

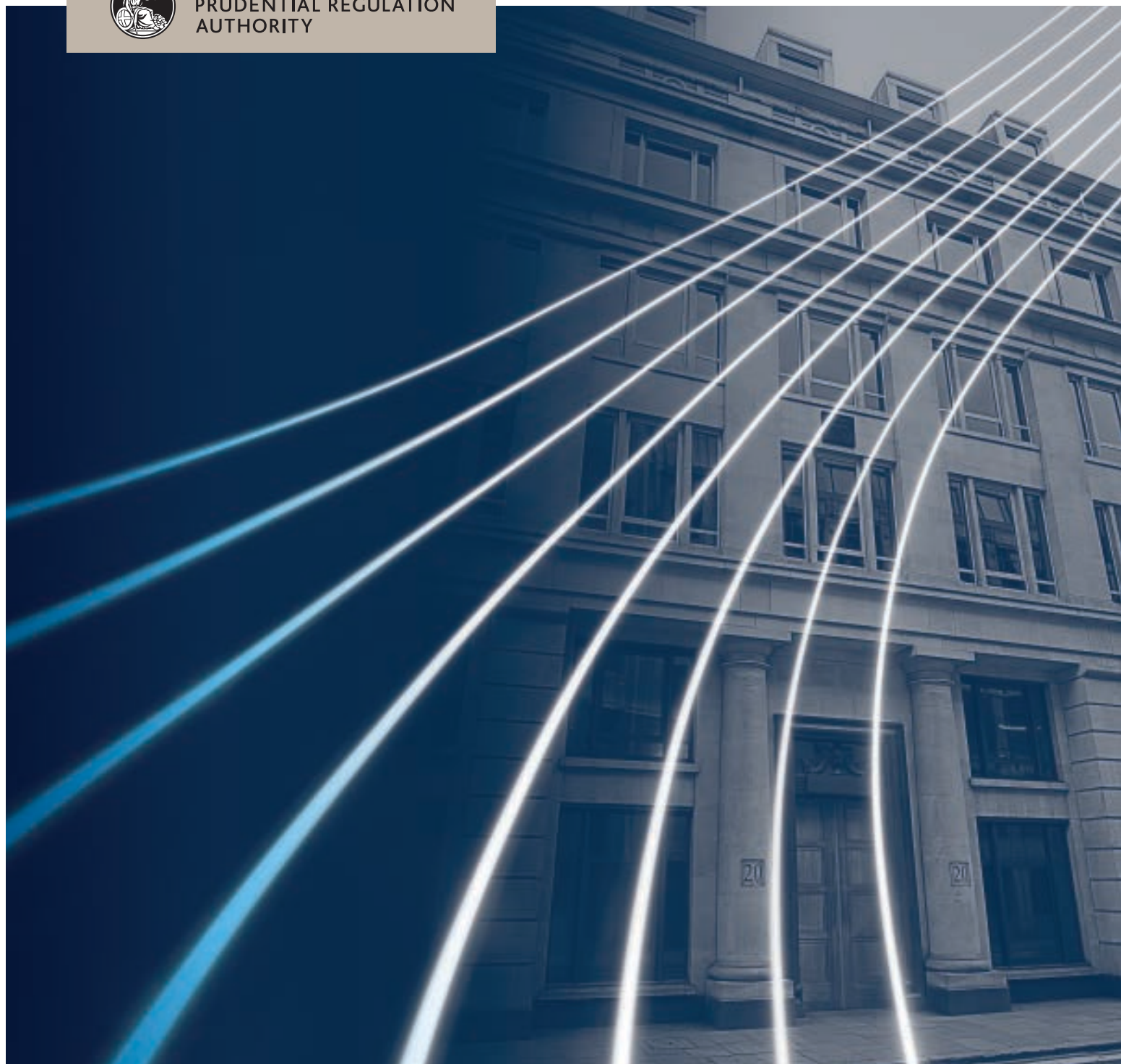
Policy Statement | PS3/15

Strengthening individual accountability in banking and insurance — responses to CP14/14 and CP26/14

March 2015



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY



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This policy statement contains a first set of final rules to implement the Senior Managers and Certification Regimes for UK Relevant Authorised Persons, and the Senior Insurance Managers Regime for Solvency II insurance firms.

1 Introduction

1.1 This Prudential Regulation Authority (PRA) policy statement (PS) provides feedback on responses to the proposals in CP14/14, 'Strengthening accountability in banking: a new regulatory framework for individuals',⁽¹⁾ and CP26/14, 'Senior insurance managers regime: a new regulatory framework for individuals',⁽²⁾ and issues the first set of the final PRA rules to implement the Senior Managers Regime (SMR) and Certification Regime for UK deposit-takers and PRA-designated investment firms (collectively referred to here as 'Relevant Authorised Persons') and the Senior Insurance Managers Regime (SIMR) for Solvency II insurers.

1.2 This PS does not, however, provide feedback on all the elements of CP14/14 and CP26/14, or all the final rules needed to implement the new regimes. There are some elements of the PRA's new regimes that need to be finalised in conjunction with the Financial Conduct Authority (FCA). There are also other aspects of the regimes which have been consulted on separately and where the consultation has only recently closed or is still underway: for example, transitional and operational arrangements, consequential amendments, the treatment of non-executive directors (NEDs), the approach to the presumption of responsibility in section 66B of the Financial Services and Markets Act 2000 (FSMA) and the application of the new regimes to UK branches of foreign banks. These outstanding aspects of each regime, and the PRA's expectations of when they will be finalised, are set out in more detail at the end of Chapters 2 and 3.

1.3 The PRA will issue a further PS and further final rules and supervisory statements on the elements of the regimes referred to above later in the year. The PRA has decided to issue its feedback and final rules in stages in order to give firms clarity on those aspects of the regime that have been finalised and as much time as possible to prepare for the implementation of the new regimes.

1.4 It may be necessary for the PRA to make consequential amendments to the rules published with this PS to reflect the rules made subsequently to implement the outstanding aspects of the regime, or to align terminology and cross-references with the final rules made by the FCA.

1.5 This PS is relevant to banks, building societies, credit unions and PRA-designated investment firms (Relevant Authorised Persons), and to insurance and reinsurance firms (as defined in paragraph 1.1 of CP26/14) that are subject to the Solvency II Directive, the Society of Lloyd's and managing agents ('Solvency II firms').

1.6 The PRA is required by FSMA to have regard to any representations made to the proposals in a consultation, and publish an account, in general terms, of those representations and its response to them. Chapter 2 sets out the feedback received to CP14/14 and describes the final rules published with this PS for Relevant Authorised Persons. Chapter 3 sets out the feedback received to CP26/14 and describes the final rules published for Solvency II firms.

1.7 The final rules made by the PRA Board are set out as Appendices to this statement: Appendix 1 contains the rules relating to Relevant Authorised Persons and Appendices 2 and 3 contain the rules for Solvency II firms.

(1) www.bankofengland.co.uk/pradocuments/publications/cp/2014/cp1414.pdf.

(2) www.bankofengland.co.uk/pradocuments/publications/cp/2014/cp2614.pdf.

2 Responses to feedback to CP14/14

Summary of original proposals

2.1 CP14/14 proposed:

- (a) a set of PRA Senior Management Functions (SMFs), the performance of which would be subject to prior approval by the PRA;
- (b) rules on the allocation of responsibilities to Senior Managers, including a set of 'Prescribed Responsibilities', which firms would be required to allocate to individuals approved as Senior Managers by the PRA or FCA;
- (c) a Statement of Policy (required by FSMA) describing how the PRA intended to use its new powers to impose conditions, time limits and variations on approvals to perform a SMF;
- (d) the set of 'certification functions' which would comprise the PRA's Certification Regime;
- (e) rules and a supervisory statement describing how firms should assess the fitness and propriety of individuals performing SMFs or certification functions; and
- (f) a set of Conduct Rules to apply to Senior Managers and employees in the PRA's Certification Regime.

2.2 The PRA and FCA received 77 responses to the CP from a range of respondents, including Relevant Authorised Persons, trade bodies, law firms and professional services firms.

2.3 Set out below are the PRA's responses to the most significant issues raised in the feedback to CP14/14, noting those areas where the PRA is making changes to the policy proposals contained in the CP.

Scope of the PRA's SMR

Senior Management Functions specified by the PRA

2.4 The PRA has not made any substantive changes to the set of SMFs proposed in CP14/14.

2.5 The aspect of the proposed scope of the SMR in CP14/14 which generated the most feedback was the regulators' approach to NEDs; in particular, the fact that NEDs without specific responsibilities ('standard NEDs') were excluded from the PRA's proposed scope but included in the FCA's proposed SMR. This issue was addressed separately in CP7/15, which set out a revised scope for the SMR that will exclude standard NEDs from both the PRA's and FCA's SMRs.⁽¹⁾ CP7/15 also consults on a PRA supervisory statement clarifying the responsibilities of those NEDs who will be in scope of the PRA's SMR and notification requirements for 'standard NEDs', who will no longer be subject to pre-approval by the regulators.

Group Entity Senior Manager (SMF7)

2.6 A number of responses asked the PRA for guidance on the circumstances in which an individual based in a parent or group company would be deemed to exercise 'significant influence' over the affairs of a Relevant Authorised Person, thereby requiring approval as a Group Entity Senior Manager (SMF7). Respondents expressed concern that SMF7 could bring a disproportionate number of additional individuals into scope of the SMR, including many based overseas.

2.7 Under section 59ZA of FSMA, in order for a function to be capable of being defined as an SMF, it must be linked to the firm's UK-regulated activities. This inherently limits the extent to which the SMR can apply to individuals based in an overseas parent or group entity. However, the fact that an individual is physically located outside the UK does not automatically mean that they cannot perform an SMF.

2.8 The PRA's and FCA's approaches to UK subsidiaries and branches of overseas-headquartered groups under the current Approved Persons Regime (APR) has been to not require approval of senior individuals located overseas whose responsibilities in relation to the United Kingdom are linked to the development of the group's overall strategy. Conversely, where an individual located overseas is responsible for implementing the group's strategy in the UK entity (or entities) and has not delegated that responsibility to a senior individual based in the United Kingdom, he or she is likely to be performing a Controlled Function. The PRA will continue this approach under the SMR.

(1) PRA CP7/15, 'Approach to non-executive directors in banking and Solvency II firms & Application of the presumption of responsibility to Senior Managers in banking firms', February 2015; www.bankofengland.co.uk/pradocuments/publications/cp/2015/cp715.pdf.

2.9 Consequently, where an individual is directly involved in the management of a UK branch or subsidiary or takes direct decisions about how these entities conduct their UK-regulated activities, it is highly likely that he or she will require approval as Group Entity Senior Manager or another SMF. It follows that the notion of 'significant influence' entails a direct link between an individual's decisions, powers and responsibilities and the areas and activities of the firm subject to UK regulation. For example, a global head of corporate lending located overseas with authority to approve transactions of a UK subsidiary without the consent of the subsidiary's board or senior management would fall within the Group Entity Senior Manager function in relation to that UK subsidiary.

2.10 Firms will need to assess whether there are any individuals in a firm's group or parent company, both in the UK and overseas, who are performing a SMF of that firm. In doing so, the firm should take into account the organisational structure of the firm and the group, and the division of key individual responsibilities. However, the PRA does not expect the overall number of individuals in group or parent companies approved under the SMR to differ significantly from the number approved under the APR.⁽¹⁾

A simplified SMR for smaller firms

2.11 CP14/14 contained a number of provisions aimed at ensuring a proportionate application of the PRA's SMR. In particular, the CP consulted on a tailored, less onerous regime for 'small credit unions' (defined as those with gross total assets of £25 million or less), which would require them to:

- have only one individual approved by the PRA as a specific SMF — the Credit Union Senior Executive Manager function (with the option of having more if they wished); and
- allocate a customised, shorter set of Prescribed Responsibilities to their Senior Manager(s).

2.12 CP14/14 contained no explicit proposals for applying the SMR in a different manner to the smallest banks and building societies, some of which are comparable to small credit unions in terms of their potential impact on the PRA's statutory objectives. However, CP14/14 did note that banks, building societies and PRA-designated investment firms would only be required to have certain SMFs, such as chairs of the remuneration and risk committees, where they were either required to establish these committees under CRD IV⁽²⁾ (which only imposes these requirements on 'significant firms'),⁽³⁾ or had elected to do so.

2.13 Respondents to the CP supported the PRA's overall approach for applying the SMR proportionately but there was disagreement as to where the thresholds for applying the simplified regime should be set. Building societies argued

that less stringent requirements should apply to all firms with a potential impact category of 4 and 5 under the PRA's framework (as set out in the PRA approach documents).⁽⁴⁾ Conversely, credit unions argued that all credit unions, irrespective of balance sheet size, should benefit from less burdensome requirements.

2.14 The PRA agrees that there is a case for applying the SMR proportionately in a more consistent, risk-based way. Consequently, the PRA will now apply fewer requirements to all firms with gross total assets of £250 million or less. This threshold will be calculated across a rolling period of five years or, if the firm has been in existence for less than five years, across the period during which it has existed. As indicated in their consultation paper, FCA CP15/9, the FCA also intends to refer to this threshold in its planned guidance on small and non-complex firms in regard to responsibilities map requirements.⁽⁵⁾

2.15 The new threshold will result in fewer requirements of the SMR being applied to all credit unions and to a small number of existing banks and building societies (as well as, potentially, new entrants to the market). Under this revised approach, there will still be differences between credit unions compared to small banks and building societies, due to the latter being subject to EU law requirements, including CRD IV, irrespective of their size. The SMR will therefore apply to small firms as follows:

- All credit unions will be required to have one Credit Union Senior Manager approved by the PRA who performs functions akin to those of a CEO or Executive Chairman. Credit unions will be able to have more than one individual approved as Credit Union Senior Manager if they wish.
- Small CRR firms (those with gross total assets of £250 million or less) will be required to have a CEO, CFO and a Chairman, reflecting the CRD IV and MiFID requirements to have at least two individuals who 'effectively direct the business of a firm' and the CRD IV restrictions on combining the roles of Chairman and CEO.

(1) Under the APR, there is no direct equivalent of the Group Entity Senior Manager function (SMF7). However, individuals based in overseas parent entities of UK branches of subsidiaries of foreign firms are sometimes approved as Controlled Functions (CFs) of those UK branches or subsidiaries (typically as Directors (CF1s), NEDs (CF2s) or Significant Management Functions (CF29)).

(2) Capital Requirements Directive: Directive 2013/36/EU; <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013L0036>.

(3) PRA PS7/13, 'Strengthening capital standards: implementing CRD IV, feedback and final rules' states that only firms whose supervisor has indicated are impact category 1 or 2 should consider themselves as significant for the purposes of these requirements; www.bankofengland.co.uk/prapublications/publications/ps/2013/ps713.pdf.

