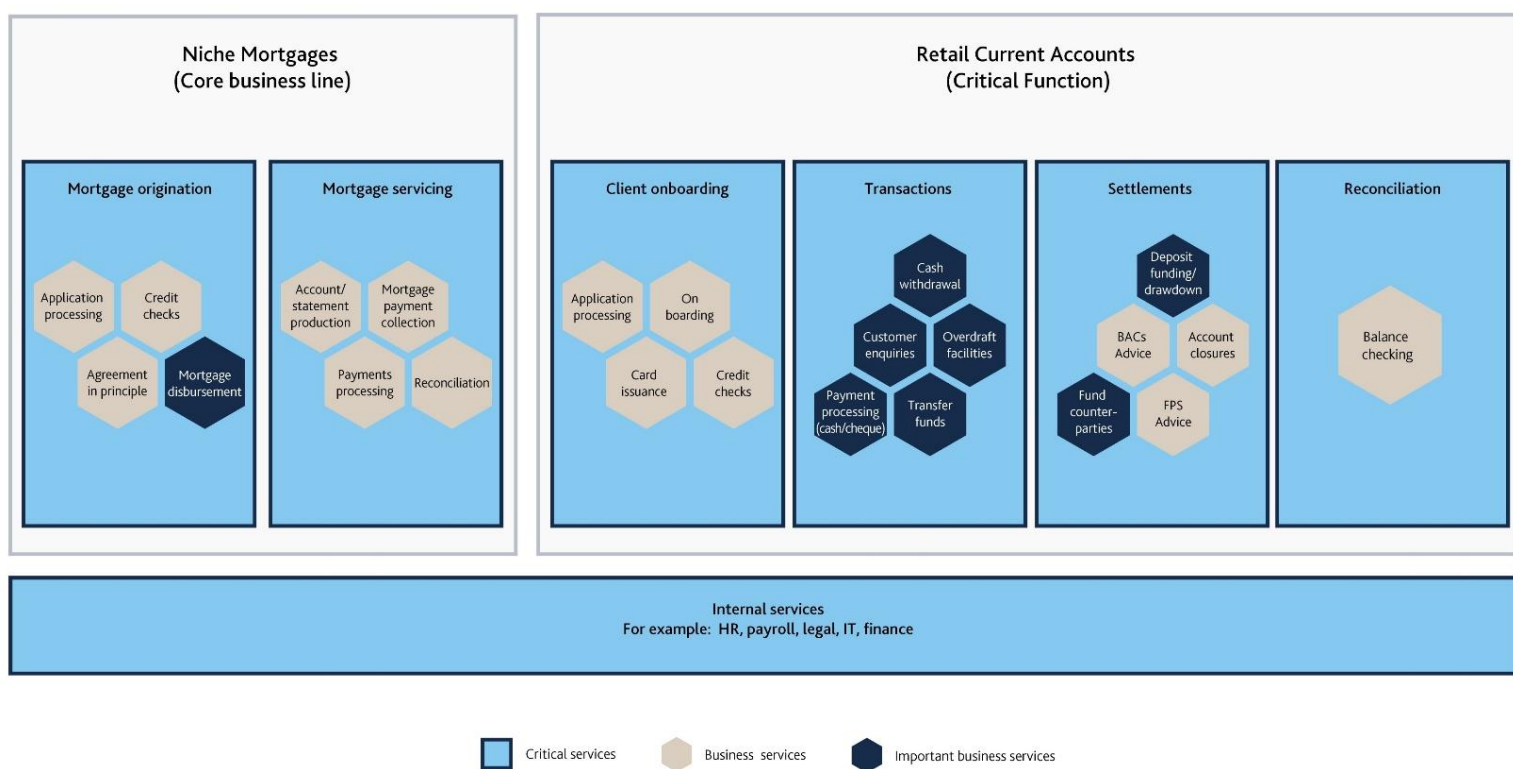
<sup>15</sup> [https://srb.europa.eu/sites/default/files/srb\\_operational\\_guidance\\_for\\_operational\\_continuity\\_in\\_resolution.pdf](https://srb.europa.eu/sites/default/files/srb_operational_guidance_for_operational_continuity_in_resolution.pdf).

firm's niche mortgage business line is considered to be a 'core business line' because it generates a material contribution to the firm's profit and franchise value.<sup>16</sup> This firm has chosen to identify critical services at the level of 'Client onboarding', 'Transactions', 'Settlement', 'Reconciliation', 'Mortgage Origination' and 'Mortgage Servicing'.

4.13 In this example, all services for which failure would lead to the collapse of, or present a serious impediment to, the performance of the critical function or the core business line are in scope of OCIR.

4.14 In many cases, a firm's important business services will be more granular than a firm's critical functions (where it has them). In contrast to OCIR, these services will always be delivered to external end users and are identified according to which would have the greatest impact on financial stability, safety and soundness, or policyholder protection in the event of an operational disruption. The services the firm has identified as important business services are set out in the example in Figure 1 below.

