

**PRA RULEBOOK: NON SOLVENCY II FIRMS: INSURANCE COMPANY – CAPITAL RESOURCES
(NOTIFICATION OF ISSUANCE- AMENDMENTS) INSTRUMENT 2016**

Powers exercised

- A. The Prudential Regulation Authority (“PRA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137G (The PRA’s general rules); and
 - (2) section 137T (General supplementary powers).
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instrument) of the Act.

Pre-conditions to making

- C. In accordance with section 138J of the Act (Consultation by the PRA), the PRA consulted the Financial Conduct Authority. After consulting, the PRA published a draft of proposed rules and had regard to representations made.

PRA Rulebook: Non Solvency II Firms: Insurance Company – Capital Resources (Notification of issuance - amendments) instrument 2016

- D. The PRA makes the rules in the Annex to this instrument.

Commencement

- E. This instrument comes into force on 1 March 2016.

Citation

- F. This instrument may be cited as the PRA Rulebook: Non Solvency II Firms: Insurance Company – Capital Resources (Notification of issuance - amendments) instrument 2016.

By order of the Board of the Prudential Regulation Authority

14 January 2016

Annex A

Amendments to the Insurance Company – Capital Resources Part

In this Annex, the text is all new and is not underlined. This text replaces the current text in Chapter 3 of the Insurance Company – Capital Resources Part.

3 NOTIFICATION OF ISSUANCE OF CAPITAL INSTRUMENTS

- 3.1 Subject to 3.4, a *firm* must notify the *PRA* in writing of its intention to issue a *capital instrument* which it intends to include within its *capital resources* at least one *month* before the intended date of issue unless there are exceptional circumstances which make it impracticable to give such a period of notice. In such circumstances, the *firm* must give as much notice as is practicable and explain to the *PRA* why the circumstances are considered exceptional.
- 3.2 When giving notice, a *firm* must:
- (1) provide details of the amount of capital the *firm* is seeking to raise through the intended issue and whether the *capital instrument* is intended to be issued to external investors or within its *group*;
 - (2) identify the stage of the *capital resources table* the *capital instrument* is intended to fall within;
 - (3) provide a copy of the draft terms and conditions;
 - (4) provide a draft of a properly reasoned independent legal opinion from an appropriately qualified individual confirming that the *capital instrument* complies with the rules applicable to instruments included in the stage of the *capital resources table* identified in (2);
 - (5) include confirmation from the *governing body* of the *firm* that the *capital instrument* complies with the rules applicable to instruments included in the stage of the *capital resources table* identified in (2); and
 - (6) state whether the *capital instrument* will be encumbered or whether there are any connected transactions in respect of the item and, if so, provide details.
- 3.3 If after an initial notification under 3.1, but prior to a *capital instrument's* issuance, a *firm* proposes to change the information previously submitted, it must provide a further written notification of that change without delay.
- 3.4 3.1 does not apply to:
- (1) ordinary *shares* which:
 - (a) are the most deeply subordinated *capital instrument* issued by the *firm*; and
 - (b) are the same as ordinary *shares* previously issued by the *firm*; and
 - (2) *capital instruments* which are to be issued on identical terms to *capital instruments* issued by the *firm* within the previous twelve months and notified to the *PRA* in accordance with 3.2, excluding (1) the issue date; (2) the maturity date; (3) the

amount of the issuance; (4) the currency of the issuance; and (5) the rate of interest payable by the issuer.

- 3.5 A *firm* must notify the *PRA* in writing, no later than the date of issue, of its intention to issue a *capital instrument* listed in 3.4 which it intends to include within its *capital resources*. When giving notice, a *firm* must:
- (1) provide the information set out in 3.2 other than 3.2(3) (draft terms and conditions) and 3.2(4) (draft legal opinion); and
 - (2) confirm that the terms of the *capital instrument* have not changed since the previous issue by the *firm* of that type of *capital instrument*.
- 3.6 A *firm* must notify the *PRA* in writing of its intention to amend or otherwise vary the terms of any *capital instrument* included within its *capital resources* at least one *month* before the intended date of such amendment or other variation.
- 3.7 A *firm* must provide to the *PRA* as soon as practicable after the issuance of a *capital instrument* to which 3.2 applies:
- (1) a finalised copy of the draft legal opinion referred to in 3.2(4); and
 - (2) a copy of the instrument's final terms and conditions.