(4) *The Prudential Regulation Authority's approach to banking supervision*, June 2014; page 16; www.bankofengland.co.uk/publications/Documents/prapublications/bankingapproach1406.pdf.

(5) CP15/9, 'Strengthening accountability in banking: a new regulatory framework for individuals — feedback on FCA CP14/13 / PRA CP14/14 and consultation on additional guidance', March 2015; www.fca.org.uk/your-fca/documents/consultation-papers/cp15-09.

Table A PRA Prescribed responsibilities

All firms	1	responsibility for the firm's performance of its obligations under the senior management regime;	
	2	responsibility for the firm's performance of its obligations under the certification rules;	
	3	responsibility for compliance with the firm's obligations in relation to its management responsibilities map;	
	4	responsibility for the allocation of all prescribed responsibilities;	
Small firms (assets of £250mn or less)	5*	responsibility for the implementation and management of the firm's risk management policies and procedures;	
	6*	responsibility for managing the systems and controls of the firm;	
	7*	responsibility for managing the firm's financial resources;	
	8*	responsibility for ensuring the governing body is informed of its legal and regulatory obligations;	
Larger firms	5	responsibility for monitoring effective implementation of policies and procedures for the induction, training and professional development of senior management, other than members of the governing body;	
	6	responsibility for overseeing the adoption of the firm's culture in the day-to-day management of the firm;	
	7	responsibility for managing the allocation and maintenance of the firm's capital, funding and liquidity;	
	8	responsibility for the firm's treasury management functions;	
	9	responsibility for the production and integrity of the firm's financial information and its regulatory reporting under the regulatory system;	
	10	responsibility for developing and maintaining the firm's recovery plan and resolution pack and for overseeing the internal processes regarding its governance;	
	11	responsibility for managing the firm's internal stress tests and ensuring the accuracy and timeliness of information provided to the PRA and other regulatory bodies for the purposes of stress testing;	
	12	responsibility for the development and maintenance of the firm's business model by the governing body;	
		Oversight prescribed responsibilities (must go to a NED in scope of the SMR)	
	13	responsibility for leading the development and monitoring effective implementation of policies and procedures for the induction, training and professional development of all members of the firm's governing body;	
	14	responsibility for leading the development of the firm's culture by the governing body as a whole;	
	15	responsibility for safeguarding the independence of, and overseeing the performance of, the internal audit function, including the performance of a person approved to perform the Head of Internal Audit function on behalf of the firm, in accordance with SYSC 6.2 (Internal audit) of the PRA Handbook; ^(a)	
	16	responsibility for safeguarding the independence of, and overseeing the performance of, the compliance function, including the performance of a person approved by the FCA to perform the compliance oversight function on behalf of the firm, in accordance with SYSC 6.1 (Compliance) of the PRA Handbook;	
	17	responsibility for safeguarding the independence of, and overseeing the performance of, the risk function, including the performance of a person approved to perform the Chief Risk function on behalf of the firm, in accordance with SYSC 7.1.21 R and SYSC 7.1.22 R (Risk control) of the PRA Handbook;	
	18	responsibility for developing and overseeing the firm's remuneration policies and practices in accordance with SYSC 19A (Remuneration Code) of the PRA Handbook;	
	19	responsibility for the independence, autonomy and effectiveness of the firm's policies and procedures on whistleblowing, including the procedures for protection of staff who raise concerns from detrimental treatment;	
	Specific types of firm	20	if the firm carries out proprietary trading, responsibility for the firm's proprietary trading activities;
		21	if the firm does not have a person who performs the Chief Risk function, responsibility for the compliance of the firm's risk management systems, policies and procedures with the requirements of SYSC 7.1.2 R to SYSC 7.1.5 R of the PRA Handbook;
		22	if the firm outsources its internal audit function, responsibility for taking reasonable steps to ensure that every person involved in the performance of that function is independent from the persons who perform external audit, including: <ul style="list-style-type: none"> (a) supervision and management of the work of outsourced internal auditors; and (b) management of potential conflicts of interest between the provision of external audit and internal audit services;
23		if the firm is a ring-fenced body, responsibility for ensuring that those aspects of the firm's affairs for which a person is responsible for managing are in compliance with the ring-fencing requirements.	

(a) The PRA proposes to update all references to SYSC when the SYSC provisions are replaced by the General Organisational Requirements in the PRA Rulebook. This was consulted on in PRA CP25/14, 'The PRA Rulebook: Part 2', November 2014; www.bankofengland.co.uk/pradocuments/publications/cp2014/cp2514.pdf

- Both credit unions and small CRR firms will be subject to a single, customised, shorter and simplified set of Prescribed Responsibilities set out in **Table A** opposite.

Allocation of responsibilities to Senior Managers

2.16 A large number of respondents urged the PRA to clarify further how it would apply sections 66B(5) and (6) of FSMA (known as the 'presumption of responsibility') in practice. In particular, they requested guidance on the actions that individuals could take to satisfy the 'reasonable steps defence' in section 66B(6) and how firms and individuals should document these steps. This issue was addressed separately in CP7/15, which consults on a PRA supervisory statement dealing with this and other issues. The PRA's final policy on the allocation of responsibilities, which is set out below, should be considered together with this draft supervisory statement.

2.17 Responses to CP14/14 welcomed the PRA's approach to the allocation of responsibilities to Senior Managers, including the proposal to require firms to allocate a set of Prescribed Responsibilities to one or more Senior Managers approved by the PRA or FCA (other than the FCA's Significant Responsibility Senior Manager (SMF18)).

2.18 Respondents did, however:

- ask the PRA to consider a more flexible approach to the potential sharing and splitting of individual Prescribed Responsibilities among more than one Senior Manager;
- question the proposed inclusion of the two Prescribed Responsibilities dealing with the development and implementation of the firm's culture and standards (as described in 4.1(10) and (11) of Annex 7.3 of CP14/14), which some respondents considered too abstract and pervasive to be allocated to individual Senior Managers;
- urge the PRA to add, amend or clarify the drafting of certain Prescribed Responsibilities and signpost, as clearly as possible, which responsibilities it expects to be allocated to NEDs in scope of the SMR; and
- encourage the PRA to identify, address and clarify inconsistencies they perceived between the Prescribed Responsibilities and other requirements and guidelines notably the *UK Corporate Governance Code*, published by the Financial Reporting Council (the Code).⁽¹⁾

Splitting and sharing Prescribed Responsibilities

2.19 In CP14/14, the PRA noted that 'it expects firms to allocate Prescribed Responsibilities to the senior manager they are most closely linked to'.

2.20 The PRA also noted that, where a firm has more than one individual performing an SMF (for instance where two individuals co-head an area), or where a firm allocates a Prescribed Responsibility to more than one Senior Manager, each would be deemed fully accountable in principle for that SMF or responsibility. However, in the event of a breach triggering the presumption of responsibility, the PRA proposed to consider how the shared responsibility was discharged in practice in determining whether each of the individuals responsible for it took reasonable steps.

2.21 Respondents to the consultation asked the PRA to consider explicitly allowing Prescribed Responsibilities to be allocated following both a shared and/or split responsibility approach. They noted that, in large complex organisations, a number of PRA Prescribed Responsibilities are seldom functionally allocated to a single senior manager. One example is the Prescribed Responsibility relating to 'the production and integrity of the firm's financial information and its regulatory reporting in respect of its regulated activities', which in many firms will be allocated to a number of Senior Managers ranging from the Chief Finance function (SMF2) to the Compliance Oversight function (SMF16), all of whom will be equally responsible for specific parts of the firm's regulatory reporting.

2.22 Having considered industry feedback, the PRA acknowledges that greater flexibility in the allocation of Prescribed Responsibilities may reflect more accurately the way that firms organise themselves. However, it is also of the view, originally expressed by the Parliamentary Commission on Banking Standards (PCBS), that 'responsibility that is too thinly diffused can be too readily disowned'.⁽²⁾ Consequently, the PRA has decided to adopt the approach proposed in CP14/14 whereby it will be possible for Prescribed Responsibilities to be wholly allocated to more than one Senior Manager but not split. Therefore, if a firm allocates a Prescribed Responsibility to more than one Senior Manager, each of those individuals will, in principle, be deemed wholly responsible for it. However, if a firm breaches a relevant requirement in an area relating to a Prescribed Responsibility which is shared by two or more Senior Managers, each Senior Manager will have an opportunity to explain how the shared Prescribed Responsibility was discharged in practice when trying to demonstrate that he or she took reasonable steps to avoid the breach.

2.23 The PRA considers it vital that a Senior Manager's responsibilities are clearly and concisely set out in the 'statement of responsibilities' firms are required to submit under section 60(2A) of FSMA. The PRA consulted on a

(1) www.frc.org.uk/Our-Work/Publications/Corporate-Governance/UK-Corporate-Governance-Code-2014.pdf.

(2) *Changing banking for good: Report of the Parliamentary Commission on Banking Standards Volume II*, June 2013, paragraph 616; www.parliament.uk/documents/banking-commission/Banking-final-report-vol-ii.pdf.

template for the statement of responsibilities in CP28/14, and noted that firms 'must not dilute, qualify or undermine the responsibilities prescribed or required by the regulators'.⁽¹⁾ The PRA will consider the responses to CP28/14 and will issue final rules and supervisory statements on this issue later in the year.

Prescribed Responsibilities relating to culture and standards

2.24 The list of Prescribed Responsibilities in CP14/14 included the following two responsibilities:

- (a) leading the development of the firm's culture and standards in relation to the carrying on of its business and the behaviours of its staff (PR10); and
- (b) embedding the firm's culture and standards in relation to the carrying on of its business and the behaviours of its staff in the day-to-day management of the firm (PR11).

2.25 The inclusion of these proposed Prescribed Responsibilities reflects the expectation set out in the PRA's approach document that 'firms should have a culture that supports their prudent management' and builds on the idea that boards and management of regulated firms should 'embed the principle of safety and soundness in the culture of the whole organisation'. It also underscores the importance of cultural failings as a contributory cause of recent firm failures and scandals.

2.26 A number of responses to CP14/14 argued that PR10 and PR11 as proposed were too universal in their remit to be allocated to one individual and suggested that they should be either redrafted or deleted.

2.27 While the PRA acknowledges that a firm's culture and standards are a collective matter for the entire board (consistent with the approach taken in the Code), the policy intention behind PR10 and PR11 was to make particular Senior Managers responsible for leading the development of culture and standards by the board as a whole and the implementation of those standards across the business by the management of the firm.

2.28 Consequently, while a firm's culture and standards are the collective responsibility of its board and management, the PRA has amended the wording of these two responsibilities, as set out in PR6 and PR14 for larger firms in **Table A**, to clarify that the CEO and Chairman should individually both play a leading role in their development and implementation.

Other changes to the list of Prescribed Responsibilities

2.29 The PRA has made the following drafting modifications to the original list of Prescribed Responsibilities to clarify its expectations and address perceived inconsistencies with the Code and other instruments:

- Splitting the list into those Prescribed Responsibilities that will apply to smaller firms (ie those with assets of £250 million or under) and those that apply to large firms.
- Adding Prescribed Responsibilities for large firms relating to stress testing (PR11) and remuneration (PR18).
- Splitting the original Prescribed Responsibility relating to the 'effective implementation of the firm's policies and procedures relating to the induction, training and professional development' into two distinct Prescribed Responsibilities:
 - one covering the learning and development of board members (which the PRA expects should generally be allocated to the Chairman in line with the Code); and
 - one covering the learning and development of all other senior managers (which should be allocated to an executive Senior Manager).
- Signposting that certain responsibilities only apply to large firms which carry out certain activities or have specific governance structures (ie those relating to proprietary trading, ring-fencing and to those firms without a dedicated CRO or Head of Internal Audit).
- Clarifying which responsibilities should be allocated to NEDs in scope of the SMR. Responses to the consultation showed ambiguity and uncertainty about whether Prescribed Responsibilities 15–17 in **Table A**, as originally drafted, should be allocated an executive Senior Manager, a NED in scope of the SMR or to both. The policy intent behind these responsibilities, which derive directly from specific PCBS recommendations, is that they should be allocated to the non-executive chairs of certain board committees. Consequently, the PRA has redrafted these responsibilities to make their non-executive nature clearer and added a Prescribed Responsibility for 'developing and overseeing the firm's remuneration policies and practices', which it expects to be allocated to the chair of the Remuneration Committee.

(1) PRA CP28/14, 'Strengthening accountability in banking: forms, consequential and transitional aspects', December 2014, paragraph 3.8; www.bankofengland.co.uk/pr/Documents/publications/cp/2014/cp2814.pdf.

Prescribed Responsibilities for Ring-Fenced Banks

2.30 In CP19/14 'The implementation of ring-fencing: consultation on legal structure, governance and the continuity of services and facilities',⁽¹⁾ the PRA consulted on an additional Prescribed Responsibility requiring all Senior Managers in ring-fenced banks (RFBs) who are responsible for areas that will become subject to ring-fencing requirements to ensure that those areas comply with such requirements (RFB Prescribed Responsibility).

2.31 Unlike other Prescribed Responsibilities, which the PRA expects firms to allocate to the Senior Manager(s) to whom they are most closely linked, firms will be required to allocate the RFB Prescribed Responsibility to all Senior Managers responsible for areas covered by the ring-fencing requirements. The purpose of this divergence from the PRA's requirements relating to the allocation of Prescribed Responsibilities is to underscore the PRA's expectation that all relevant Senior Managers in an RFB should take individual responsibility for ensuring that the areas they manage adhere to the ring-fencing requirements, and that any breaches by an RFB of the ring-fencing rules may result in the application of the presumption of responsibility and the corresponding 'reasonable steps' defence, both of which are examined in the draft PRA supervisory statement in CP7/15.

2.32 Although the RFB Prescribed Responsibility provision will be made at the same time as all other Prescribed Responsibilities, it will only become effective and enforceable when the ring-fencing requirements underpinning it come into force in 2019.

Handover arrangements

2.33 A number of respondents raised concerns about the requirements on handover arrangements, noting that, in some cases, individuals will leave a firm in circumstances that may make it difficult to arrange an effective handover. The PRA recognises this concern and considers that its proposed policy in CP14/14 — which did not require a handover certificate as such — is consistent with these practical challenges. The PRA is therefore proceeding with the requirement that firms must take all reasonable steps to ensure that before a person begins to perform any new PRA SMF, that person is provided with all relevant information that they might reasonably expect. This requirement does not entail a need for a handover certificate to be produced by the departing Senior Manager.