**Figure 1: Critical functions, critical services and important business services**



### Hosted firms and group application

4.15 In the CP, the PRA proposed rules and an SS that would apply equally to all OCIR firms, regardless of whether the Bank of England is a firm's home ('home firms') or host ('hosted firm') resolution authority. The CP proposed that firms could meet the proposed requirements and expectations in varying ways. In particular, the CP proposed that hosted firms should identify their essential services in relation to the core business lines of their wider group, and that a hosted firm

<sup>16</sup> Examples of niche mortgage business lines could include personal equity plan or PEP, self-build, buy-to-let, or sub-prime mortgages.

may be able to meet some of the detailed expectations in the draft SS by relying on its group-wide capabilities.

4.16 Respondents welcomed the flexibility for hosted firms to use group-wide capabilities to meet some of the detailed expectations in the draft SS, as long as they provide for broadly comparable outcomes. One respondent observed that the approach was in line with the FSB's approach.

4.17 Two respondents asked for confirmation that, for hosted firms, essential services should be identified in relation to group core business lines that are relevant to the UK hosted firm, rather than for all group core business lines. One respondent suggested that OCIR should not apply to entities outside of the UK resolution group, in line with the approach under the RAF. One respondent suggested that the proposed definitions should refer to a UK resolution group. It would then follow that the definition of a core business line should be clarified as being core to the UK resolution group.

4.18 Having considered the responses, the PRA has clarified that, when identifying its core business lines, a firm should consider the business lines of the wider group of which it is a part. The PRA's intended outcome is that the firm can continue in resolution, thereby supporting the continuity of the group it is a part of, as well as the effective execution of the group resolution strategy. The identification of core business lines, and consequently critical services, needs to be robust and comprehensive to achieve this outcome. The PRA has clarified in paragraph 2.7 of the SS how this may vary for home firms and hosted firms, including firms with both single and multiple point of entry preferred resolution strategies. In finalising its policy the PRA has recognised that some firms have already identified core business lines, and has taken a proportionate approach in the SS to reflect this. For example, hosted firms that have already identified business lines that are core to the firm may use these for OCIR purposes.

### *Group-wide capabilities*

4.19 Some respondents requested that hosted firms should be able to rely on group-wide capabilities to fulfil all the expectations in the draft SS rather than the more limited list of expectations provided in paragraph 2.6 of the draft SS.

4.20 The PRA is maintaining the approach set out in the CP that a hosted firm may be able to meet some of the detailed expectations in the SS by relying on its group-wide capabilities. The PRA has maintained the approach in the CP, including the list of detailed expectations in the SS, because it considers these relate to capabilities that are more likely to be able to be achieved through group-wide capabilities that achieve 'broadly comparable' outcomes. Some detailed expectations in the SS relate specifically to a firm, and therefore the PRA considers it less likely that a firm would be able to rely on group-wide capabilities. For example, the expectations in Chapter 6 of the SS relate specifically to an agreement or contract between the firm and another entity. Notwithstanding this, the PRA encourages firms to take an approach to meeting the expectations in the SS that takes account of, and where appropriate is integrated with, capabilities elsewhere in a group. For example, the PRA does not expect a hosted firm to maintain an entirely separate service catalogue for the UK entity where this is incorporated in a group wide service catalogue.

### **Service provision models**

4.21 In the CP, the PRA acknowledged the different risks posed by different service provision models, and proposed to vary the application of some of the OCIR rules and expectations according to the service provision model.

4.22 One respondent expressed support for the proportionate application of certain policy elements according to service provision model. In particular, the respondent welcomed the clarification proposed in the CP to remove the requirement for charging structures related to intra-entity services to be set on arm's-length terms. One respondent requested further clarity on whether intra-entity expectations only apply to those expectations articulated in Chapter 2 of the draft SS, or whether they apply to the draft SS as a whole. The PRA clarifies that the requirements and expectations in the rules and SS will apply to intra-entity service provision models, except where specified otherwise. Specifically, the PRA confirms that it has maintained the proposal in the CP to remove the requirement that intra-entity service provision models include arm's-length charging structures. The expectation in SS9/16 that firms hold a minimum amount of OCIR liquidity resources for intra-entity service provision has been removed (please refer to paragraphs 6.21 to 6.36 in this PS for further details on the OCIR liquidity resources expectation).

4.23 One respondent commented that applying OCIR to intra-entity services would be challenging because these services do not cross entities or jurisdictions, and suggested further exemptions for intra-entity service provision models, for example objective Service Level Agreements (SLAs). Having considered this response, the PRA has decided to maintain its approach, including the expectation in paragraph 8.2 of the SS that firms maintain objective documentation for all models of service provision, including intra-entity service provision. This is because objective documentation helps firms to identify operational interdependencies, may guide restructuring efforts, and provides a basis for transitional service arrangements (TSAs).

