BANK OF ENGLAND

**Press Office**
Threadneedle Street
London EC2R 8AH
**T** 020 7601 4411
**F** 020 7601 5460
press@bankofengland.co.uk
www.bankofengland.co.uk

# News release

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## Prudential Regulation Authority sets out how it will hold senior managers accountable for failure to meet its requirements

The Prudential Regulation Authority (PRA) has today set out how it will hold senior managers in banks, building societies and designated investment firms to account if they do not take reasonable steps to prevent or stop breaches of regulatory requirements in their areas of responsibility.

In June 2013, the Parliamentary Commission for Banking Standards (PCBS) published its report “Changing Banking for Good” setting out recommendations for legislative and other action to improve professional standards and culture in the UK banking industry. This was followed by legislation in the Banking Reform Act 2013.

The Banking Reform Act introduced new powers which allow the PRA and Financial Conduct Authority (FCA) to impose regulatory sanctions on individual senior managers when a bank breaches a regulatory requirement if the senior manager responsible for the area where the breach occurred cannot demonstrate that they took reasonable steps to avoid or stop it.

The PRA has today published guidance for banks clarifying how it will exercise this new power; including examples of the kind of actions which may constitute reasonable preventive steps and how firms and individuals may evidence them.

The Banking Reform Act also creates a separate offence which could result in individual senior managers being held criminally liable for reckless decisions leading to the failure of a bank. This new criminal offence will, however, be subject to the usual standard of proof in criminal cases (‘beyond reasonable doubt’).

Andrew Bailey, Deputy Governor, Prudential Regulation, Bank of England and CEO of the PRA said

“Senior managers will be held individually accountable if the areas they are responsible for fail to meet our requirements. Our new accountability regime will hold all senior managers, including non-executive directors, to a clear standard of behaviour and we will take action where they fail to meet this.”

**Insurers**

In November 2014, the PRA consulted on a parallel accountability regime for the insurance sector. The Senior Insurance Managers' Regime is aligned with the banking regime but it is not identical. The business model of insurers, the risks they pose to the PRA's objectives and the legislative framework they operate under are different from banks. Specifically, none of the potential criminal sanctions, nor the 'presumption of responsibility' in the banking regime, will apply to senior insurance managers.

The new regime also takes account of the need to introduce measures relating to governance and the fitness and propriety of individuals as part of Solvency II.

**Non-executive directors (NEDs)**

In November, the PRA indicated that it would issue a further consultation confirming how the PRA will apply the new Senior Managers' Regime and Senior Insurance Managers' Regime to NEDs in banks and insurers respectively.

The PRA has now confirmed that it will apply the Senior Managers' Regime and Senior Insurance Managers' Regime to the following NEDs:

- Chairman;
- Senior Independent Director;
- Chair of the Risk Committee;
- Chair of the Audit Committee; and
- Chair of the Remuneration Committee.

The PRA's Senior Managers' Regime and Senior Insurance Managers' Regime will therefore focus on those NEDs with specific responsibilities for areas or committees directly relevant to a firm's safety and soundness. In addition to any collective responsibility they may have as members of the board, non-executives in scope of the Senior Managers' Regime and Senior Insurance Managers' Regime will be held individually accountable for their areas of responsibility. The PRA is also proposing to require firms to ensure that all board members are held to high standards of conduct.

The paper also includes details of the FCA's approach to non-executive directors. Following the FCA's decision to narrow the scope of its Senior Managers' Regime to include a smaller group of NEDs, the PRA is also consulting on notification and assessment requirements for those NEDs who are not included in the regime. This will allow the UK to comply with its EU requirements to ensure the suitability of all members of a bank's board.

**Whistleblowing**

The PCBS also recommended that banks put in place mechanisms to enable their employees to raise concerns internally, and that the PRA and FCA ensure these mechanisms are effective. The PRA and FCA have today set out a package of measures to formalise firms' whistleblowing procedures. These proposals aim to ensure that all employees are encouraged to blow the whistle where they suspect misconduct, confident that their concerns will be considered and that there will be no personal repercussions.

**Notes to Editors**

CP6/15: Whistleblowing in deposit-takers, PRA-designated investment firms and insurers

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

July 2014: The PRA's and FCA's joint consultation on 'Strengthening accountability in banking: a new regulatory framework for individuals'

November 2014: The PRA's consultation on the 'Senior insurance managers regime: a new regulatory framework for individuals' (PRA CP26/14)

December 2014: The PRA's and FCA's joint consultation on 'Strengthening accountability in banking: forms, consequential and transitional aspects'