The PRA's Certification Regime

2.34 The PRA has decided to proceed with the approach to specifying certification functions set out in CP14/14. Respondents generally endorsed the PRA's proposals for aligning the scope of the Certification Regime as far as possible with the population of 'material risk-takers' who will be subject to the PRA's Remuneration Rules (excluding those individuals who will be performing PRA or FCA SMFs for the firm in question).

2.35 A number of respondents suggested that the two week 'grace period' proposed in CP14/14 should be increased, in order to give firms more time to assess the fitness and propriety of individuals who are filling a temporary or unforeseen appointment, including external contractors. The PRA has considered these arguments and decided to extend the grace period to four weeks. The PRA considers that four weeks gives firms sufficient time to perform an assessment of an individual's fitness and propriety, including obtaining relevant information. The PRA recognises that it may not always be possible to obtain references for individuals appointed to fill an unforeseen vacancy and its draft supervisory statement on fitness and propriety anticipated that an initial assessment may need to be made without the benefit of references.

2.36 Some respondents asked for the grace period to be extended to twelve weeks, as for Senior Managers. The PRA does not consider that such an extension would be appropriate — the twelve week period reflects the need to get an approval from the regulators which is to some extent outside the firm's control. This dependency does not exist in the case of certification and therefore the period does not need to be as long.

Assessing fitness and propriety

2.37 Respondents were generally content with the PRA's proposed approach to assessing the fitness and propriety of Senior Managers and with the factors firms should take into account set out in the PRA's draft rules and supervisory statement. The PRA will proceed with these requirements, and final rules for a new Fitness and Propriety Part of the PRA Rulebook are set out in Annex E of Appendix 1.

2.38 However, a number of respondents, including regulated firms and law firms, expressed concerns about the proposed referencing requirements, in particular whether they provided adequate mitigation for the perceived risks arising from reducing the population subject to prior approval by the regulators. A smaller number of respondents also queried aspects of the proposal for firms to obtain criminal records checks for any individual they put forward to perform an SMF.

(1) October 2014; www.bankofengland.co.uk/pradocuments/publications/cp/2014/cp1914.pdf.

Employee references

2.39 CP14/14 proposed that firms should have to request references before certifying individuals as fit and proper or putting them forward for approval to perform an SMF, and to provide references on past employees. This was partly to fill the gap that would be left by narrowing the set of roles which would require prior approval by the regulators. A number of respondents argued that the references will not fully bridge this gap, and are concerned that information held by the regulators will no longer be available when they certify someone, although this concern appeared to relate primarily to the existing CF30 population of investment advisers who are currently FCA approved. Some respondents asked whether the PRA (and FCA) can share intelligence held on an individual with a firm that is considering hiring him or her. Some firms (generally larger firms) also suggested that the regulators should create a template for references, to promote a consistent approach within the industry.

2.40 Some smaller firms, including some credit unions and building societies, were concerned about the burden of providing references relating to certified employees and suggested that the need to obtain and provide references be limited to Senior Managers, as they hold the greatest responsibilities and therefore pose the greatest risk. However, the majority of firms, including a number of other smaller mutuals supported the referencing proposals.

2.41 The PRA does not agree that the requirement to obtain and provide references should be limited to Senior Managers; the need for firms to obtain references is arguably even greater in cases where the firm alone is making the judgement about the person's fitness, with no approval being given by the regulator. The PRA considers that it is proportionate to require references for those individuals who can cause significant harm to a firm. The PRA has therefore decided to proceed with a requirement for firms to take reasonable steps to obtain references as part of their assessment of a person's fitness and propriety; this applies to both Senior Managers and employees performing certification functions.

2.42 However, the PRA will consider further, in conjunction with the FCA, the detailed nature of the obligation to provide regulatory references.⁽¹⁾ In particular, the PRA wishes to ensure that its final requirements in this area are as aligned as possible with those of the FCA. The PRA remains committed to ensuring that the requirements strike the appropriate balance between ensuring that a new employer has relevant information about a prospective new employee, ensuring the rights of the individual are protected and not exposing the firm providing the reference to undue legal risk. Therefore, the PRA has not yet made these rules, but their absence from the rule instrument should not be taken as an indication that the PRA has dropped these proposals.

2.43 The PRA does not propose to prescribe a template for references. The draft rules already set out in some detail the minimum information which must be included in a reference, such as breaches of the Conduct Rules. Prescribing a template may require firms to make additional changes to their existing systems and processes which could be disproportionately costly, especially for smaller firms.

Criminal records checks

2.44 CP14/14 proposed that firms should carry out criminal records checks before applying for someone to be approved as a Senior Manager. Some credit unions opposed the need to obtain criminal records checks for Senior Managers, and some other respondents raised some questions about the practicalities of obtaining the checks. However, the policy was widely supported by other firms (including other credit unions) and many firms said they already carry out such checks.

2.45 The PRA is proceeding with the requirement for firms to carry out criminal records checks before applying for someone to perform a Senior Management Function. This is included in the new Fitness and Propriety rules set out in Annex E of Appendix 1. However, the PRA will consider further whether additional guidance on obtaining the checks is required, and will include any further guidance it considers necessary in the final supervisory statement on fitness and propriety which it will publish with the remainder of the feedback to CP14/14 later this year.

Conduct rules

2.46 This PS does not provide feedback on the proposed Conduct Rules in Chapter 5 of CP14/14 or contain final rules to implement those proposals. These will follow in a further policy statement later in the year.

(1) The proposals on regulatory references in Fitness and Propriety 3, Annex 7.5 of CP14/14.

Table B Summary of progress made in finalising CP14/14 proposals

Area of policy	Feedback and final rules in this PS?	Outstanding issues?
Scope of the PRA's SMR	Yes, feedback and final rules	Yes, final supervisory statement to be issued later in 2015
Allocation of responsibilities	Yes, feedback and final rules	Yes, final supervisory statement to be issued later in 2015
Scope of the PRA's Certification Regime	Yes, feedback and final rules	Yes, final supervisory statement to be issued later in 2015
Assessing fitness and propriety	Yes, feedback and final rules, other than the final rules on references	Yes, final rules relating to references and supervisory statement to be issued later in the year
Conduct rules	No feedback or final rules in this PS	Yes, feedback, final rules and supervisory statement to be issued later in 2015

Progress made in finalising CP14/14 proposals

2.47 **Table B** above sets out the different areas of policy included in CP14/14 and the extent to which they are addressed by this PS.

Other elements of the Senior Managers and Certification Regimes for Relevant Authorised Persons

2.48 In addition to CP14/14, the PRA has also issued other consultations relating to the Senior Managers and Certification Regimes:

- PRA CP28/14, 'Strengthening accountability in banking: forms, consequential and transitional aspects' was published in December 2014 and consulted on proposals for transitional arrangements and operational aspects of the regime, including revisions to forms and the PRA's rules setting out how firms should make an application for an individual to perform an SMF. The PRA intends to issue final rules on these elements of the new regimes later in the year.⁽¹⁾
- PRA CP7/15, 'Approach to non-executive directors in banking and Solvency II firms & Application of the presumption of responsibility to Senior Managers in banking firms' (NEDs CP) was published in February 2015 and is open for consultation until 27 April 2015. The proposals in CP7/15 include a PRA supervisory statement on the responsibilities of those NEDs who will be in scope of the SMR and the PRA's intended application of Section 66B of FSMA (the so called 'presumption of responsibility'). The PRA intends to issue final versions of these supervisory statements later in the year, when it makes the remaining final rules to implement the new regimes for UK firms.
- PRA CP9/15, 'Strengthening accountability in banking: UK branches of foreign banks' was published in March 2015 and

is open for consultation until 25 May 2015.⁽²⁾ It contains proposals on the application of the SMR, Certification Regime, and Conduct Rules to UK branches of overseas firms, referred to as 'incoming branches'. Incoming branches are not yet subject to the new regimes, but HM Treasury has indicated its intention to make secondary legislation under section 71A of FSMA to include them in the definition of a Relevant Authorised Person.⁽³⁾ The PRA cannot make final rules in relation to incoming branches until this legislation has been approved by Parliament.

Cost benefit analysis

2.49 Section 138J(5) of FSMA requires the PRA to publish a cost benefit analysis of any changes to the consultation proposals which the PRA considers to be significant.

2.50 The PRA considers that the most significant change to the draft rules published in CP14/14 is the raising of the threshold at which a simplified set of SMFs and Prescribed Responsibilities will apply. The PRA calculates that, based on current asset levels, this will allow an additional 34 firms to take advantage of the simplified regime. This should reduce costs for those firms by simplifying the set of requirements they need to understand and apply. While this will reduce the level of detail at which responsibilities are allocated in these firms, the PRA does not consider that this will lead to a material reduction in benefits, as the level of detail will reflect the simpler business models of the firms affected. By aligning regulatory requirements more closely with the risk different firms pose to the financial system, this change will help facilitate effective competition.

(1) On 5 March 2015 HM Treasury laid secondary legislation before Parliament to provide for the transition to the new regime, including granting additional powers for the PRA to specify requirements in relation to the transition. See *The Financial Services (Banking Reform) Act 2013 (Transitional and Savings Provisions) Order 2015* (SI 2015/492).

(2) www.bankofengland.co.uk/pr/Pages/publications/cp/2015/cp915.aspx.

(3) On 3 March 2015 HM Treasury issued a Written Ministerial Statement setting out its intention to extend the regime to incoming branches and published a document summarising the response to the consultation: www.publications.parliament.uk/pa/cm201415/cmhansrd/cm150303/wmstext/150303m0001.htm#150303110000012 <https://www.gov.uk/government/consultations/regulating-individual-conduct-in-banking-uk-branches-of-foreign-banks>.

2.51 The other final rules published in this PS do not differ significantly from the drafts published for consultation. In response to feedback from respondents, the PRA has sought to provide additional clarification on certain aspects of the regime, both in the rules themselves and in this PS, which should enhance the clarity and transparency of some of the requirements. By doing so, the PRA promotes the effectiveness of the proposed regime through eliminating potential ambiguity and confusion, and mitigates the associated costs.

2.52 The PRA will provide further clarification on the regimes in its final supervisory statements. To the extent that the rules published in Appendix 1 do not contain any rules relating to matters on which the PRA consulted in CP14/14, those matters are still under consideration and separate consideration will be given to the costs and benefits of any significant differences that arise in those final rules.

Impact on mutuals

2.53 The PRA does not consider that the changes between the draft rules in CP14/14 and the final rules published here will have a significantly different impact on mutuals compared to other types of firm. Under the consultation proposals, a simplified SMR would have applied only to a certain class of mutuals (smaller credit unions). Now a simplified regime (as described in the section 'A simplified SMR for smaller firms' beginning at paragraph 2.11 above) will apply to a wider set of mutuals (all credit unions and some smaller building societies) and some smaller non-mutuals (banks). The impact for those firms who now fall within the simplified regime may be significant, in that it may reduce the number of people they need to put forward for approval as Senior Managers and the number of Prescribed Responsibilities they need to allocate.

2.54 The scope of the PRA's Certification Regime, and its requirements on assessing fitness and propriety of individuals performing SMFs and certification functions, are unchanged with regard to mutuals.

3 SIMR — Responses to feedback to CP26/14

Summary of original proposals

3.1 CP26/14 proposed:

- (a) a set of PRA Senior Insurance Management Functions (SIMFs), the performance of which would be subject to pre-approval by the PRA;
- (b) rules on the allocation of responsibilities to senior insurance managers, including a set of 'Prescribed Responsibilities', which firms will be required to allocate to individuals approved under section 59 of FSMA as senior insurance managers by the PRA or FCA (but, if approved by the FCA, in relation to 'relevant senior management functions' only);⁽¹⁾ along with rules requiring a governance map to be maintained;
- (c) rules requiring the notification and a fit and proper assessment of individuals responsible for key functions (ie 'key function holders');
- (d) rules describing how firms should assess the fitness and propriety of individuals performing SIMFs or key functions;
- (e) a set of Conduct Standards to be applied to senior insurance managers and key function holders; and
- (f) a set of three supervisory statements covering:
 - scope of SIMR, identification of key functions and allocation of responsibilities to individuals;
 - assessing fitness and propriety and providing references; and
 - application of the PRA's conduct standards and associated notifications.

3.2 The PRA received 22 responses to the CP from a range of respondents, including insurers, trade bodies, and professional organisations.

(1) 'Relevant senior management function' is defined in FSMA as a function which the PRA is satisfied is a senior management function as defined in section 59ZA (whether or not the function has been designated as such by the FCA). The PRA will clarify which FCA functions it is satisfied are senior management functions in a further consultation paper shortly.

3.3 Set out below are the PRA's responses to the issues raised in the feedback, noting in addition those areas where the PRA is making a substantive change to the proposals contained in CP26/14. The PRA has not included the feedback in relation to the proposed conduct standards or the provision of regulatory references, which will follow in a later policy statement. The PRA may also make some consequential amendments at a later stage, to align the PRA's rules more closely with the final FCA rules.

3.4 The main issues raised by respondents came under the headings of:

- preparation of governance maps;
- identification of key functions;
- application of fit and proper assessments; and
- scope of group entity SMF.

Governance maps

3.5 The PRA proposed in CP26/14 that all Solvency II firms should prepare and maintain at all times a comprehensive and up-to-date governance map, which showed the key functions at the firm, and the relevant individuals responsible for these functions, along with their lines of accountability and responsibility both within that firm and any wider group.

3.6 Respondents generally saw this as being a sensible document for them to compile, and then to make available to PRA supervisors. This was also seen as being a development which would help to bring about greater individual accountability for senior insurance managers.

3.7 However, there was a resulting concern that this could lead to unintended consequences through a risk aversion in managers, and a tension in governance structures, with more decisions being deferred to the board. It was also suggested that the map might not readily reflect the reality of some organisational structures that use matrix management, or where the dynamics of how the business operates are not easy to capture in a formal job description or governance map.

3.8 In addition, there were some more practical concerns about the potential burdens of having to produce a separate single document for each firm within a group, and having to keep this document up-to-date at all times.

3.9 The PRA believes it is important that a clear and effective governance structure is in place. Within this structure, the PRA believes that firms will be able to operate within their intended risk appetite and agreed risk strategy and risk profiles, without the need for all executive decisions to be taken to the Board. However, it is expected that appropriate oversight of executive decisions will continue to be made by the board as part of its oversight function, promoting a culture of effective risk management.

3.10 The PRA believes that the proposed content of the governance map, as set out in CP26/14, is likely to be relevant to all firms, and it also mirrors the governance requirements within the Solvency II framework. As acknowledged by most respondents, and as explained in the CP, the PRA believes this map will be very useful for supervisory purposes as well.