4.24 One respondent expressed concern that the simplicity of their business model was not recognised in the policy. The PRA considers that the approach set out in the consultation takes account of the differences between arrangements that occur within individual legal entities ('intra-entity'), within a group ('intra-group'), or with third parties ('non-group provider'), based on the risks that each poses to operational continuity in resolution. In this way, the PRA's proposals are intended to be proportionate, reflecting the PRA's judgement of the different risks posed by the different service provision models. For this reason, the PRA has decided not to amend the proposal as consulted on. Where there are firm-specific issues, the PRA expects firms to discuss these with their supervisors.

4.25 The PRA has made minor amendments to paragraph 2.8 of the SS. The purpose of these amendments is to clarify that the descriptions of service provision models in the SS allows for variation in the application of some of the OCIR rules and expectations according to the service provision model.

### **Identifying and documenting critical and essential services**

4.26 In the CP, the PRA proposed to introduce a new rule requiring a firm to identify and document its critical and essential services, building on the existing expectation that firms undertake comprehensive mapping of critical services and critical functions. To support implementation of this rule, the PRA also proposed expectations in relation to mapping. These included the proposed expectation that firms should consider how mapping tools and capabilities developed as a result of CP20/20, and the proposals in CP29/19 'Operational resilience: Impact tolerances for important business services' and CP30/19 'Outsourcing and third party risk management', could be used to meet the proposed OCIR identification and documentation requirements as well as other PRA policies.

4.27 One respondent requested the PRA further specify the rationale behind the proposal for firms to map their core business lines and supporting services, and asked whether the intent was to achieve 'continuity of core business lines or to support restructuring.' The PRA clarifies that the

intended outcome is continuity of a firm's critical functions and core business lines, whether that is during the stabilisation or restructuring phases of resolution.<sup>17</sup>

4.28 Two respondents expressed concern over adding too much new content and terminology into service catalogues, which could render them unusable. One respondent commented that including 'relevant policies, processes and procedures' would have the effect of expanding the scope of OCIR policy and requested that the PRA not be prescriptive about what should be included in a firm's service catalogue. Another respondent suggested that some elements could be available 'on demand' rather than as part of the service catalogue.

4.29 The information contained in a firm's service catalogue may be used to identify potential risks, to develop a firm's reorganisation plan, and to support timely divestments of entities or business lines. The PRA considers that it is reasonable to expect firms, at a minimum, to document the information in paragraph 4.2 of the SS in order to support a successful resolution.

4.30 Mapping is not a data collection exercise for the PRA, and it is for a firm to determine the most appropriate format to enable timely access to the information contained in a service catalogue. The PRA considers the list in paragraph 4.2 of the SS to be a minimum expectation. The PRA has not prescribed the format of a firm's identification and documentation system and, as a result, firms have the flexibility to develop a format that ensures the information remains useable and available at the point of need.

4.31 Respondents sought clarity over whether services already mapped would have to be reclassified as either 'essential services' or 'critical services'. The 'terminology of services in scope of OCIR' section above sets out the PRA's decision not to introduce the specific term 'essential services' in the rules. The PRA is not requiring firms to reclassify services where they have already mapped the services supporting core business lines. Firms should understand which legal entities, business lines, or divisions perform critical functions or are core business lines, and which services need to continue during resolution and post-resolution restructuring.

4.32 One respondent requested that firms have flexibility in determining how much to leverage OCIR capabilities for operational resilience. The PRA emphasises that firms have flexibility to determine the extent to which they leverage their OCIR capabilities to meet operational resilience policy. In setting this expectation in paragraph 4.5 of the SS, the PRA seeks to ensure that firms are not expected to unnecessarily duplicate capabilities.

4.33 One respondent requested clarification on, in their view, the significant overlap of the mapping of 'operational assets' and 'data' for OCIR, and mapping of 'resources' and 'information' for operational resilience. The PRA acknowledges that both operational resilience and OCIR mapping relates to operational assets, but considers that operational resilience and OCIR policies serve different purposes and, as such, the requirements and expectations for each policy are different. The PRA encourages firms to follow an efficient approach in meeting the needs of both policies. The PRA considers that mapping done to meet the requirements of one policy can be leveraged where appropriate to meet those of the other, and would encourage firms to avoid duplicative work.

4.34 One respondent requested that the PRA clarify that the terms 'chain of activities' and 'organisational structures' are not defined terms that need to be mapped as part of OCIR. The PRA confirms that 'chain of activities' is an explanatory term used in operational resilience policy to

<sup>17</sup> For a stylised timeline of how the bank anticipates a resolution may be conducted see 'Annex 1: A Stylised Resolution Timeline' in the Bank's RAF SoP, available at: <https://www.bankofengland.co.uk/financial-stability/resolution/resolvability-assessment-framework/resolvability-assessment-framework-policy-documents>.

describe the outcome of operational resilience mapping. It is not a defined term in OCIR policy. The PRA has made no changes to the policy as consulted on following this response.



