

FCA approach to interpreting reporting and disclosure requirements under CRD and CRR BTS after the expiry of the implementation period under the UK-EU Withdrawal Agreement

Introduction

- 1.1 This guidance sets out the approach the Financial Conduct Authority (FCA) expects firms to take when interpreting EU-based references found in reporting and disclosure templates and associated instructions in the CRD and Capital Requirements Regulation (CRR) Binding Technical Standards (BTS) after the expiry of the implementation period under the UK-EU Withdrawal Agreement (IP completion day). The BTS containing reporting and disclosure templates and instructions are used by both PRA-authorized and FCA-authorized firms. The FCA has not made line-by-line changes to reporting or disclosure templates or instructions as a result of the UK's withdrawal from the EU, as it would not have been proportionate to do so. Instead, the FCA expects firms to interpret EU references in those requirements in accordance with this guidance from IP completion day.
- 1.2 In this guidance, we outline our general approach with respect to this issue, which is in line with the approach we have taken more widely when making changes to retained EU law under the European Union (Withdrawal) Act 2018 (EUWA). We further set out the detail surrounding the approach we expect firms to adopt on certain specific issues: in these cases, the specific approach takes precedence over the general approach. The appendix to this guidance outlines which European BTS are subject to these approaches.
- 1.3 The effect of this guidance is to retain, in most cases, the current reporting and disclosure definitions. In some cases, minor changes are required to reflect the UK's withdrawal from the EU. But firms should bear in mind that even where current definitions are maintained, the information that needs to be provided in the relevant reporting and disclosure templates may need to change from IP completion day because of changes in the underlying regulatory requirements arising from the UK's withdrawal from the EU.
- 1.4 This guidance is aligned with the approach that the PRA has taken with respect to the CRD and CRR BTS containing reporting and disclosure templates and instructions.

General approach

- 1.5 Table 1 sets out the various types of EU-based references, and a default approach to how these should be interpreted. This default approach is overridden to the extent that Table 2 below requires a specific alternative approach.

Table 1: General approach to interpretation of EU-based references

Type of reference	Default interpretation
Reference to EU regulation	This should be read as a reference to the nationalised version of the regulation.
Reference to EU directive	This should be read as a reference to the UK legislation; FCA or Prudential Regulation Authority (PRA) rules; or the UK, FCA or PRA processes that give effect to the directive, as amended on IP completion day. In some cases firms may also find it helpful to refer to the text of the EU directive as it stands on IP completion day, to provide additional context.
Reference to EU technical standard	This should be read as a reference to the nationalised version of the technical standard.
Stand-alone reference to the European Union or EU (i.e. not in relation to legislation); or the European Economic Area or EEA	This should be read as a reference to the UK, except where otherwise noted below.

Reference to Member State, Member States or home Member State	This should be read as a reference to the UK, except where otherwise noted below.
Reference to third country	This should be read as a reference to a non-UK country.
Reference to Euros	Where Euro is given as an example of a currency, and the same treatment is applied to other currencies (e.g. US dollars), no change in interpretation is required. Any reference to a threshold set in Euros will continue to apply.
Reference to definition based on Capital Requirements Regulation (575/2013) (CRR)	In some cases, reporting definitions are written to mirror text in level one legislation (either in addition to, or instead of, including a direct reference to the legislation). Where this happens, institutions should also refer to the relevant nationalised legislation to ensure they are interpreting the reporting requirements properly. Where this differs to the text in the technical standard, the definition in the relevant nationalised legislation should take priority.
Reference to accounting standards or to a specific accounting standard as endorsed by the EU (e.g. International Financial Reporting Standards (IFRS) 9)	This should be read as a reference to the implementation of the corresponding accounting standard(s) in place in the UK after IP completion day.
Reference to statistical definitions set out by European bodies outside of legislation (e.g. by the European Central Bank (ECB), Eurostat or European Commission), or to non-binding materials such as guidelines or Q&As produced by the European Banking Authority (EBA) or the European Insurance and Occupational Pensions Authority (EIOPA)	These should be read as a reference to the definitions or materials as they stand on IP completion day. Example occurrences: References in CRR Financial Reporting (FINREP) templates and instructions to statistical definitions set out in the ECB BSI regulation. ¹ References in CRR FINREP templates and instructions to the Small and Medium-sized Enterprise (SME) definition set out in the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises. ² References in CRR COREP instructions to the definition of ISO code 3166-1-alpha-2 set out in Eurostat's 'Balance of Payments Vademecum'. ³
References to lists or information produced by European bodies	This should be read as a reference to the equivalent list or information produced by a UK body after IP completion day. Example occurrences: The CRR ITS on Disclosure for Own Funds (ITS 1423/2013) refers to the EBA list of capital instruments qualifying as Common Equity Tier (CET)1, as set out in CRR article 26(3). These references

¹ <https://www.ecb.europa.eu/ecb/legal/pdf/02013r1071-20131127-en.pdf>.

² <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32003H0361>.

³ <http://ec.europa.eu/eurostat/documents/39118/40189/BOP+Vademecum+--+December+2016/a5e89ad8-254b-485d-a9cd-521885c616e4>.

