



Quick Reference Guide: Acquisitions and the controllers regime

Requirement to seek and obtain approval prior to a change in control

Part XII of the Financial Services and Markets Act 2000 (FSMA), requires persons to seek approval via a section 178 notice from the PRA **before** gaining (or in some circumstances increasing – when moving up a controller band) control over a firm that is authorised by the PRA. It is a criminal offence if a person fails to seek and obtain such approval before making the acquisition in question.

Note: Changes in the holding structure of a group or transfer of a PRA-authorized firm between divisions of a group may constitute a change in control. Please refer to the Frequently Asked Questions (FAQs) for further details.

Definition of controllers (section 422 of FSMA)

Please see section 422 of FSMA for the full definition of controller. As an overview, a person is a controller if they hold:

- a) 10% or more of the shares in a UK-authorized person (A) or a parent undertaking (P) of A; or
- b) 10% or more of the voting power in A or P; or
- c) shares or voting power in A or P as a result of which they are able to exercise significant influence over the management of A.

Shares are in relation to an undertaking:

- with share capital, allotted shares (including all classes of shares);
- with capital but no share capital, rights to shares in the capital;
- without capital, interests:
 - conferring any right to share in the profits or liability to contribute to the losses; or
 - giving rise to an obligation to contribute to the debts or expenses in the event of a winding up.

Voting power in relation to controllers includes:

- voting power held by two or more parties who have an agreement in respect of how they use their voting power ('acting in concert'); and
- voting power which is held, or may be exercised by, a subsidiary.

The PRA considers a parent of minority controllers to be controllers of authorised firms due to the extended definition of 'voting power' in section 422(5)(a)(v) of FSMA

Controller bands

The 'normal' control bands are:

- 10% or more but less than 20%;
- 20% or more but less than 30%;
- 30% or more but less than 50%;
- 50% or more; or
- Parent undertakings (see FAQs)

The 'normal' control bands apply to firms that are:

- a credit institution defined in the Banking Consolidated Directive;
- a MiFID investment firm;
- an insurance firm under the Consolidated Life Directive or the First Non-Life Directive; or
- a firm carrying on reinsurance under the Reinsurance Directive.