## 5 Contractual arrangements

5.1 The CP explained the importance of a firm's contractual arrangements for services in scope of OCIR in supporting recovery, resolution and related restructuring. To reduce the burden on firms caused by the proposal to expand the resolution-resilient contract requirements to a firm's essential services, the PRA proposed:

- introducing the concept of 'excluded agreement': Operational Continuity 3.2 would not apply to contracts that are governed by the laws of any part of the UK, where the parties are also incorporated in the UK and are part of the same resolution group; and
- introducing a new, separate definition of an 'excluded person': contracts that firms enter into with certain financial market infrastructures (FMIs) would be excluded from the requirements in Operational Continuity 3.2.

### Resolution-resilient contracts

5.2 Respondents broadly welcomed the addition of 'excluded agreement' and 'excluded person'. Some respondents requested clarification over whether an 'excluded agreement' needs to meet one or all three of the criteria in draft Operational Continuity 1.5 to be eligible. In addition, two respondents questioned whether the 'same resolution group' includes third countries with OCIR regulations.

5.3 The PRA confirms that an 'excluded agreement' needs to meet all three of the conditions in Operational Continuity 1.5 to be eligible. To be an 'excluded agreement', a contract must be:

- governed by the laws of any part of the United Kingdom;
- between parties that are incorporated in, or formed under the law of any part of, the United Kingdom; and
- between parties that belong to the same resolution group.

5.4 Contracts with entities in third countries where similar OCIR regulations are in place would not be 'excluded agreements' because not all parties would be incorporated in the United Kingdom.

5.5 Respondents commented that the introduction of 'excluded agreement' would have a limited impact, as they anticipate that the majority of contracts requiring remediation will be with non-group providers. The PRA acknowledges that the definition of excluded agreement is limited to agreements meeting certain conditions. The definition has been informed by the PRA's consideration of the circumstances where the Bank, as resolution authority, would have the most certainty that section 48Z could appropriately be relied on when executing a resolution, namely where contracts are governed by the laws of any part of the UK, where the parties are also incorporated in the UK and are part of the same resolution group. For this reason, the PRA considers that it would not be appropriate to extend the definition of excluded agreements beyond the scope set out in the draft Operational Continuity 1.5. The PRA has therefore published the policy as consulted on.

5.6 Two respondents proposed that FMIs should be excluded from OCIR entirely. One respondent stated that they do not consider FMIs to be an operational service. Another suggested that the Bank's SoP 'Continuity of Access to Financial Market Infrastructures' should be sufficient. The PRA notes that the definition of 'critical service' in the rules does not differentiate between types of

critical services, whether financial, operational, or provided by FMIs. It is therefore possible that a service a firm receives from an FMI could be considered a critical service and in scope of OCIR. However, a firm would not need to make its contracts with FMIs resolution-resilient if they meet the definition of 'excluded person' in Operational Continuity 1.5.

5.7 The PRA also clarifies that the 'excluded person' definition in Operational Continuity 1.5, which exempts contracts with certain FMIs from the requirements of Operational Continuity 3.2, is intended to capture only critical services received directly from an FMI.

## 6 Financial arrangements

6.1 In the CP, the PRA proposed to introduce a requirement that firms' financial arrangements facilitate operational continuity. The PRA explained that this should be achieved through firms' ability to meet payments to service providers, as well as by ensuring the financial resilience of service providers.

6.2 The PRA also proposed two specific expectations intended to support the requirement in Operational Continuity 2.3:

- a specific expectation that firms monitor risks and maintain early warning indicators, as well as undertake scenario analysis, so they understand risks to the financial resilience of their critical and essential service providers; and
- a specific expectation that intra-group service providers maintain resources of a minimum of 1/6th of the annual fixed overheads of critical and essential services provision for use in resolution.

### Overview and terminology

6.3 One respondent requested further clarification on the meaning of 'financial arrangements' compared to 'financial resilience' or 'financial resources', and another respondent requested further detail on the meaning of 'internal frictions'.

6.4 Operational Continuity 2.3 will require firms to ensure their financial arrangements support continuity during resolution and restructuring. To meet this requirement, firms will be expected to ensure that they can meet payment obligations to service providers, and to ensure that their intra-group critical service providers remain financially resilient. As set out in paragraph 11.1(b) of the SS, financial resilience is generally achieved by intra-group critical service providers being able to absorb losses and having adequate liquidity.

6.5 The PRA has clarified the use of, and provided further explanation regarding the meaning and interaction of, these concepts below. The PRA has also decided to amend paragraphs 11.6 to 11.13 of the SS to replace the term 'OCIR financial resources' with the term 'OCIR liquidity resources'.