3.11 However, the PRA acknowledges the concerns about the potential burden of maintaining a single up-to-date document at all times. Accordingly, it has proposed to allow a series of documents to be maintained for this purpose, as long as these are presented in a coherent and clear manner. It is also proposed to replace the requirement that an up-to-date map should be maintained at all times, with a requirement instead that this map should be updated at least quarterly, and whenever there is a significant change in the firm's governance structure or the allocation of responsibilities, or the reporting lines or lines of responsibility, for a key function holder. It is also proposed that following a significant change, the relevant part of the governance map should be sent to the PRA, to inform supervision of the firm.

Key functions

3.12 The term 'key function' stems from Solvency II, though it is only defined in high level terms in the Directive and EIOPA guidelines which were used as a basis for the PRA's proposed rulebook definition. It must include as a minimum the risk management, actuarial, internal audit and compliance functions. However, it is clear from the language used that 'key function' is not intended to be restricted to these four functions — for example 'effectively running the firm' is one further example of a key function envisaged by the language of the Directive. The PRA has also proposed, in line with the EIOPA material, that it should include any function that is of specific importance to the sound and prudent management of the firm. The draft supervisory statement added some further proposed considerations for the identification of 'key functions', such as whether the 'function' assumes material or complex financial risks.

3.13 A number of respondents have asked for further clarification or guidance on which roles at an insurer would be considered to be 'key functions', so as to enable a more consistent approach across firms.

3.14 The PRA does not consider that 'key function' is intended to be a closed category. In order to facilitate consistency, the PRA suggests though that firms may wish to consider whether the following functions would meet the criterion of being of specific importance to the sound and prudent management of the firm, so as to be considered as being 'key functions':

- investment function;
- claims management function (especially for general or health insurance firms);
- IT function; and
- reinsurance function (if separate from the other 'key functions', eg risk management).

3.15 These are functions whose operation, if not properly managed and overseen, could for some firms, depending on the nature and complexity of the business, potentially lead to significant losses being incurred, or to a failure in the ongoing ability of the firm to meet its obligations to policyholders. Firms will then need to set out in their governance maps the key functions which they have identified.

Fit and proper assessments

3.16 The PRA was asked to provide more information on what is meant by an 'ongoing' assessment of the fit and proper status of individuals who are performing 'key functions', along with what is meant in that context by the proposal that firms should consider a person's past business conduct. The ongoing nature of a firm's assessment of an individual's fitness and propriety is a Solvency II requirement, since Article 42 of the Directive requires firms to ensure the fitness and propriety of individuals performing key functions 'at all times'.

3.17 The PRA believes that most firms will already have a regular cycle of appraisals and performance reviews for their staff that is likely to provide an appropriate baseline for this assessment. Additional checks may be deemed appropriate outside of this process, taking account of the nature and level of an individual's responsibilities within the organisation, and of any other relevant information. For the purpose of such checks, the PRA expects firms and groups to take all reasonable steps to gather and consider information which may be relevant to an individual's business conduct.

3.18 A concern was also expressed about both the practical and legal challenges to an insurer considering a person's past business conduct before appointing them to perform a key function.

3.19 In relation to proposed new appointees to controlled functions, the PRA expects the regulatory references, along with the current Financial Services Register, to be an important independent source of information about the suitability of a person's past business conduct. For other proposed new appointees, it is acknowledged that there may only be limited independent information available on a person's past business conduct that can be taken into account.

3.20 Firms may, however, wish to consider whether internal procedures such as pre-employment questionnaires for candidates might be relevant to elicit information on past business conduct for these purposes. Where a firm becomes aware of information which may indicate that aspects of a person's past business conduct might be relevant to an assessment of whether an individual is 'fit and proper', the PRA expects the firm to make reasonable enquiries to establish the circumstances of that conduct and its relevance (if any) to the individual's fitness and propriety.

3.21 The PRA has adopted rules requiring firms to obtain references for senior insurance managers from current and previous employers covering the last five years and, where that employer is an authorised firm, to request all the information needed to assess whether that person is fit and proper. The PRA is considering together with the FCA the wider feedback on the proposed requirement to provide references, and will issue final rules and guidance on these later this year.

Group entity SMF, and group key function holders

3.22 Some concerns were raised about the potential duplication with other EEA regulators of fit and proper assessments for individuals within an EEA group who are not based in the UK, but were deemed to be either a Group Entity Senior Manager (SIMF7) or a group key function holder.

3.23 The PRA considered carefully this request, but has concluded that requiring firms to seek approval from the PRA for individuals who are within the group and exerting a significant influence on the management of a PRA-regulated firm, will still be important, so as to ensure that the individual takes full account of the interests of the UK firm and not just the wider group. In assessing fitness of such individuals, the PRA may, however, take into account assessments of fitness by other regulators.

3.24 The PRA was also asked whether the proposed definition of a Group Entity Senior Manager could be read as encompassing roles with a predominantly conduct focus (eg a group sales or marketing director), as well as anyone who manages a key function but who is not employed directly by the insurance firm.

Table C Progress of CP26/14 proposals

Area of policy	Feedback and final rules in this PS?	Outstanding issues?
Scope of the PRA's SIMR	Yes, feedback and final rules	Yes, final supervisory statement material to be issued later in 2015
Allocation of responsibilities	Yes, feedback and final rules	Yes, final supervisory statement material to be issued later in 2015
Assessing fitness and propriety	Yes, feedback and final rules — other than final rules on the provision of references	Yes, final rules relating to the provision of references, and cross referring to conduct rules/standards, along with supervisory statement material, to be issued later in 2015
Conduct rules and standards	No feedback or final rules in this PS	Yes, feedback, final rules, and supervisory statement to be issued later in 2015

3.25 The proposed definition of a Group Entity Senior Manager (SIMF7) will though only encompass those individuals who meet the criteria in section 59ZA of FSMA, and who are also deemed to be in a 'key function'. The PRA believes that this proposed definition is then unlikely to encompass individuals who are either in a role with a predominately conduct focus, or are performing relatively junior managerial roles. However, this would still include any individual within the group whose decisions and actions had to be regularly taken into account by the governing body of the firm.

Conduct Rules

3.26 This PS does not provide feedback on the proposed Conduct Rules in Appendix 1.4 of CP26/14, or contain final rules to implement those proposals. These will follow in a further policy statement later in the year.

Summary of progress made in finalising CP26/14 proposals

3.27 The Instrument at Appendix 2 to this PS contains the rules in respect of the fitness and propriety of individuals that transpose, or are closely related to the implementation of Solvency II, and these rules will commence with effect from 1 January 2016.

3.28 The Instrument at Appendix 3 to this PS contains the first set of fuller rules for the SIMR, which deal with the changes to the FSMA regime being made by the Banking Reform Act, and introduce changes designed to align the SIMR with the SMR for banks. These rules will commence with effect from 7 March 2016, and will replace the rules at Appendix 2 (for implementing Solvency II).

3.29 **Table C** above summarises the proposals made in CP26/14. The second column sets out whether this PS addresses feedback raised and contains final rules implementing those proposals. The third column indicates whether the PRA intends to issue further feedback and policy material relating to that area of policy. In addition, further rules will be made in relation to NEDs (these are currently open to consultation in CP7/15) and on the technical issues that are to be covered in a forthcoming CP.

Other issues

3.30 The wording of some of the prescribed responsibilities has been adjusted to bring this in line with the corresponding responsibilities for senior managers of banks and investment firms.⁽¹⁾ This includes a division of the responsibility for training and induction between a responsibility for the training and induction of members of the governing body and a similar responsibility for other senior executive managers.

3.31 The PRA was asked how the proposed prescribed responsibilities might be allocated within insurance groups with several regulated entities.

3.32 Appropriate responsibilities may, where relevant, be allocated to a Group Entity Senior Manager (ie SIMF7). The relevant allocations of responsibilities for each regulated firm will need to be set out clearly in the governance map(s) that are maintained. The PRA still expects any potential conflicts of interest to be addressed properly. In addition, the firm would need to ensure that each individual had the necessary time and resources available, so that they could perform their role(s) in a sound, honest, fair, objective and suitably independent manner, as required by the EU Solvency II Regulations.

(1) The reference to non-executive directors in the obligation to allocate prescribed responsibilities may also change as a result of the proposals in CP7/15.

3.33 Some questions were asked in relation to the role of the compliance function that is envisaged by Solvency II. This is a key function that is defined through the Directive and Regulations, and is not the same as the current CF10 function that is subject to prior approval by the FCA. The individual responsible for the Solvency II compliance function will need to be assessed as being fit and proper by both the firm and the appropriate regulator. If an individual responsible for this Solvency II compliance function is not also performing another controlled function, such as a CF10 (and therefore subject to approval by the FCA), then they will therefore need to be notified for this Solvency II key function role to the PRA.

3.34 The PRA was asked for some more clarification on the proposed role of the Chief Actuary, and in particular whether they should be in the so-called first or second line of defence.

3.35 It is intended that the individual in the Chief Actuary function should have responsibility for all the activities of the function, and in many cases will be in the so-called second line of defence position. As such, he or she may then delegate some management tasks to other individuals, but he or she is still required to retain overall responsibility for the function.

3.36 A response to some of the other questions that were posed to the PRA about the Chief Actuary function have been set out in the PRA's response to the comments that were received on the Actuaries Instrument in CP24/14 in a separate Solvency II policy statement.⁽¹⁾

3.37 The PRA was asked whether a person may be approved to carry out controlled functions in more than one firm (eg an outsourced external actuary). The PRA believes this should be feasible, subject to the individual having sufficient time and resource, and the ability to address any resulting conflicts of interest, and to the combination of duties not preventing the person from carrying out all their responsibilities in a sound, honest, and objective manner.

3.38 In relation to the proposed requirement for regulatory references to be obtained, a practical difficulty was raised in relation to individuals currently employed by some rival firm who may not wish to discuss their plans for a new role until a job offer has been secured. The PRA believes this could be addressed by a firm making any such offer conditional on a satisfactory reference being obtained, and where relevant, the approval of the regulator.

3.39 The PRA was asked about the status of the EU Solvency II Regulations, and the related EIOPA guidelines. The EU Regulations are binding on all insurance firms. Firms will also be expected to make every effort to comply with the EIOPA guidelines relating to the fit and proper assessment of individuals. It is believed that the rules for the SIMR are compatible with these guidelines, so this should facilitate any demonstration by firms that they are complying with these guidelines.

3.40 In relation to third country branches, the PRA was asked which controlled functions and key functions are needed for branches, and whether any of these functions can be outsourced.

3.41 Each branch will be required to have at least one person approved for the third country branch manager function. They may apply to have other persons approved by the PRA in the circumstances outlined in paragraph 2.13 of the proposed supervisory statement on the scope of the SIMR; or if they wish to have more persons approved by the PRA, so as to be able to cover all the Prescribed Responsibilities as set out in rule 2.3 of the Allocation of Responsibilities Instrument.⁽²⁾

3.42 If the branch has not applied to have an individual approved by the PRA for the Chief Actuary function, then they will need to comply with the relevant FCA rules for the equivalent function.

3.43 Under Solvency II, each third country branch will also need to establish which are the key functions in respect of the branch's operations, and include at least the four minimum key functions specified in the Directive. The rules in Chapter 4 of the Fitness and Propriety Instrument will then apply in respect of those key functions.⁽³⁾ In particular, the relevant individuals responsible for these key functions will need to be notified to the PRA for an assessment of their fit and proper status, if they will not be in either a PRA or FCA controlled function.

3.44 Each of the above functions may be outsourced to another undertaking, in accordance with the provisions in the EU Solvency II regulations, and with the EIOPA guidelines with which firms are expected to make every effort to comply. This would include the need for appropriate oversight of the outsourced functions.

(1) PRA PS2/15, 'Solvency II: A new regime for insurers', March 2015; www.bankofengland.co.uk/prd/Documents/publications/ps/2015/ps215.pdf.

(2) As set out in Appendix 3 of this PS.

(3) As set out in Appendix 3 of this PS.

Cost benefit analysis

3.45 Section 138J(5) of FSMA requires the PRA to publish a cost benefit analysis of any changes to the consultation proposals which the PRA considers to be significant.

3.46 The PRA considers that the only significant changes to the draft rules published in CP26/14 are (i) the revision of the requirement on firms to maintain a single up-to-date governance map at all times; (ii) a requirement for the PRA to be provided with a copy of the relevant part of the governance map following any significant change; and (iii) the change to the wording of some of the responsibilities for persons in the PRA's SIMR. Overall, these changes should reduce costs for those firms in the longer term while keeping key governance information up-to-date. These changes will not lead to negative impacts on competition.

3.47 The other final rules published in this PS do not differ significantly from the drafts published for consultation. In response to feedback from respondents, the PRA has sought to provide additional clarification on certain aspects of the regime, both in the rules themselves and in this PS, which should enhance the clarity and transparency of some of the requirements. The PRA will provide further clarification on the regimes in its final supervisory statements. To the extent that the rules published in Appendices 2 and 3 do not contain any rules relating to matters on which the PRA consulted in CP26/14, those matters are still under consideration and separate consideration will be given to the costs and benefits of any significant differences that arise in those final rules.

Impact on mutuals

3.48 The PRA does not consider that the changes between the draft rules and the final rules published here will have a different impact on mutuals compared to other types of firm.

Appendices

1 PRA Rulebook: CRR Firms Non-CRR Firms: Individual Accountability Instrument 2015

2 PRA Rulebook: Solvency II Firms: Senior Insurance Managers Regime — Solvency II Instrument 2015

3 PRA Rulebook: Solvency II Firms: Senior Insurance Managers Regime Instrument 2015

**PRA RULEBOOK: CRR FIRMS NON-CRR FIRMS: INDIVIDUAL ACCOUNTABILITY INSTRUMENT
2015**

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 59 (Approval for particular arrangements);
 - (2) section 60A (Vetting of candidates by relevant authorised persons);
 - (3) section 61 (Determination of applications);
 - (4) section 63E (Certification of employees by relevant authorised persons);
 - (5) section 63F (Issuing of certificates);
 - (6) section 137G (The PRA’s general rules); and
 - (7) 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: CRR Firms Non-CRR Firms: Individual Accountability Instrument 2015

- D. The PRA makes the rules in Annexes A to E of this instrument.

Commencement

- E. This instrument comes into force on 7 March 2016.

Citation

- F. This instrument may be cited as the PRA Rulebook: CRR Firms Non-CRR Firms: Individual Accountability Instrument 2015.

By order of the Board of the Prudential Regulation Authority

17 March 2015

Annex A

Amendments to the Glossary

In the Glossary Part of the PRA Rulebook, insert the following new definitions:

certificate

means a certificate issued under section 63F(1) of *FSMA* (Issuing of certificates).

certification function

has the meaning given in Certification 2.2 – 2.4.

certification employee

means an employee (within the meaning in section 63E(9) of *FSMA* (certification of employees by relevant authorised persons)) of a *firm* who has a valid *certificate* issued by that *firm*.