	<p>should be read as a reference to the corresponding list produced by the FCA and PRA.</p> <p>The CRR COREP instructions for C17.01 and C17.02 (Annexes I and II of ITS 680/2014) contain references to supervisory disclosures published on the EBA website, and the gross domestic product at market prices data published by Eurostat. These references should be read as a reference to the corresponding disclosure produced by the PRA,⁴ and the corresponding data published by the Office for National Statistics.</p>
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Approach to specific cases: Reporting and disclosure requirements based on the CRR

- 1.6 Table 2 considers specific cases where CRR reporting and disclosure requirements include EU-based references, and sets out an expected approach in each instance.

Table 2: Approach to interpretation of specific EU-based references in reporting and disclosure requirements based on the CRR

Reference	Template title	Legislative reference	Interpretation
Geographical splits with different treatment of EU/EEA countries	CRR IP losses (C15)	ITS 680/2014; Annexes VI and VII	The current reporting requirements relating to geographical split continue to apply. In other words, reporting should consist of a total template, one template for each national market in the EU or UK to which the institution is exposed, and one template for aggregated data for all national markets outside the EU/UK.
Row and column labels referring to EU	Leverage ratio disclosures	ITS 2016/200, Annex I	Firms have an option to either retain the reference to the EU or remove this from the row labels.
Conservation buffer due to macro-prudential or systemic risk identified at the level of a Member State	COREP C04.00, row 760, C06.02, column 440	ITS 680/2014, Annexes I and II	The reference to ‘...conservation buffer due to macro-prudential or systemic risk identified at the level of a Member State...’ should be read as ‘...conservation buffer due to enhanced prudential measures...’
References to Capital Requirements Directive (2013/36/EU) (CRD) Article 140(4) within	CCyB disclosures	ITS 2015/1555, Annexes I and II	References in Part II of Annex II to exposures ‘defined in accordance with Article 140(4)(a) of

⁴ This can be found on the Regulatory reporting – banking sector page in the prudential regulation section of the Bank of England website: www.bankofengland.co.uk/prudential-regulation/regulatory-reporting/regulatory-reporting-banking-sector.

counter-cyclical capital buffer disclosure requirements			<p>Directive 2013/36/EU' shall be read as references to 'all exposure classes (other than those referred to in points (a) to (f) of CRR Article 112) that are subject to the own funds requirements for credit risk under Part Three, Title II of that Regulation'.</p> <p>References in Part II of Annex II to exposures 'defined in accordance with Article 140(4)(b) of Directive 2013/36/EU' shall be read, where the exposure is held in the trading book, as references to 'all exposure classes (other than those referred to in points (a) to (f) of CRR Article 112) that are subject to the own funds requirements for specific risk under Part Three, Title IV, Chapter 2 of that Regulation or incremental default and migration risk under Part Three, Title IV, Chapter 5 of that Regulation'.</p> <p>References in Part II of Annex II to exposures 'defined in accordance with Article 140(4)(c) of Directive 2013/36/EU' shall be read, where the exposure is a securitisation as references to 'all exposure classes (other than those referred to in points (a) to (f) of CRR Article 112) that are subject to the own funds requirements under Part Three, Title II, Chapter 5 of that Regulation'.</p> <p>References to relevant credit exposures defined in accordance to Article 140(4) of Directive 2013/36/EU are to be read in line with the instructions above.</p>
EU references contained within the definitions of benchmarking portfolios and corresponding reporting instructions	Benchmarking templates	2016/2070, all annexes	<p>The definitions of the benchmarking portfolios should remain unchanged. For the avoidance of doubt, this</p>

			means that any references to codes assigned by the EBA; to Euros; to Central European Time (CET); to European OTC options; to European Union and to EURO area should remain as they are.
Reference to joint decisions	Benchmarking template C105.01	2016/2070 Annexes III and IV	Firms should report whether a joint decision, made prior to the date of EU withdrawal, continues to apply in relation to the use of the IRB approach for exposures included in the benchmarking portfolios.

Interaction between this guidance and temporary transitional relief

- 1.7 The FCA has published a prudential standstill direction and accompanying guidance (<https://www.fca.org.uk/brexit/onshoring-temporary-transitional-power-ttp/transitional-directions>) relating to the application of temporary transitional relief to prudential requirements. The guidance in this document on reporting and disclosure requirements under the CRD and CRR BTS should be interpreted in light of the prudential standstill direction and its accompanying guidance.

Appendix: Scope

- 1.8 The FCA expects firms to apply the approach set out in this guidance to the Annexes of the following European Binding Technical Standards (as amended up until IP completion day):

Firms	Title	Reference
CRR Firms	Supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council	ITS 680/2014
CRR Firms	Disclosure of own funds requirements for institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council	ITS 1423/2013
CRR Firms	Disclosure of the leverage ratio for institutions, according to Regulation (EU) No 575/2013 of the European Parliament and of the Council	ITS 2016/200
CRR Firms	Uniform formats and date for the disclosure of the values used to identify global systemically important institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council	ITS 1030/2014
CRR Firms	Disclosure of information in relation to the compliance of institutions with the requirement	RTS 2015/1555

	for a countercyclical capital buffer in accordance with Article 440	
CRR Firms	Disclosure of encumbered and unencumbered assets	RTS 2017/2295
CRR Firms	Templates, definitions and IT-solutions to be used by institutions when reporting to the European Banking Authority and to competent authorities in accordance with Article 78(2) of Directive 2013/36/EU of the European Parliament and of the Council	ITS 2016/2070

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