### *Financial arrangements*

6.6 The term 'financial arrangements' in OCIR is broader than 'financial resilience' because it covers not only the ability of firms to pay their service providers, but also the financial resilience of intra-group critical service providers. The PRA has made amendments to paragraph 11.1(b) of the SS to provide further clarity on the financial resilience risk to service providers (see the 'Risk identification, monitoring and mitigation' section below).

6.7 In addition, the PRA will expect firms to identify key risks to their ability to meet payment obligations to their critical service providers, and to the financial resilience of their intra-group critical service providers, on a forward-looking basis and, wherever possible, to take remedial action to address the risks they have identified.

### *Risk identification and monitoring*

6.8 As set out above, firms' identification and monitoring of risks to operational continuity should be supported by scenario analysis and the use of early warning indicators, to understand risks to the continuity of critical service provision.

6.9 The PRA considers that the identification of risks includes the risk of internal frictions that may arise in resolution, whereby resources that are available within the firm's group cannot be accessed by a critical service provider in a sufficiently timely manner. These may arise due to issues such as complex or outdated processes, procedures, or systems.

6.10 The PRA has updated paragraph 11.2 of the SS to provide a non-exhaustive list of 'internal frictions'.

### *Liquidity resources*

6.11 In the CP, the PRA proposed that firms should ensure that their intra-group critical or essential service providers maintain, at a minimum, resources equal to 1/6<sup>th</sup> of the annual fixed overheads of the critical and essential services they provide to the firm. Where the minimum amount of resources is insufficient to mitigate risks to fulfilling the requirement in Operational Continuity 2.3, the PRA proposed that firms should ensure that intra-group service providers have access to additional resources to cover these risks.

6.12 The PRA has amended paragraphs 11.6 to 11.13 of the SS to clarify that resources are in place for the purposes of the intra-group critical service providers having adequate liquidity. The SS now refers to a firm's OCIR liquidity resources.

## **Financial arrangements to support continuity during resolution and restructuring**

### *Risk identification, monitoring, and mitigation*

6.13 Respondents suggested that the proposed expectation to support risk identification through the use of scenario analysis could be achieved through the adaption of recovery planning or Internal Liquidity Adequacy Assessment Process (ILAAP) scenarios. Respondents requested further detail on the scenarios that the PRA considers relevant.

6.14 Respondents commented that being expected to monitor and maintain early warning indicators of risks related to the financial resilience of their critical and essential service providers in resolution would duplicate recovery planning expectations. Other respondents requested confirmation that adapted recovery plan indicators would meet the PRA's expectations.

6.15 The intent of the new OCIR expectations on scenarios and early warning indicators is to ensure that firms identify and monitor the financial risks outlined in paragraph 11.2 of the SS that could lead to disruption to their critical service providers. The PRA considers that these expectations are distinct from other policies, as OCIR focuses on the ability of firms to meet payments to critical service providers, and on financial resilience risks that could impact the ability of critical service providers to ensure operational continuity, the causes of which could be either financial or non-financial.

6.16 The PRA anticipates that firms may be able to leverage existing capabilities to fulfil the intended outcome of these expectations, including (but not limited to) capabilities developed to fulfil the PRA's Recovery Planning and ILAAP expectations, and the Bank's Funding in Resolution Statement of Policy ('FiR SoP').<sup>18</sup> Where firms can demonstrate that the intended outcome has already been met, the PRA does not expect firms to duplicate existing work. For example, where a firm's recovery planning scenario analysis covers critical service providers, a firm may be able to demonstrate that, through their recovery planning scenarios, they meet the expectations outlined in paragraph 11.3 of the SS, for the relevant service provider. Further detail has been added to the SS

<sup>18</sup> July 2019: <https://www.bankofengland.co.uk/financial-stability/resolution/resolvability-assessment-framework/resolvability-assessment-framework-policy-documents>.

in a new paragraph 11.5 to provide examples of how firms may be able to leverage existing capabilities to fulfil the intended outcome of these expectations.

6.17 The PRA has updated paragraph 11.3 of the SS to provide non-exhaustive examples of the types of scenarios that a firm may consider. Consequent changes have been made to paragraph 11.1(b) of the SS to provide clarity to the PRA's expectations concerning the financial resilience risks to fulfilling the requirement in Operational Continuity 2.3.

6.18 Additionally, the PRA notes that the frequency of OCIR scenario analysis differs from analyses expected under other policies. The SS states that firms are expected to 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.

6.19 One respondent requested confirmation that internal frictions can be mitigated through means other than holding liquidity. One respondent suggested that the PRA consider leveraging CMGs to resolve internal frictions.

6.20 Under paragraph 11.2 of the SS, firms are expected to take action to address the risks to fulfilling the requirement under Operational Continuity 2.3. The PRA does not intend to limit the means by which firms can mitigate these risks, notwithstanding the minimum liquidity resource holding for intra-group critical service providers. As noted in paragraph 4.7 above, the PRA and the Bank participate in forums that support cooperation between authorities such as CMGs. Such forums can help with the resolution of firm-specific issues that arise in the context of OCIR implementation. The PRA considers that such forums do not negate the need for firms to undertake their own scenario analysis and to take action where risks are identified.