FCA controlled function

means a *controlled function* specified by the *FCA* under section 59 of *FSMA* (Approval for particular arrangements).

non-executive director

means a *director* of a *firm* who does not perform an executive function in relation to that *firm*.

PRA approved person

means a *person* approved by the *PRA* under section 59 of *FSMA* (Approval for particular arrangements) to perform a *PRA senior management function*.

PRA senior management function

means a function specified as a *controlled function* in Senior Management Functions 2 in relation to the carrying on of a *regulated activity* by a *firm*.

relevant senior management function

has the meaning given in s64A(3) of *FSMA*.

senior insurance management function

means that aspect of any *key function* relating to the carrying on of a *regulated activity* by a *firm*, which is specified by the *PRA* in Insurance – Senior Insurance Management Functions 3 – 10 pursuant to section 59 of *FSMA*.

senior insurance management function holder

means any *person* who is responsible for discharging a *senior insurance management function*.

Annex B

In this Annex, the text is all new and is not underlined.

Part

SENIOR MANAGEMENT FUNCTIONS

Chapter content

- 1. APPLICATION AND DEFINITIONS**
- 2. GENERAL**
- 3. EXECUTIVE**
- 4. OVERSIGHT**
- 5. GROUP ENTITIES**
- 6. CREDIT UNIONS**
- 7. COMBINATION OF SENIOR MANAGEMENT FUNCTIONS**

Links

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to every *firm* that is:

- (1) a *CRR firm*; or
- (2) a *credit union*.

1.2 In this Part, the following definitions shall apply:

Chairman function

has the meaning given in 4.2.

Chairman of Audit Committee function

has the meaning given in 4.4.

Chairman of Remuneration Committee function

has the meaning given in 4.5.

Chairman of Risk Committee function

has the meaning given in 4.3.

Chief Executive function

has the meaning given in 3.2.

Chief Finance function

has the meaning given in 3.3.

Head of Internal Audit function

has the meaning given in 3.5

Chief Risk function

has the meaning given in 3.4.

Credit Union Senior Manager function

has the meaning given in 6.2.

FCA approval

means at any time an approval granted to and in effect for a *person* by the *FCA* under section 59 of *FSMA* (Approval for particular arrangements) for the performance of a *controlled function* specified by the *FCA*.

FCA governing function

means a *controlled function* specified by the *FCA* in SUP 10C.5 of the *FCA Handbook*.

FCA responsibilities

means any of the functions referred to in

- (1) SYSC 4.7.7R (Table of senior management responsibilities); and
- (2) SYSC 4 Annex 1G (The main business areas and management functions of a relevant authorised person),

of the *FCA Handbook*.

Group Entity Senior Manager function

has the meaning given in 5.2.

Head of Key Business Area function

has the meaning given in 3.6.

Senior Independent Director function

has the meaning given in 4.6.

1.3 This Part does not apply to a function performed by:

- (1) a *person* acting as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986; or
- (2) a *person* acting as a nominee in relation to a voluntary arrangement under Parts I (Company Voluntary Arrangements) and VIII (Individual Voluntary Arrangements) of the Insolvency Act 1986; or
- (3) a *person* acting as an insolvency practitioner within the meaning of Article 3 of the Insolvency (Northern Ireland) Order 1989; or
- (4) a *person* acting as a nominee in relation to a voluntary arrangement under Parts II (Company Voluntary Arrangements) and VIII (Individual Voluntary arrangements) of the Insolvency (Northern Ireland) Order 1989.

2 GENERAL

2.1 Each of the functions in 3- 6 is a *controlled function*.

- 2.2 (1) A *firm* (other than a *credit union*) must ensure that one or more *person* performs each of the following *PRA senior management functions* on its behalf:
- (a) the *Chief Executive function*;
 - (b) the *Chief Finance function*; and
 - (c) the *Chairman function*.
- (2) If a vacancy arises in respect of one or more of the *PRA senior management functions* set out in (1), a *firm* must ensure that it appoints a *person* to fill that vacancy as soon as practicable.

2.3 To the extent that,

- (1) a *firm* appoints a *person* to perform a function which, but for this rule, would be a *PRA senior management function*;
 - (2) the appointment is solely to provide cover for a *PRA approved person* whose absence is:
 - (a) temporary; or
 - (b) reasonably unforeseen; and
 - (3) the appointment is for less than 12 weeks in a consecutive 12-month period,
- the description of that *PRA senior management function* does not relate to those activities of that *person*.

- 2.4
- (1) If a *person* has been approved to perform a *PRA senior management function* in relation to a *firm* and also performs a function which would, except for SUP10C.9.8R of the *FCA Handbook*, be an *FCA governing function* (such function, the *FCA activities*) performance of the *PRA senior management function* will include the performance of those *FCA activities*, provided the following conditions are met:
 - (a) the *PRA*'s approval to perform a *PRA senior management function* has been granted and continues in force;
 - (b) at the time of approval being granted by the *PRA*, that *person* was not subject to an *FCA approval* to perform that particular *FCA governing function*;
 - (c) the *firm* made the notification required by SUP10.9.8 R (4) of the *FCA Handbook*; and
 - (d) that *person* performs and is continuing to perform those *FCA activities*.
 - (2) If a *person* has been approved to perform a *PRA senior management function* in relation to a *firm* which includes performance of *FCA activities* in the circumstances set out in (1), and that *person*:
 - (a) ceases to perform the *PRA senior management function*;
 - (b) within three months of ceasing performance, is approved to perform a new *PRA senior management function*; and
 - (c) continues to perform the *FCA activities*,performance of the new *PRA senior management function* will include the performance of those *FCA activities*, provided the conditions in (1) (a)-(d) are met.

- 2.5
- If a *PRA approved person* who has been performing a *PRA senior management function* which includes *FCA activities* in the circumstances set out in 2.4, ceases to perform a *PRA senior management function* but continues to perform the *FCA activities*, 2.4 will continue to apply in respect of the performance of the *FCA activities* until the earlier of:
- (1) approval by the *FCA* in respect of the performance by that person of those *FCA activities* as an *FCA governing function* in relation to the firm; or
 - (2) three *months* from the time that the *person* ceased to perform that *PRA senior management function*.

- 2.6 If a *PRA approved person*:
- (1) (other than in the circumstances set out in 2.4 or 2.5), performs one or more *FCA responsibilities* allocated under SYSC 4.7.5R of the *FCA Handbook*;
 - (2) ceases to perform any *PRA senior management function*; and
 - (3) that *person* does not have an *FCA approval* to perform an *FCA controlled function* in relation to that firm

the functions in (1) will continue to be part of the *PRA senior management function* which the *person* most recently performed for that *firm*) until the earlier of:

- (1) approval by the *FCA* in respect of the performance by that person of an *FCA controlled function* in relation to the *firm*; or
 - (2) three *months* from the time that the *person* ceased to perform that *PRA senior management function*.
- 2.7 (1) A *firm* must take all reasonable steps to ensure that before a *person*:
- (a) begins to perform a *PRA senior management function*; or
 - (b) begins to perform new or revised responsibilities in performance of a *PRA senior management function*
- that *person* is provided with all of the information and materials that the *person* may reasonably expect in order to perform that *PRA senior management function* or those new or revised responsibilities effectively and in accordance with the *regulatory system*.
- (2) A *firm* must have a policy about how it complies with (1) including the systems and controls it uses and must maintain adequate records of the steps taken to comply with (1).

3 EXECUTIVE

- 3.1 This Chapter does not apply to a *credit union*.
- 3.2 The *Chief Executive function* (SMF1) is the function of having responsibility, under the immediate authority of the *governing body*, alone or jointly with others, for carrying out the management of the conduct of the whole of the business (or relevant activities) of a *firm*.
- 3.3 The *Chief Finance function* (SMF2) is the function of having responsibility for management of the financial resources of a *firm* and reporting directly to the *governing body* of the *firm* in relation to its financial affairs.
- 3.4 The *Chief Risk function* (SMF4) is the function of having responsibility for overall management of the risk controls of a *firm*, including the setting and managing of its risk exposures, and reporting directly to the *governing body* of the *firm* in relation to its risk management arrangements.

- 3.5 The *Head of Internal Audit function* (SMF5) is the function of having responsibility for management of the internal audit function of a *firm* and for reporting directly to the *governing body* of the *firm* on the internal audit function.
- 3.6 The *Head of Key Business Area function* (SMF6) is the function of having responsibility, for management of a business area or division of a *firm*, where:
- (1) that business area or division:
 - (a) has gross total assets equal to or in excess of £10 billion; and (b) either
 - (i) accounts for more than 20% of the *firm's* gross revenue; or
 - (ii) where the *firm* is part of a *group*, accounts for more than 20% of the total gross revenue of the *group*; and
 - (2) the *person* performing that function does not report to a *person* performing the *Head of Key Business Area function* in respect of that same business area or division of the *firm*.
- 3.7 For the purposes of 3.6, the gross total assets of the business area or division of the *firm* and the percentage of the gross revenue of the *firm* or *group* shall be determined on the basis of either:
- (1) the assets and revenues for the business area or division, and the *firm* or *group*, as the case may be, for the *firm's* financial year immediately preceding that in which the *person* is allocated with the specified responsibilities; or
 - (2) if the threshold amount is not met for that period, on the basis of the annual average amount calculated across a rolling period of five years (calculated by reference to the *firm's* annual accounting date). Where the *firm* or the business area or division has been in existence for less than five years, the calculation will be made on the basis of the annual average amount for the period during which the *firm* or that business line or division has existed (calculated by reference to the *firm's* annual accounting date).

4 OVERSIGHT

- 4.1 This Chapter does not apply to a *credit union*.
- 4.2 The *Chairman function* (SMF9) is the function of having responsibility for chairing, and overseeing the performance of the role of, the *governing body* of a *firm*.
- 4.3 The *Chairman of Risk Committee function* (SMF10) is the function of having responsibility for chairing, and overseeing the performance of any committee responsible for the oversight of the risk management systems, policies and procedures of a *firm* specified in SYSC 7.1 of the *PRA Handbook*, including where applicable to the *firm*, a committee established in accordance with SYSC 7.1.18R of the *PRA Handbook*.
- 4.4 The *Chairman of Audit Committee function* (SMF11) is the function of having responsibility for chairing, and overseeing the performance of any committee responsible for the internal audit system of a *firm* specified in SYSC 6.2 of the *PRA Handbook*.
- 4.5 The *Chairman of Remuneration Committee function* (SMF12) is the function of having responsibility for chairing, and overseeing the performance of any committee responsible for

the oversight of the design and the implementation of the remuneration policies of a *firm*, including where applicable to the firm, a committee established in accordance with SYSC 19A.3.12R of the *PRA Handbook*.

- 4.6 The *Senior Independent Director function* (SMF14) is the function of performing the role of a senior independent *director*, and having particular responsibility for leading the assessment of the performance of the *person* performing the *Chairman function*.

5 GROUP ENTITIES

- 5.1 This Chapter does not apply to a *credit union*.
- 5.2 The *Group Entity Senior Manager function* (SMF7) is the function of having a significant influence on the management or conduct of one or more aspects of the affairs of a *firm* in relation to its *regulated activities* (other than in the course of the performance of another *PRA senior management function*) and which is performed by a *person* employed by, or an officer of:
- (1) a *parent undertaking* or *holding company* of a *firm*; or
 - (2) another *undertaking* which is a member of the *firm's group*.

6 CREDIT UNIONS

- 6.1 This Chapter applies only to a *credit union*.
- 6.2 The *Credit Union Senior Manager function* (SMF8) is the function of having responsibility for the conduct of, and/or chairing the committee of management of a *credit union*.
- 6.3
- (1) A *credit union* must ensure that at least one *person* performs the *Credit Union Senior Manager function* on its behalf.
 - (2) If a vacancy arises in respect of the *Credit Union Senior Manager function*, a *credit union* must ensure that it appoints a *person* to fill that vacancy as soon as practicable.

7 COMBINATION OF SENIOR MANAGEMENT FUNCTIONS

- 7.1 Except as otherwise provided in this Chapter, a *person* may perform more than one *PRA senior management function* on behalf of a *firm*.
- 7.2 A *firm* must ensure that a *person* who performs the *Chairman function* on its behalf does not simultaneously perform the *Chief Executive function* within the same *firm*.

[Note: Art. 88(1)(e) of CRD]

Annex C

In this Annex, the text is all new and is not underlined.

Part

ALLOCATION OF RESPONSIBILITIES

Chapter content

1. APPLICATION AND DEFINITIONS
2. STATEMENT OF RESPONSIBILITIES
3. ALLOCATION OF RESPONSIBILITIES
4. PRESCRIBED RESPONSIBILITIES
5. PRESCRIBED RESPONSIBILITIES: SMALL FIRMS
6. RECORDS
7. CHAIRMAN'S OFFICE

Links

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to every *firm* that is:

- (1) a *CRR firm*; or
- (2) a *credit union*.

1.2 In this Part, the following definitions shall apply:

ancillary services

means any of the services listed in Section B of Annex I to *MiFID*.

certification rules

means the rules set out in Certification of Employees.

Chairman function

has the meaning given in Senior Management Functions 4.2.

Chief Risk function

has the meaning given in Senior Management Functions 3.4.

compliance oversight function

means an *FCA controlled function* specified in SUP 10C.6.1R of the *FCA Handbook*.

Credit Union Senior Manager function

has the meaning given in Senior Management Functions 6.2.

FCA approved person

means a *person* approved to perform an *FCA controlled function* by the *FCA* under section 59 of *FSMA*.

FCA Chairman of nomination committee function

means an *FCA controlled function* specified in SUP 10C.5.2R of the *FCA Handbook*.

FCA designated senior management function

means an *FCA controlled function* specified in SUP 10C.4.3R of the *FCA Handbook*.

FCA significant responsibility senior management function

means the *FCA controlled function* specified in SUP10C.7.1R of the *FCA Handbook*.

FCA business functions

means any of the functions set out in SUP10C Annex 1R of the *FCA Handbook*.

FCA responsibilities

means any of the functions set out in

- (1) SYSC 4.7.7R (Table of FCA Prescribed senior management responsibilities); and
- (2) SYSC 4 Annex 1G (The main business activities and functions of a relevant authorised person),

of the *FCA Handbook*.

Group Entity Senior Manager function

has the meaning given in Senior Management Functions 5.2.

management responsibilities map

has the meaning given in 6.

oversight PRA senior management function

means a *PRA senior management function* set out in Senior Management Functions 4.

prescribed responsibility

means one of the responsibilities in 4.1 and 4.2.

proprietary trading

means

- (a) the *regulated activity* of *dealing in investments as principal* as specified in Article 14 of the *Regulated Activities Order* (Dealing in investments as principal), disregarding the exclusion in Article 15 of the *Regulated Activities Order* (Absence of holding out etc.); and
- (b) *ancillary activities* and (in relation to *MiFID business*) *ancillary services* carried out in relation to the *regulated activity*.

recovery plan

has the meaning given in Recovery Plans 1.2.

resolution pack

has the meaning given in Resolution Pack 1.2.

ring-fencing requirement

means any requirement imposed on a *ring-fenced body* by or under *FSMA*, as a consequence of it being a *ring-fenced body*, including any *ring-fencing rule* or under s142G of *FSMA*.

ring-fenced body prescribed responsibility

means the responsibility in 4.2(4).

senior management regime

means the requirements of the *regulatory system* which apply to *relevant authorised persons* insofar as they relate to *approved persons performing PRA senior management functions* and *FCA designated senior management functions*, including those set out in Senior Management Functions and Allocation of Responsibilities.

small CRR firm

means a *CRR firm* which has gross total assets of £250 million or less, determined on the basis of the annual average amount calculated across a rolling period of five years (calculated by reference to the *firm's* annual accounting date). Where the *firm* has been in existence for less than five years, the calculation will be made on the basis of the annual average amount for the period during which the *firm* has been in existence (calculated by reference to the *firm's* annual accounting date).

small firm prescribed responsibility

has the meaning given in 5.2.

statement of responsibilities

means a statement of the affairs of a *relevant authorised person* for which it is intended that a *person* who performs (or is subject to an application to perform) a *PRA senior management function* is (or will be) responsible.

1.3 This Part does not apply to a function performed by:

- (1) a *person* acting as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986; or
- (2) a *person* acting as a nominee in relation to a voluntary arrangement under Parts I (Company Voluntary Arrangements) and VIII (Individual Voluntary Arrangements) of the Insolvency Act 1986; or
- (3) a *person* acting as an insolvency practitioner within the meaning of Article 3 of the Insolvency (Northern Ireland) Order 1989; or
- (4) a *person* acting as a nominee in relation to a voluntary arrangement under Parts II (Company Voluntary Arrangements) and VIII (Individual Voluntary arrangements) of the Insolvency (Northern Ireland) Order 1989.

2 STATEMENT OF RESPONSIBILITIES

- 2.1 A *firm* must ensure that any application it makes for the approval of a *person* to perform a *PRA senior management function* is accompanied by a *statement of responsibilities*.
- 2.2 A *firm* must ensure that the *statement of responsibilities* accompanying an application for approval to perform a *PRA senior management function* in relation to it includes any *prescribed responsibilities*, *small firm prescribed responsibilities*, *FCA responsibilities* and other responsibilities allocated to, and which are to form part of the responsibilities of, that *person*.
- 2.3 A *firm* must ensure that any responsibilities allocated to, and that form part of the responsibilities of, a *person* who performs a *PRA senior management function* in relation to it are consistent with the scope of that *PRA senior management function* and of any *prescribed*

responsibilities, small firm prescribed responsibilities, FCA responsibilities and other responsibilities allocated to that person.

3 ALLOCATION OF RESPONSIBILITIES

- 3.1 (1) A *firm* (other than a *small CRR firm* or a *credit union*) must allocate each of the *prescribed responsibilities* set out in 4.1 (other than 4.1(13) to (19)) to one or more *persons* who perform:
- (a) a *PRA senior management function*; or
 - (b) subject to 3.5(1), an *FCA designated senior management function*
- on behalf of the *firm*.
- (2) If the circumstances set out in a *prescribed responsibility* in 4.2 (1), (2), or (3) apply to a *firm* (other than a *small CRR firm* or a *credit union*), the *firm* must allocate the *prescribed responsibility* to one or more *persons* who perform:
- (a) a *PRA senior management function*; or
 - (b) subject to 3.5(1), an *FCA designated senior management functions*
- on behalf of the *firm*.
- 3.2 (1) A *firm* (other than a *small CRR firm* or a *credit union*) must allocate each of the *prescribed responsibilities* in 4.1(13) to (19) to one or more *persons* who perform:
- (a) an *oversight PRA senior management function*; or
 - (c) the *FCA Chairman of nomination committee function*
- on behalf of the *firm*.
- 3.3 (1) A *small CRR firm* must allocate each of the *small firm prescribed responsibilities* to one or more *persons* who perform:
- (a) a *PRA senior management function*; or
 - (b) subject to 3.5(2), an *FCA designated senior management function*
- on behalf of the *small CRR firm*.
- (2) A *credit union* must allocate each of the *small firm prescribed responsibilities* to one or more *persons* who perform:
- (a) the *Credit Union Senior Manager function*; or
 - (b) subject to 3.5(2), an *FCA designated senior management function*
- on behalf of the *credit union*.
- 3.4 A *firm* which is a *ring-fenced body* must ensure that the *ring-fenced body prescribed responsibility* is allocated to each *person* who:
- (1) performs a *PRA senior management function* or an *FCA designated senior management function*; and

- (2) is responsible for managing any area of the *ring-fenced body's* business that is subject to a *ring-fencing requirement*

on behalf of the *firm*.

- 3.5 (1) A *firm* must not allocate a *prescribed responsibility* to a *person* who performs an *FCA significant responsibility senior management function*.
- (2) A *small CRR firm* or a *credit union* must not allocate a *small firm prescribed responsibility* to a *person* who performs an *FCA significant responsibility senior management function*.

4 PRESCRIBED RESPONSIBILITIES

4.1 Each of the responsibilities set out in this rule is a *prescribed responsibility*:

- (1) responsibility for the *firm's* performance of its obligations under the *senior management regime*;
- (2) responsibility for the *firm's* performance of its obligations under the *certification rules*;
- (3) responsibility for compliance with the *firm's* obligations in relation to its *management responsibilities map*;
- (4) responsibility for the allocation of all *prescribed responsibilities* in accordance with 3.1;
- (5) responsibility for monitoring effective implementation of policies and procedures for the induction, training and professional development of *senior management*, other than members of the *governing body*;
- (6) responsibility for overseeing the adoption of the *firm's* culture in the day-to-day management of the *firm*;
- (7) responsibility for managing the allocation and maintenance of the *firm's* capital, funding and liquidity;
- (8) responsibility for the *firm's* treasury management functions;
- (9) responsibility for the production and integrity of the *firm's* financial information and its regulatory reporting under the *regulatory system*;
- (10) responsibility for developing and maintaining the *firm's recovery plan* and *resolution pack* and for overseeing the internal processes regarding their governance;
- (11) responsibility for managing the *firm's* internal stress-tests and ensuring the accuracy and timeliness of information provided to the *PRA* and other regulatory bodies for the purposes of stress- testing;
- (12) responsibility for the development and maintenance of the *firm's* business model by the *governing body*;
- (13) responsibility for leading the development and monitoring effective implementation of policies and procedures for the induction, training and professional development of all members of the *firm's governing body*;

- (14) responsibility for leading the development of the *firm's* culture by the *governing body* as a whole;
- (15) responsibility for safeguarding the independence of, and overseeing the performance of, the internal audit function, including the performance of a *person* approved to perform the *Head of Internal Audit function* on behalf of the *firm*, in accordance with SYSC 6.2 (Internal audit) of the *PRA Handbook*;
- (16) responsibility for safeguarding the independence of, and overseeing the performance of, the compliance function, including the performance of a *person* approved by the *FCA* to perform the *compliance oversight function* on behalf of the *firm*, in accordance with SYSC 6.1 (Compliance) of the *PRA Handbook*;
- (17) responsibility for safeguarding the independence of, and overseeing of the performance of, the risk function, including the performance of a *person* approved to perform the *Chief Risk function* on behalf of the *firm*, in accordance with SYSC 7.1.21R and SYSC 7.1.22R (Risk control) of the *PRA Handbook*;
- (18) responsibility for developing and overseeing the firm's remuneration policies and practices in accordance with SYSC 19A (Remuneration Code) of the *PRA Handbook*;
- (19) responsibility for the independence, autonomy and effectiveness of the *firm's* policies and procedures on whistleblowing, including the procedures for protection of staff who raise concerns from detrimental treatment.

4.2 Each of the responsibilities set out in this rule is a *prescribed responsibility* in the circumstances specified:

- (1) if the firm carries out *proprietary trading*, responsibility for the *firm's proprietary trading* activities;
- (2) if the *firm* does not have a *person* who performs the *Chief Risk function*, responsibility for the compliance of the firm's risk management systems, policies and procedures with the requirements of SYSC 7.1.2R to SYSC 7.1.5R of the *PRA Handbook*;
- (3) if the *firm* outsources its internal audit function, responsibility for taking reasonable steps to ensure that every *person* involved in the performance of that function is independent from the *persons* who perform external audit, including:
 - (a) supervision and management of the work of outsourced internal auditors; and
 - (b) management of potential conflicts of interest between the provision of external audit and internal audit services;
- (4) if the *firm* is a *ring-fenced body*, responsibility for ensuring that those aspects of the *firm's* affairs for which a person is responsible for managing are in compliance with the *ring-fencing requirements*.

5 PRESCRIBED RESPONSIBILITIES: SMALL FIRMS

5.1 This Chapter applies only to

- (1) a small *CRR firm*; and
- (2) a *credit union*.

- 5.2 Each of the responsibilities listed in this rule is a *small firm prescribed responsibility*:
- (1) each of the *prescribed responsibilities* in 4.1(1) – (3);
 - (2) responsibility for allocation of all *small firm prescribed responsibilities* in accordance with 3.3(1) or (2), as the case may be;
 - (3) responsibility for implementing and managing the *firm's* risk management policies and procedures;
 - (4) responsibility for managing the systems and controls of the *firm*;
 - (5) responsibility for managing the *firm's* financial resources; and
 - (6) responsibility for ensuring the *governing body* is informed of its legal and regulatory obligations.

6 RECORDS

- 6.1 A *firm* must at all times have a comprehensive and up-to-date single document (a *management responsibilities map*) that describes the *firm's* management and governance arrangements including:
- (1) details of the reporting lines and the lines of responsibility; and
 - (2) reasonable details about the *persons* who are part of these arrangements;
 - (3) the responsibilities of those *persons*.
- 6.2 A *management responsibilities map* must in particular include:
- (1) the names of all the *firm's approved persons* (including *FCA approved persons*), *senior management* and the responsibilities held by each, including all *FCA business functions* and *FCA responsibilities*;
 - (2) if any *PRA senior management functions* or *FCA designated senior management functions* are performed by more than one *person*, or any *prescribed responsibilities* or *small firm prescribed responsibilities*, as the case may be, are allocated to more than one *person*, details of how the performance or discharge of the responsibilities is to be carried out by those *persons*;
 - (3) matters reserved to the *management body* (including the terms of reference of its committees);
 - (4) where the *firm* is a member of a *group*;
 - (a) how the *firm's* management and governance arrangements fit together with those of its *group* and the extent to which the *firm's* management and governance arrangements are provided by or shared with other members of its *group*; and
 - (b) details of the reporting lines and the lines of responsibility (if any) to *persons* who are *employees* or officers of other *group* members or to committees or other bodies of the *group* or of other *group* members; and

(5) details of how the matters set out in (1) to (4) fit into the *firm's* management and governance arrangements as a whole.

6.3 If the content of a *statement of responsibilities* is modified or revised, a *firm* must send a copy of that revised *statement of responsibilities* to the *PRA* as soon as possible.

6.4 A *firm* must retain a copy of each version of:

(1) its *management responsibilities map*; and

(2) the *statement of responsibilities* for each person who performs or has performed a *PRA senior management function* for the *firm*

for a period of ten years from the date on which the *management responsibilities map* or the *statement of responsibilities*, as the case may be, is superseded by a more up-to-date version.

7 CHAIRMAN'S OFFICE

7.1 A *firm* must ensure that the office of the *Chairman function* has resources that are adequate as to both quality and quantity to enable it to fulfil its role within the *firm*.

Annex D

In this Annex, the text is all new and is not underlined.

Part

CERTIFICATION

Chapter content

- 1. APPLICATION AND DEFINITIONS**
- 2. PERFORMANCE OF CERTIFICATION FUNCTIONS**

Links

Material Risk Takers Regulation

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to every *firm* that is:

- (1) a *CRR firm*; or
- (2) a *credit union*.

1.2 In this Part, the following definitions shall apply:

employee

in relation to a *firm*, includes any *person* within the description set out in section 63E(9) of *FSMA*.

Material Risk Takers Regulation

means Commission Delegated Regulation (EU) No 604/2014 of 4 March 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards with respect to qualitative and appropriate quantitative criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile.

significant risk taker

means

- (1) any *employee* of a *CRR firm* who meets any of the criteria set out in Articles 3 to 5 of the *Material Risk Takers Regulation*; or
- (2) any *employee* of a *credit union* who:
 - (a) is a member of the *governing body*;
 - (b) is a member of the *senior management*;
 - (c) is responsible and accountable to the *management body* for the activities of the independent risk management function, compliance function or internal audit function; or
 - (d) heads a function responsible for legal affairs, finance including taxation and budgeting, human resources, remuneration policy, information technology or economic analysis.

1.3 This Part does not apply to a function performed by:

- (1) a *person* acting as an insolvency practitioner within the meaning of section 388 of the *Insolvency Act 1986*;
- (2) a *person* acting as a nominee in relation to a voluntary arrangement under Part I (*Company Voluntary Arrangements*) of the *Insolvency Act 1986*;
- (3) a *person* acting as an insolvency practitioner within the meaning of Article 3 of the *Insolvency (Northern Ireland) Order 1989*; or

- (4) a *person* acting as a nominee in relation to a voluntary arrangement under Part II (Company Voluntary Arrangements) of the Insolvency (Northern Ireland) Order 1989.

2 PERFORMANCE OF CERTIFICATION FUNCTIONS

- 2.1 A *firm* must take reasonable care to ensure that none of its *employees* performs a *certification function* under an arrangement entered into by the *firm* in relation to the carrying on by the *firm* of a *regulated activity*, unless the *employee* has a valid *certificate* issued by the *firm*.
- 2.2 For the purposes of this Part, any function that is performed by a *significant risk taker* for a *firm* is a *certification function* to the extent that the function requires the *significant risk taker* to be involved in one or more aspects of the *firm's* affairs, so far as relating to a *regulated activity* carried on by the *firm*.
- 2.3 However, a *significant risk taker* does not perform a *certification function* for a *firm* under 2.2 if the *significant risk taker* is performing any *controlled function* for that *firm*.
- 2.4 To the extent that:
- (1) a *firm* appoints a *person* to perform a function which, but for this rule, would be a *certification function*;
 - (2) the appointment solely is to provide cover for a *certification employee* whose absence is reasonably unforeseen; and
 - (3) the appointment is for less than four weeks;
- such a *person* does not perform a *certification function*.