## **Liquidity resources for intra-group service providers**

### *Liquidity resources calibration*

6.21 Respondents generally welcomed the recalibration of OCIR liquidity resources proposed in the CP. Two respondents suggested that the OCIR liquidity resources expectation duplicates other liquidity funding policies, including the Bank's FiR SoP.

6.22 The PRA has considered these responses, but does not intend to remove the OCIR liquidity resources expectation. The FiR SoP serves a different purpose from the OCIR liquidity resource expectation, and is intended to ensure firms continue to meet their obligations as they fall due by being able to estimate, anticipate, and monitor their potential liquidity resource needs, and mobilise liquidity in the approach to and throughout resolution. The FiR SoP does not state that liquidity resources should be held for the purposes of ensuring the operational continuity of intra-group critical service providers, or that appropriate governance arrangements, policies, processes and controls should be put in place to ensure that the OCIR liquidity resources are immediately available to the intra-group critical service provider in resolution. Firms may be able to leverage capabilities designed to meet the FiR SoP objectives and principles when implementing OCIR capabilities.

6.23 One respondent requested that annual fixed overheads, used for calibration of OCIR liquidity resources, should only cover cash expenses. The respondent suggested that non-cash expenses such as depreciation and amortisation should be excluded. The PRA confirms that the approach to the calculation of a critical service provider's annual fixed overheads proposed in the CP is unchanged from the approach previously set out in SS9/16. The approach is intended to provide an approximation of the fixed costs of critical service provision (and not a forecast of cash outflows at any point in time). These costs are likely to be particularly difficult to adjust in the early stages of a resolution, including the maximum of two months immediately following a resolution during which a

firm would be expected to prepare a business reorganisation plan. The PRA considers it important that a simple and prudent methodology is used. Having considered the response, the PRA does not intend to amend this aspect of the policy. As is currently the case, firms may exclude certain items from their calculations, which are listed in Commission Delegated Regulation 2015/488. Minor amendments to paragraph 11.8 of the SS have been made to improve clarity.

#### *Risk-based approach to liquidity resources for intra-group service providers*

6.24 Respondents broadly supported the removal of the expectation that intra-entity service providers hold OCIR liquidity resources. One respondent suggested that the internal frictions risks could arise in both intra-entity service provision and intra-group service provision, and therefore resources should be maintained for both models. The respondent also commented that this would ensure the policy remains model neutral.

6.25 The PRA's policy intention is that OCIR liquidity resources are held to mitigate against internal frictions that prevent resources available within a firm's group from being immediately available to the intra-group critical service provider in resolution. Having considered the responses, the PRA considers it appropriate that the OCIR liquidity resources expectation should not apply to services provided between business units within the same legal entity, because internal frictions are less likely to prevent resources being available to these types of service providers. Non-exhaustive examples of internal frictions have been provided in paragraph 11.2 of the SS.

6.26 The PRA recognises that removing the OCIR liquidity resources expectation for intra-entity service provision differs from existing PRA OCIR policy, which did not differentiate between intra-entity and intra-group service provision models for this policy element. In undertaking its review of existing OCIR policy, the PRA considered differences in the risks to operational continuity that might arise within different service provision models, based on the risks that each poses to operational continuity in resolution.

6.27 The PRA has decided to maintain the proposal as consulted upon, in light of its judgement of the risks to resolution posed by intra-entity service provision models. The PRA notes that all firms, regardless of service provision model, are expected to identify risks to fulfilling the requirement under Operational Continuity 2.3, and to take remedial action where possible, to ensure the continuity of the critical services it receives. This may include holding additional liquidity resources. The PRA also notes that neither the OCIR liquidity resources expectation in SS9/16, nor the expectation in the new SS, apply to non-group providers.

6.28 Respondents suggested that intra-group service companies located in a non-UK jurisdiction with an existing resource requirement for service providers should not have to hold OCIR liquidity resources, and should instead be able to rely on group capabilities. The PRA expects all intra-group service companies, including those located in a non-UK jurisdiction, to have access to OCIR liquidity resources, in line with the expectations set out in paragraph 11.9 of the SS, to support operational continuity of intra-group critical service providers. The calibration of the OCIR liquidity resources expectation is based on the fixed overheads of providing critical services to the OCIR firm, and does not relate to the total fixed overheads of the service company. The PRA recognises that some intra-group service providers may be subject to operational continuity policy from different jurisdictions, but considers that these are likely to be complementary and not duplicative. The PRA has therefore decided not to amend the proposal as consulted on.