Annex E

In this Annex, the text is all new and is not underlined.

Part

FITNESS AND PROPRIETY

Chapter content

- 1. APPLICATION AND DEFINITIONS**
- 2. FITNESS AND PROPRIETY ASSESSMENTS BY FIRMS**

Links

1 APPLICATION AND DEFINITIONS

- 1.1 Unless otherwise stated, this Part applies to every *firm* that is:
- (1) a *CRR firm*; or
 - (2) a *credit union*.
- 1.2 The matters referred to in 2 are relevant to the *PRA*'s determination of whether a *person* to whom a *senior management application* relates is fit and proper.
- 1.3 In this Part, the following definitions shall apply:
- senior management application*

means an application for the *PRA*'s approval under section 59 of *FSMA*.

2 FITNESS AND PROPRIETY ASSESSMENTS BY FIRMS

- 2.1 (1) A *firm* must not make a *senior management application* in relation to a *person* unless it is satisfied that *person* is fit and proper to perform the *PRA senior management function* to which the application relates.
- (2) A *firm* must not issue a *certificate* in relation to a *person*, unless it is satisfied that *person* is fit and proper to perform the *certification function* to which the *certificate* relates.
- (3) In deciding whether a *person* is fit and proper, a *firm* must be satisfied the *person*:
- (a) has the personal characteristics (including being of good repute and integrity);
 - (b) possesses the level of competence, knowledge and experience;
 - (c) has the qualifications; and
 - (d) has undergone or is undergoing all training,
- required to enable such *person* to perform his or her function effectively and in accordance with any relevant regulatory requirements, including those under the *regulatory system*, and to enable sound and prudent management of the *firm*.
- (4) Before deciding whether a *person* is fit and proper, a *firm* must take reasonable steps to obtain appropriate references from that *person*'s previous employers covering at least the past five years.
- (5) In deciding whether a *person* (P) is fit and proper in connection with a *senior management application*, a *firm* must:
- (a) obtain P's consent for the *firm* to request the fullest information in relation to P that it is lawfully able to request under the Police Act 1997 (Certificates of Criminal records, etc) and related subordinated legislation of the *UK* or any part of the *UK*;
 - (b) if P has lived or worked outside the *UK* for a material time in the previous five years, obtain P's consent for the *firm* to request the fullest information in

relation to P that it is lawfully able to request under equivalent overseas legislation; and

(c) request, and have regard to, such information.

**PRA RULEBOOK: SOLVENCY II FIRMS: SENIOR INSURANCE MANAGERS REGIME –
SOLVENCY II INSTRUMENT 2015**

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: Solvency II Firms: Senior Insurance Managers Regime – Solvency II Instrument 2015

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

Commencement

- E. This instrument comes into force on 1 January 2016 and will remain in force up to and including 6 March 2016.

Citation

- F. This instrument may be cited as the PRA Rulebook: Solvency II Firms: Senior Insurance Managers Regime – Solvency II Instrument 2015.

By order of the Board of the Prudential Regulation Authority

17 March 2015

Annex A

Part

INSURANCE – FITNESS AND PROPRIETY

Chapter content

1. APPLICATION
2. FITNESS AND PROPRIETY ASSESSMENTS BY FIRMS
3. OBLIGATION TO PROVIDE REFERENCES
4. DISCLOSURE AND REPLACEMENTS
5. LLOYD'S

1 APPLICATION

- 1.1 Unless otherwise stated, this Part applies to:
- (1) a *UK Solvency II firm*;
 - (2) in accordance with Insurance General Application 3, the *Society*, as modified by 5;
 - (3) in accordance with Insurance General Application 3, *managing agents*, as modified by 5;
 - (4) a *third country branch undertaking* (other than a *Swiss general insurer*); and
 - (5) an *ISPV*.

2 FITNESS AND PROPRIETY ASSESSMENTS BY FIRMS

- 2.1 A *firm* must ensure that all *persons* who perform *key functions* are at all times fit and proper *persons*.

[Note: Art. 42(1) of the *Solvency II Directive*]

- 2.2 In deciding whether a *person* is fit and proper pursuant to 2.1, a *firm* must be satisfied that the *person*:
- (1) has the personal characteristics (including being of good repute and integrity);
 - (2) possesses the level of competence, knowledge and experience;
 - (3) has the qualifications; and
 - (4) has undergone or is undergoing all training,
- required to enable such *person* to perform his or her *key function* effectively and in accordance with any relevant regulatory requirements, including those under the *regulatory system*, and to enable sound and prudent management of the *firm*.

[Note: Art. 42(1) of the *Solvency II Directive*]

- 2.3 Before deciding, and in considering on an on-going basis, whether a *person* is fit and proper pursuant to 2.1 and 2.2, a *firm* must consider the *person's* past business conduct.

[Note: Art. 42(1) of the *Solvency II Directive*]

- 2.4 [Not yet in force]
- 2.5 [Not yet in force]
- 2.6 [Not yet in force]

3 OBLIGATION TO PROVIDE REFERENCES

- 3.1 [Not yet in force]

4 DISCLOSURE AND REPLACEMENTS

- 4.1 (1) A *firm* (other than an *ISPV*) shall notify the *PRA* of any changes to the identity of *key function holders* and shall provide the *PRA* with:

- (a) all the information needed to assess whether such *person* is fit and proper pursuant to 2.2; and
 - (b) the information referred to in Insurance - Allocation of Responsibilities 5.1(3) in respect of that *person*.
- (2) An *ISPV* shall notify the *PRA* of any changes to the identity of *key function holders* who are effectively running the *firm* and shall provide the *PRA* with all the information needed to assess whether such *person* is fit and proper pursuant to 2.2.

[Note: Art. 42(2) of the Solvency II Directive]

4.2 Where:

- (1) a *key function holder* is to be approved by the *PRA* to perform a *senior insurance management function*; and
- (2) the *firm* includes the information referred to in 4.1 in its application to the *PRA* for the approval of that *person* to perform the *senior insurance management function*,

this shall discharge the obligation in 4.1 in respect of that *key function* appointment.

4.3 If a *firm* becomes aware of information which would reasonably be expected to be material to the assessment of a current or former *key function holder's* fitness and propriety under this Part, it must inform the *PRA* as soon as practicable.

[Note: Art. 42(3) of the Solvency II Directive]

4.4 Where a *firm* replaces a *key function holder* because the *firm* considers that that *person* is no longer fit and proper pursuant to 2.1 and 2.2, the *firm* must notify the *PRA* as soon as reasonably practicable.

[Note: Art. 42(3) of the Solvency II Directive]

5. LLOYD'S

5.1 This Part applies to the *Society* and *managing agents* separately.

Annex B

Part

INSURANCE – ALLOCATION OF RESPONSIBILITIES

Chapter content

1. APPLICATION AND DEFINITIONS
2. ALLOCATION OF RESPONSIBILITIES
3. SIMR PRESCRIBED RESPONSIBILITIES
4. IDENTIFICATION OF KEY FUNCTIONS
5. RECORDS
6. LLOYD'S

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to:

- (1) a *UK Solvency II firm*;
- (2) in accordance with Insurance General Application 3, the *Society*, as modified by 6;
- (3) in accordance with Insurance General Application 3, *managing agents*, as modified by 6; and
- (4) a *third country branch undertaking* (other than a *Swiss general insurer*).

1.2 In this Part, the following definitions shall apply:

governance map

has the meaning given in 5.1.

2 ALLOCATION OF RESPONSIBILITIES

2.1 [Not yet in force]

2.2 [Not yet in force]

2.3 [Not yet in force]

3 SIMR PRESCRIBED RESPONSIBILITIES

3.1 [Not yet in force]

4 IDENTIFICATION OF KEY FUNCTIONS

4.1 A *firm* must identify:

- (1) each of the *functions* that the *firm* considers to be a *key function*; and
- (2) any such *key function* that amounts to effectively running the *firm* (or, for a *third country branch undertaking*, effectively running the operations effected by the *third country branch*, or, for a *UK-deposit insurer*, the operations effected by the *third country branch* and all the *third country undertaking EEA branches*).

4.2 A *firm* must keep its identification of *key functions* pursuant to 4.1 up-to-date.

4.3 A *firm* must keep a record of its reasoning for the identification of *key functions* pursuant to 4.1.

5 RECORDS

5.1 A *firm* must have and maintain a *governance map*, which is a clear and coherent document or series of documents with the following details:

- (1) a list of the *key functions* identified by the *firm* in accordance with 4.1 highlighting those that amount to effectively running the *firm* (or, for a *third country branch undertaking*, effectively running the operations effected by the *third country branch* or, for a *UK-deposit insurer*, the operations effected by the *third country branch* and all the *third country undertaking EEA branches*);

- (2) the names of the *persons* who effectively run the *firm* (or, for a *third country branch undertaking*, effectively run the operations effected by the *third country branch* or, for a *UK-deposit insurer*, the operations effected by the *third country branch* and all the *third country undertaking EEA branches*) or who are responsible for other *key functions* listed pursuant to 5.1(1);
- (3) for each *person* named pursuant to 5.1(2), a summary of the significant responsibilities allocated to that *person*;
- (4) where any responsibilities covered by 5.1(3) are allocated to more than one *person*, details of how those responsibilities are shared or divided between the *persons* concerned;
- (5) reporting lines and lines of responsibility for each *person* listed pursuant to 5.1(2);
- (6) where a *firm* (other than a *third country branch undertaking*) is a member of a *group*:
 - (a) how the *firm's* management and governance arrangements fit together with those of its *group* and the extent to which the *firm's* management and governance arrangements are provided by or shared with other members of its *group*; and
 - (b) for the *persons* listed pursuant to 5.1(2), details of the reporting lines and the lines of responsibility (if any) to *persons* who are employees or officers of other *group* members or to committees or other bodies of the *group* or of other *group* members.

5.2 A *firm* must update the *governance map*:

- (1) at least quarterly; and
- (2) in the event of a significant change to:
 - (a) the *firm's* governance structure;
 - (b) the significant responsibilities allocated to a *key function holder*; or
 - (c) the reporting lines or lines of responsibility for a *key function holder*.

5.3 A *firm* must, as soon as reasonably practicable, provide the following to the *PRA*:

- (1) upon request by the *PRA*, a copy of the *governance map*; and
- (2) in the event of an update pursuant to 5.2(2), a copy of the relevant part of the *governance map*.

6. LLOYD'S

6.1 This Part applies to the *Society* and *managing agents* separately.

**PRA RULEBOOK: SOLVENCY II FIRMS: SENIOR INSURANCE MANAGERS REGIME
INSTRUMENT 2015**

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 59 (approval for particular arrangements);
 - (2) section 60 (applications for approval);
 - (3) section 137G (the PRA’s general rules); and
 - (4) 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: Solvency II Firms: Senior Insurance Managers Regime Instrument 2015

- D. The PRA makes the rules in Annex A, Annex B and Annex C to this instrument.

Commencement

- E. This instrument comes into force on 7 March 2016.

Citation

- F. This instrument may be cited as the PRA Rulebook: Solvency II Firms: Senior Insurance Managers Regime Instrument 2015.

By order of the Board of the Prudential Regulation Authority

17 March 2015

Annex A

Part

INSURANCE – SENIOR INSURANCE MANAGEMENT FUNCTIONS

Chapter content

- 1. APPLICATION AND DEFINITIONS**
- 2. GENERAL**
- 3. EXECUTIVE**
- 4. OVERSIGHT**
- 5. GROUP ENTITIES**
- 6. HEAD OF THIRD COUNTRY BRANCH**
- 7. CHIEF ACTUARY**
- 8. WITH-PROFITS ACTUARY**
- 9. CHIEF UNDERWRITING OFFICER**
- 10. UNDERWRITING RISK OVERSIGHT**
- 11. LLOYD'S**
- 12. ISPVs**

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to:

- (1) a *UK Solvency II firm*;
- (2) in accordance with Insurance General Application 3, the *Society*, as modified by 11;
- (3) in accordance with Insurance General Application 3, *managing agents*, as modified by 11;
- (4) a *third country branch undertaking* (other than a *Swiss general insurer*); and
- (5) an *ISPV*, in accordance with 12.

1.2 In this Part, the following definitions shall apply:

Chief Actuary function

has the meaning given in 7.1.

Chief Executive function

has the meaning given in 3.1.

Chief Finance function

has the meaning given in 3.2.

Chief Risk function

has the meaning given in 3.3.

Chief Underwriting Officer function

has the meaning given in 9.2.

Group Entity Senior Insurance Manager function

has the meaning given in 5.1.

Head of Internal Audit function

has the meaning given in 3.4.

Head of Third Country Branch function

has the meaning given in 6.2.

Underwriting Risk Oversight function

has the meaning given in 10.2.

With-Profits Actuary function

has the meaning given in 8.2.

2 GENERAL

- 2.1 Each of the functions in 3 –10 is a *controlled function* and a *senior insurance management function*.
- 2.2 *Senior insurance management function holders* must each be approved by the PRA to perform the applicable *senior insurance management function*.
- 2.3 (1) A *firm* (other than a *third country branch undertaking*) must ensure that one or more *persons* performs each of the following *senior insurance management functions* on its behalf:
- (a) the *Chief Executive function*; and
 - (b) the *Chief Finance function*.
- (2) If a vacancy arises in respect of one or more of the *senior insurance management functions* set out in (1), a *firm* must ensure that it appoints a *person* to fill that vacancy as soon as practicable.
- 2.4 To the extent that:
- (1) a *firm* appoints a *person* to perform a *key function* which, but for this rule, would be a *senior insurance management function*;
 - (2) the appointment is solely to provide cover for a *senior insurance management function holder* whose absence is:
 - (a) temporary; or
 - (b) reasonably unforeseen; and
 - (3) the appointment is for less than 12 weeks in a consecutive 12-month period,
- the description of the applicable *senior insurance management function* does not relate to those activities of that *person*.

3 EXECUTIVE

- 3.1 The *Chief Executive function* (SIMF1) is the function of having responsibility, under the immediate authority of the *governing body*, alone or jointly with others, for carrying out the management of the conduct of the whole of the business (or relevant activities) of a *firm*.
- 3.2 The *Chief Finance function* (SIMF2) is the function of having responsibility for the management of the financial resources of a *firm* and reporting to the *governing body* of a *firm* in relation to its financial affairs.
- 3.3 The *Chief Risk function* (SIMF4) is the function of having responsibility for overall management of the risk management system specified in Conditions Governing Business 3.
- 3.4 The *Head of Internal Audit function* (SIMF5) is the function of having responsibility for the management of the internal audit *function* specified in Conditions Governing Business 5.