### *Outcomes-based approach to ownership of liquidity resources for intra-group service providers*

6.29 Respondents stated a preference for maintaining flexibility over the ownership of OCIR liquidity resources, allowing resources to be owned by either the intra-group service provider, or by the OCIR firm receiving the critical services. Respondents commented that setting up separate liquidity portfolios in all intra-group service providers could create additional internal frictions. Respondents cited potential challenges to the accessibility of funding in foreign jurisdictions, which could complicate the deployment and management of liquidity. Respondents also noted the costs associated with setting up separate liquidity portfolios in all intra-group service providers, and suggested that a flexible approach to holding resources would be more consistent with the 'hosted firms' approach proposed in the CP.

6.30 Under Operational Continuity 2.3, firms are required to ensure that their operational and financial arrangements ensure the continuity of the critical services they receive. The PRA considers that the best way to prevent internal frictions is to ensure that the liquid assets are immediately available to the intra-group critical service provider in resolution. The PRA has amended paragraph 11.9 of the SS to clarify this outcome. The PRA considers that this outcome is best met by firms ensuring their intra-group service provider maintains ownership of its OCIR liquidity resources.

6.31 Having considered the responses received, the PRA has added paragraph 11.10 to the SS to clarify that alternative ownership arrangements can also be used if firms can demonstrate to the PRA's satisfaction that the arrangement will achieve the outcome set out in paragraph 11.9 of the SS. Where a firm's OCIR liquidity resources are owned by the firm itself, it is more likely that additional risks to accessing OCIR liquidity resources through internal frictions or other risks to operational continuity in resolution may arise given the need for more complex contractual arrangements or sign-off processes.

6.32 One respondent requested further clarification on whether intra-group service providers are able to hold resources within the group. The PRA expects the firm to determine the most appropriate location for OCIR liquidity resources in order to ensure the resources are immediately available if and when the intra-group critical service provider needs them in resolution. This may include holding the resources with a third party, the OCIR firm, or elsewhere in the group. Ring-Fenced Banks (RFBs) will also need to comply with the PRA's ring-fencing rules and ring-fencing legislation. See the 'ring-fenced bodies' section below for more details. Having considered the response, the PRA has not made any changes to the policy as proposed.

### *Assets held to meet the OCIR liquidity resource expectation*

6.33 One respondent requested the PRA specify the rationale behind the proposed expectation that OCIR liquidity resources should be the same types of assets that qualify as high-quality liquid assets (HQLA). The respondent suggested that the proposal would reserve funding that would otherwise be used as lending and supporting critical functions in the real economy. The PRA has amended paragraph 11.12 of the SS to clarify that, to meet the outcome in paragraph 11.9 of the SS, firms should consider how they would monetise OCIR liquidity resources. The PRA considers that this outcome is achieved by OCIR liquidity resources being the same types of assets that qualify as HQLA, but other types of assets may be used if they meet the outcome described in paragraph 11.9 of the SS.

### *Ring-fenced bodies*

6.34 Paragraph 11.11 of the draft SS proposed that, to comply with both ring-fencing requirements, the OCIR liquidity resources maintained by an intra-group service provider which is part of a group containing a 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. Respondents agreed that intra-group service providers to RFBs cannot hold OCIR liquidity resources in the non-ring-fenced bank (NRFB).

6.35 Two respondents questioned whether, upon resolution, the intra-group service provider can monetise the OCIR liquidity resources into a current account with the NRFB. They commented that a NRFB is better suited to such a current account due to the size and scale of service providers, as well as the nature of the transactions they undertake.

6.36 RFBs must not monetise their OCIR liquidity resources into an account at the NRFB as the provision of services to the RFB, and therefore the RFB's continued ability to carry on core activities, could be disrupted if those monetised resources became unavailable. This is consistent with paragraph 8.7 of SS8/16 'Ring-fenced bodies (RFBs)': 'The provision of services and facilities from other group entities and third parties to an RFB that are required by the RFB to carry on its core activities should not be capable of being disrupted through the acts, omissions, or insolvency of other group members'.<sup>19</sup> The PRA has updated the SS to acknowledge this point.

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<sup>19</sup> December 2017: <https://www.bankofengland.co.uk/prudential-regulation/publication/2016/ring-fenced-bodies-ss>.



## 7 Proposals to support post-resolution restructuring

7.1 The CP set out proposals to ensure that firms would be capable of maintaining continuity while being restructured, either in recovery or following resolution. In particular, the PRA proposed that firms should be able to put in place transitional service arrangements (TSAs) in relation to critical and essential services, to facilitate the transfer of these services to another provider in resolution without interruption or the separation of a firm's activities that are supported by critical or essential services. The CP also modified the PRA's requirements relating to charging structures on arm's-length terms.

### Supporting continuity through changes to service provision

7.2 Two respondents asserted that the expanded scope of mapping is not necessary to support the capability to put in place a TSA. Two respondents suggested that, particularly for simpler firms, the focus should be on the capability to put together TSAs to support plausible restructuring or disposal options identified in advance, rather than having the capability to put together a TSA to ensure continuity irrespective of the scenarios that they may encounter. The PRA reiterates that it is not possible to foresee all restructuring options in advance of a resolution taking place. The policy is designed to ensure that firms have the capability to design and implement a TSA for the various restructuring scenarios that might arise. As such, firms are expected to maintain the 'building blocks' of TSAs. There is no requirement or expectation that firms put in place TSAs in advance of resolution.

7.3 One respondent queried how the expectations in Chapter 5 differ from the documentation expectations in Chapter 4 of the draft SS, in terms of granularity. Chapter 5 states that a firm should be able to develop and implement TSAs in a timely and prudent manner during recovery, resolution and related restructuring. The PRA considers that firms can leverage documentation maintained to meet other expectations in the SS to support the creation of TSAs. It is not intended that additional or more granular documentation is required to be able to develop and implement TSAs. However, the PRA expects firms to consider whether any additional arrangements are needed in order to maintain their ability to design and implement TSAs.

## 8 Management and governance arrangements

8.1 The CP proposed expectations relating to the management and governance arrangements supporting critical and essential service providers.

8.2 Some respondents highlighted the use of varied terminology relating to Management and Governance across OCIR, operational resilience, and 'The Bank of England's Statement of Policy on Management, Governance and Communication' (MGC SoP).<sup>20</sup> Another respondent requested clarity on whether the expectations described in these policies are different from each other, and how they interact. The respondent pointed out that the draft SS refers to senior staff and critical staff, whereas operational resilience focuses on 'necessary people'.

8.3 In response to this feedback, the PRA has made adjustments to paragraph 12.2 in the SS. In particular, the term 'key staff' has been adjusted to 'OCIR key job roles' to clarify that the term is intended to be a subset of the population of staff that firms may identify as 'key job roles' under the MGC SoP. The PRA has maintained 'senior staff', as the relevant expectations relate specifically to executive accountability for service provision. 'Senior staff' will be a subset of 'OCIR key job roles'. The PRA considered applying all expectations to 'OCIR key job roles', but has taken a proportionate approach by limiting the population to which these expectations relate.

8.4 Under the Operational Resilience rules, a firm is required to map the 'necessary people' required to deliver each of its important business services. The PRA acknowledges that there may be overlap between 'necessary people' in operational resilience policy and 'OCIR key job roles', and that it is possible for a single member of staff to be both necessary for operational resilience purposes and to also hold an OCIR key job role. However, the operational resilience and OCIR policies cover many different firms, and it is not possible for the PRA to provide further detail on the difference between these concepts because it will necessarily vary from firm to firm.

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<sup>20</sup> July 2019: <https://www.bankofengland.co.uk/financial-stability/resolution/resolvability-assessment-framework/resolvability-assessment-framework-policy-documents>.

## 9 Other responses

### PRA109

9.1 One respondent requested further detail on the timeline for reviewing PRA109, the PRA's reporting requirements for OCIR firms.

9.2 For the avoidance of doubt, the PRA has not changed any other uses of 'critical services'. Firms should continue to report on the current definition of critical services for the purposes of PRA109. The PRA intends to consult on changes to PRA109, including proposals arising from revised OCIR policy. In line with PRA practice, the PRA would provide sufficient time between policy finalisation and first submissions.

### Cost benefit analysis

9.3 Two respondents commented that the costs of OCIR are underestimated. One respondent considered that the implementation costs will be more in line with the costs associated with the implementation of OCIR in SS9/16.

9.4 The compliance costs set out in the cost benefit analysis were estimated using survey data collected by the PRA, in which firms were provided context for the forthcoming proposals and asked to provide cost estimates for this. The PRA acknowledges that these estimates are limited by the responses received by firms at the time. However, the PRA maintains that the analysis demonstrated a reasonable consideration of the likely magnitude of the costs across the industry as a whole. Moreover, in the light of the significant benefits identified in avoiding expensive operational disruptions, the PRA considers that the costs are proportionate to the benefits, and would likely remain so even with the higher costs noted by some CP20/20 respondents.<sup>21</sup>

### Other/corrections

9.5 One respondent requested clarification on the risks referenced in paragraph 11.6 of the draft SS. The reference, now in paragraph 11.7 of SS4/21, has been corrected to refer to paragraph 11.2.

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<sup>21</sup> See paragraphs 8.8 to 8.11 of CP20/20.

## Appendices

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- 1 **PRA RULEBOOK: CRR FIRMS: OPERATIONAL CONTINUITY INSTRUMENT 2021**, available at: <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/publication/2021/ps921app1.pdf>.

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- 2 **SS4/21 'Ensuring operational continuity in resolution'**, available at: <https://www.bankofengland.co.uk/prudential-regulation/publication/2016/ensuring-operational-continuity-in-resolution-ss>.