4 OVERSIGHT

[Not yet in force]

5 GROUP ENTITIES

- 5.1 The *Group Entity Senior Insurance Manager function* (SIMF7) is the function of having a significant influence on the management or conduct of one or more aspects of the affairs of a *firm* in relation to its *regulated activities* (other than in the course of the performance of another *senior insurance management function*) and which is performed by a *person* employed by, or an officer (other than a *non-executive director*) of:
- (1) a *parent undertaking* or holding company of a *firm*; or
 - (2) another *undertaking* which is a *member* of the *firm's group*.

6 HEAD OF THIRD COUNTRY BRANCH

- 6.1 This Chapter applies only to a *firm* that is a *third country branch undertaking*.
- 6.2 The *Head of Third Country Branch function* (SIMF19) is the function of having responsibility for the conduct of all activities of the *third country branch undertaking* that are subject to the *regulatory system*.
- 6.3
- (1) A *third country branch undertaking* must have at least one *person* approved to perform the *Head of Third Country Branch function*.
 - (2) If a vacancy arises in respect of the *Head of Third Country Branch function*, a *third country branch undertaking* must ensure that it appoints a *person* to fill that vacancy as soon as possible.
- 6.4 A *third country branch undertaking* that transacts *with-profits insurance business* must have at least one person approved to perform the *With-Profits Actuary function* (SIMF21).
- 6.5 A *third country branch undertaking* is not required to have any *person(s)* approved to perform any of the other *senior insurance management functions*.

7 CHIEF ACTUARY

- 7.1 The *Chief Actuary function* (SIMF20) is the function of having responsibility for the actuarial *function* specified in Conditions Governing Business 6.

8 WITH-PROFITS ACTUARY

- 8.1 This Chapter applies only to *firms* that carry on *with-profits insurance business*.
- 8.2 The *With-Profits Actuary function* (SIMF21) is the function of having responsibility for advising the *governing body* of a *firm* transacting *with-profits insurance business* on the exercise of discretion affecting part or all of that business, as described more fully in Actuaries 5.1.

9 CHIEF UNDERWRITING OFFICER

- 9.1 This Chapter applies only to *firms* that carry on *general insurance business* and to *managing agents*.
- 9.2 The *Chief Underwriting Officer function* (SIMF22) is the function of having responsibility for the underwriting decisions in respect of material insurance risks that:
- (1) in relation to *firms* that carry on *general insurance business*, are borne by the *firm*; or
 - (2) in relation to *managing agents*, are borne by *members*.

10 UNDERWRITING RISK OVERSIGHT

10.1 This Chapter applies only to the *Society*.

10.2 The *Underwriting Risk Oversight function* (SIMF23) is the function of overseeing and influencing underwriting plans by *managing agents* in respect of risks borne by *members*.

11 LLOYD'S

11.1 This Part applies to the *Society* and *managing agents* separately.

12 ISPVS

12.1 This Chapter applies only to *firms* that are *ISPVs*.

12.2 The following *senior insurance management functions* do not apply to an *ISPV*:

- (1) *Chief Risk function* (SIMF4);
- (2) *Head of Internal Audit function* (SIMF5);
- (3) *Head of Third Country Branch function* (SIMF19);
- (4) *With-Profits Actuary function* (SIMF21); and
- (5) *Chief Underwriting Officer function* (SIMF22).

Annex B

Part

INSURANCE – FITNESS AND PROPRIETY

Chapter content

1. APPLICATION
2. FITNESS AND PROPRIETY ASSESSMENTS BY FIRMS
3. OBLIGATION TO PROVIDE REFERENCES
4. DISCLOSURE AND REPLACEMENTS
5. LLOYD'S

1 APPLICATION

- 1.1 Unless otherwise stated, this Part applies to:
- (1) a *UK Solvency II firm*;
 - (2) in accordance with Insurance General Application 3, the *Society*, as modified by 5;
 - (3) in accordance with Insurance General Application 3, *managing agents*, as modified by 5;
 - (4) a *third country branch undertaking* (other than a *Swiss general insurer*); and
 - (5) an *ISPV*.

2 FITNESS AND PROPRIETY ASSESSMENTS BY FIRMS

- 2.1 A *firm* must ensure that all *persons* who perform *key functions* are at all times fit and proper *persons*.

[Note: Art. 42(1) of the *Solvency II Directive*]

- 2.2 In deciding whether a *person* is fit and proper pursuant to 2.1, a *firm* must be satisfied that the *person*:
- (1) has the personal characteristics (including being of good repute and integrity);
 - (2) possesses the level of competence, knowledge and experience;
 - (3) has the qualifications; and
 - (4) has undergone or is undergoing all training,

required to enable such *person* to perform his or her *key function* effectively and in accordance with any relevant regulatory requirements, including those under the *regulatory system*, and to enable sound and prudent management of the *firm*.

[Note: Art. 42(1) of the *Solvency II Directive*]

- 2.3 Before deciding, and in considering on an on-going basis, whether a *person* is fit and proper pursuant to 2.1 and 2.2, a *firm* must consider the *person's* past business conduct.

[Note: Art. 42(1) of the *Solvency II Directive*]

- 2.4 Before deciding whether a *person* (P) is fit and proper to become a *senior insurance management function holder*, a *firm* must:
- (1) obtain P's consent for the *firm* to request the fullest information in relation to P that it is lawfully able to request under the Police Act 1997 and related subordinated legislation of the *UK* or any part of the *UK*;
 - (2) if P has lived or worked outside the *UK* for a material time in the previous five years, obtain P's consent for the *firm* to request the fullest information in relation to P that it is lawfully able to request under equivalent overseas legislation; and
 - (3) request, and have regard to, such information.

- 2.5 Before deciding whether a *person* is fit and proper to become a *senior insurance management function holder*, a *firm* must take reasonable steps to obtain appropriate references from that *person's* current and previous employers covering at least the past five years.
- 2.6 Where a *firm* (A) seeks a reference pursuant to 2.5 from an *FCA-authorised person* or a *PRA-authorised person* (B), A must also request that B discloses all matters of which B is aware that are relevant to the assessment of that *person's* fitness and propriety.

3 OBLIGATION TO PROVIDE REFERENCES

- 3.1 [Not yet in force]

4 DISCLOSURE AND REPLACEMENTS

- 4.1 (1) A *firm* (other than an *ISPV*) shall notify the *PRA* of any changes to the identity of *key function holders* and shall provide the *PRA* with:
- (a) all the information needed to assess whether such *person* is fit and proper pursuant to 2.2; and
 - (b) the information referred to in Insurance - Allocation of Responsibilities 5.1(3) in respect of that *person*.
- (2) An *ISPV* shall notify the *PRA* of any changes to the identity of *key function holders* who are effectively running the *firm* and shall provide the *PRA* with all the information needed to assess whether such *person* is fit and proper pursuant to 2.2.

[Note: Art. 42(2) of the Solvency II Directive]

- 4.2 Where:
- (1) a *key function holder* is to be approved by the *PRA* to perform a *senior insurance management function*; and
 - (2) the *firm* includes the information referred to in 4.1 in its application to the *PRA* for the approval of that *person* to perform the *senior insurance management function*,

this shall discharge the obligation in 4.1 in respect of that *key function* appointment.

- 4.3 If a *firm* becomes aware of information which would reasonably be expected to be material to the assessment of a current or former *key function holder's* fitness and propriety under this Part, it must inform the *PRA* as soon as practicable.

[Note: Art. 42(3) of the Solvency II Directive]

- 4.4 Where a *firm* replaces a *key function holder* because the *firm* considers that that *person* is no longer fit and proper pursuant to 2.1 and 2.2, the *firm* must notify the *PRA* as soon as reasonably practicable.

[Note: Art. 42(3) of the Solvency II Directive]

5. LLOYD'S

- 5.1 This Part applies to the *Society* and *managing agents* separately.

Annex C

Part

INSURANCE – ALLOCATION OF RESPONSIBILITIES

Chapter content

1. APPLICATION AND DEFINITIONS
2. ALLOCATION OF RESPONSIBILITIES
3. SIMR PRESCRIBED RESPONSIBILITIES
4. IDENTIFICATION OF KEY FUNCTIONS
5. RECORDS
6. LLOYD'S

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to:

- (1) a *UK Solvency II firm*;
- (2) in accordance with Insurance General Application 3, the *Society*, as modified by 6;
- (3) in accordance with Insurance General Application 3, *managing agents*, as modified by 6; and
- (4) a *third country branch undertaking* (other than a *Swiss general insurer*).

1.2 In this Part, the following definitions shall apply:

governance map

has the meaning given in 5.1.

SIMR prescribed responsibility

- (1) for a *firm* (other than a *third country branch undertaking*) means the responsibilities in 3.1;
- (2) for a *third country branch undertaking* (other than a *UK-deposit insurer* or a *Swiss general insurer*) means the responsibilities set out in 3.1 to the extent only that they are relevant to the operations effected by its *third country branch*, save in relation to 3.1(4) which shall also take account of the operations of the *third country branch undertaking* to the same extent as is necessary to ensure compliance by the *third country branch undertaking* with Third Country Branches 13;
- (3) for a *UK-deposit insurer*, means the responsibilities set out in 3.1 to the extent only that they are relevant to the operations effected by its *third country branch* and all its *third country undertaking EEA branches*, save in relation to 3.1(4) which shall also take account of the operations of the *third country branch undertaking* to the same extent as is necessary to ensure compliance by the *third country branch undertaking* with Third Country Branches 13.

2 ALLOCATION OF RESPONSIBILITIES

2.1 A *firm* (other than a *third country branch undertaking*) must allocate each element of the *SIMR prescribed responsibilities* set out in 3.1 (other than 3.1(10) and (11)), to one or more *persons* who are approved under section 59 of *FSMA* by:

- (1) the *PRA* to perform a *senior insurance management function*; or
- (2) in relation to *relevant senior management functions* only, the *FCA*.

2.2 A *firm* (other than a *third country branch undertaking*) must allocate each element of the *SIMR prescribed responsibilities* set out in 3.1(10) and (11) to one or more *non-executive directors*.

2.3 A *third country branch undertaking* must allocate each element of the *SIMR prescribed responsibilities* set out in 3.1(1), (4), (5), (6) and (7) to one or more *persons* who are approved under section 59 of *FSMA* by:

- (1) the *PRA* to perform a *senior insurance management function*; or
- (2) in relation to *relevant senior management functions* only, the *FCA*.

3 SIMR PRESCRIBED RESPONSIBILITIES

3.1 Each of the responsibilities set out in this rule is an *SIMR prescribed responsibility*:

- (1) responsibility for ensuring that the *firm* has complied with its obligation in Insurance - Fitness and Propriety 2.1 to ensure that every *person* who performs a *key function* (including those in respect of whom an application under section 59 of *FSMA* is made) is a fit and proper *person*;
- (2) responsibility for leading the development of the *firm's* culture by the *governing body* as a whole;
- (3) responsibility for overseeing the adoption of the *firm's* culture in the day-to-day management of the *firm*;
- (4) responsibility for the production and integrity of the *firm's* financial information and its regulatory reporting;
- (5) responsibility for management of the allocation and maintenance of the *firm's*;
 - (a) capital; and
 - (b) liquidity;
- (6) responsibility for the development and maintenance of the *firm's* business model by the *governing body*;
- (7) responsibility for performance of the *firm's* *ORSA*;
- (8) responsibility for leading the development and monitoring effective implementation of policies and procedures for the induction, training and professional development of all members of the *firm's* *governing body*;
- (9) responsibility for monitoring effective implementation of policies and procedures for the induction, training and professional development of all of the *firm's* *key function holders* (other than members of the *firm's* *governing body*);
- (10) responsibility for the independence, autonomy and effectiveness of the *firm's* policies and procedures on whistleblowing including the procedures for protection of staff who raise concerns from detrimental treatment; and
- (11) responsibility for developing and overseeing the *firm's* remuneration policies and practices.

4 IDENTIFICATION OF KEY FUNCTIONS

4.1 A *firm* must identify:

- (1) each of the *functions* that the *firm* considers to be a *key function*; and
- (2) any such *key function* that amounts to effectively running the *firm* (or, for a *third country branch undertaking*, effectively running the operations effected by the *third*

country branch, or, for a UK-deposit insurer, the operations effected by the third country branch and all the third country undertaking EEA branches).

- 4.2 A firm must keep its identification of *key functions* pursuant to 4.1 up-to-date.
- 4.3 A firm must keep a record of its reasoning for the identification of *key functions* pursuant to 4.1.

5 RECORDS

5.1 A firm must have and maintain a *governance map*, which is a clear and coherent document or series of documents with the following details:

- (1) a list of the *key functions* identified by the firm in accordance with 4.1 highlighting those that amount to effectively running the firm (or, for a *third country branch undertaking*, effectively running the operations effected by the *third country branch* or, for a *UK-deposit insurer*, the operations effected by the *third country branch* and all the *third country undertaking EEA branches*);
- (2) the names of the *persons* who effectively run the firm (or, for a *third country branch undertaking*, effectively run the operations effected by the *third country branch* or, for a *UK-deposit insurer*, the operations effected by the *third country branch* and all the *third country undertaking EEA branches*) or who are responsible for other *key functions* listed pursuant to 5.1(1);
- (3) for each *person* named pursuant to 5.1(2), a summary of the significant responsibilities allocated to that *person* (including, if applicable, any *SIMR prescribed responsibilities* that have been allocated to that *person* in accordance with 2);
- (4) where any responsibilities covered by 5.1(3) are allocated to more than one *person*, details of how those responsibilities are shared or divided between the *persons* concerned;
- (5) reporting lines and lines of responsibility for each *person* listed pursuant to 5.1(2);
- (6) where a firm (other than a *third country branch undertaking*) is a member of a *group*:
 - (a) how the firm's management and governance arrangements fit together with those of its *group* and the extent to which the firm's management and governance arrangements are provided by or shared with other members of its *group*; and
 - (b) for the *persons* listed pursuant to 5.1(2), details of the reporting lines and the lines of responsibility (if any) to *persons* who are employees or officers of other *group* members or to committees or other bodies of the *group* or of other *group* members.

5.2 A firm must update the *governance map*:

- (1) at least quarterly; and
- (2) in the event of a significant change to:
 - (a) the firm's governance structure;
 - (b) the significant responsibilities allocated to a *key function holder*; or

(c) the reporting lines or lines of responsibility for a *key function holder*.

5.3 A *firm* must, as soon as reasonably practicable, provide the following to the *PRA*:

- (1) upon request by the *PRA*, a copy of the *governance map*; and
- (2) in the event of an update pursuant to 5.2(2), a copy of the relevant part of the *governance map*.

6 LLOYD'S

6.1 This Part applies to the *Society* and *managing agents* separately.