



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Consultation Paper | CP2/14
The PRA Rulebook

January 2014

Prudential Regulation Authority
20 Moorgate
London EC2R 6DA

Prudential Regulation Authority, registered office: 8 Lothbury, London EC2R 7HH.
Registered in England and Wales No: 07854923



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Consultation Paper | CP2/14

The PRA Rulebook

January 2014

The Bank of England and the Prudential Regulation Authority (PRA) reserves the right to publish any information which it may receive as part of this consultation.

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure, in accordance with access to information regimes under the Freedom of Information Act 2000 or the Data Protection Act 1998 or otherwise as required by law or in discharge of our statutory functions.

Please indicate if you regard all, or some of, the information you provide is confidential. If the Bank of England or the PRA receives a request for disclosure of this information, the Bank of England or the PRA will take your indication(s) into account, but cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system on emails will not, of itself, be regarded as binding on the Bank of England and the PRA.

This Consultation Paper proposes changes to the PRA Rulebook.

Please address any comments or enquiries to:

Tunde Koleoso
Policy Co-ordination Team
Prudential Regulation Authority
20 Moorgate
London
EC2R 6DA

Telephone: 020 3461 8559
Email: tunde.koleoso@bankofengland.co.uk

1 Overview

1.1 This Consultation Paper (CP) sets out proposals to redraft certain modules of the Prudential Regulation Authority's (PRA's) Handbook. This is the first in a planned series of consultations aimed at reshaping Handbook material inherited from the Financial Services Authority (FSA) to create a clear and concise PRA Rulebook. The PRA Rulebook will appear in a new online website in 2015 and, until then, will appear in the current Handbook site in PDF form.

1.2 These changes follow the commitment made in the approach documents⁽¹⁾ to publish a Rulebook, containing only PRA rules. Planned changes to the online presentation of the Rulebook, intended to make the rules easily navigable and logically structured, were outlined in Chapter 10 of CP8/13.⁽²⁾ The PRA will issue clear and well-organised rules and guidance material, in the form of supervisory statements that concisely set out PRA expectations.

1.3 The proposals are relevant to all PRA firms, who are invited to comment. This consultation closes on 21 March 2014 and the PRA will aim to publish a policy statement with final rules and supervisory statements after this date.

1.4 This CP also addresses feedback received from the consultation set out in Chapter 10 of CP8/13.

CP structure

1.5 The table below sets out the Handbook modules that form part of this consultation and will be replaced by Rulebook Parts:

Chapter		
1	n.a.	Overview
2	n.a.	The Online Rulebook — response to Chapter 10 of CP8/13
	Handbook module	Part Title
3	PRIN (Principles for Businesses)	The Fundamental Rules
4	SUP 2 (Information gathering by the FSA on its own initiative)	Information Gathering
5	SUP 3 (Auditors)	Auditors
6	SUP 5 (Reports by skilled persons)	Use of Skilled Persons
7	SUP 6 (Varying and cancelling Part 4A permissions) SUP 8 (Waivers)	Permissions and Waivers
8	SUP 15 (Notifications)	Notifications
9	FINMAR (Gathering financial stability information)	Statement of policy on the exercise of the PRA's financial stability information power
10	SUP 13A Annex 1 — Application of the Handbook to Incoming EEA Firms	n.a.

Drafting approach

1.6 The PRA has analysed existing PRA Handbook material for clarity, necessity and alignment with the PRA's approach.

Rules and directions⁽³⁾ that the PRA proposes to retain are placed in Rulebook Parts, which follow the new structure and style of the Rulebook.⁽⁴⁾ Handbook guidance that the PRA proposes to convert into rules has also been placed into the Rulebook instruments. These draft instruments are set out in Annex 1. Guidance that the PRA judges as necessary to support firm judgements and clarify the PRA's expectations, is expressed in supervisory statements, see Annex 2.

1.7 Where the Financial Services and Markets Act 2000 (as amended) (FSMA) requires the PRA to prepare a statement of its policy with respect to exercise of particular power, the PRA produces and publishes this as a separate document.⁽⁵⁾ The Statement of Policy (SoP) consulted on as part of this CP, on Information Gathering, is set out in Annex 3.

1.8 Handbook guidance that concerns process will be placed on the PRA's main website.⁽⁶⁾ Typically this guidance details the method, usually an application process (including timing, forms and fees), which the PRA expects firms to comply with. It also clarifies what the PRA expects firms to submit as part of an application and how an application is determined.

Statutory obligations

1.9 In discharging its general functions of making rules and determining its policy by reference to which it performs particular functions, the PRA must, so far as reasonably possible, act in a way that advances its general objective to promote the safety and soundness of PRA-authorised persons.

1.10 Any specific impact, on the PRA's statutory objectives will be addressed in the relevant chapter, but overall, the proposals advance the PRA's general objective by assisting firms to meet PRA requirements. The proposals are implemented in accordance with the PRA's policy framework, and so ensure consistent and clear communication of PRA expectations, which therefore enables firms and the PRA to make judgements which advance the 'safety and soundness' of PRA firms.

1.11 The PRA has a statutory requirement to state whether the impact of its proposals on mutuals⁽⁷⁾ will be significantly different from the impact on other firms. These proposals apply to all PRA-regulated firms, including mutuals, who are unlikely to be affected any differently from other firms.

(1) www.bankofengland.co.uk/publications/Documents/praapproach/bankingappr1304.pdf.
www.bankofengland.co.uk/publications/Documents/praapproach/insuranceappr1304.pdf.

(2) www.bankofengland.co.uk/pra/Documents/publications/policy/2013/ocp8-13.pdf.

(3) A direction is a power conferred on the PRA by FSMA and relevant statutory instruments. It is binding on the person of categories of persons referred to.

(4) Firms are advised to read Chapter 10 of CP CP8/13 which sets out details of the new structure and style of the Rulebook, including functionality proposed for the Rulebook online site.

(5) Examples of PRA SoPs include: 'The PRA's approach to enforcement', 'Conducting statutory investigations' and 'Designation of investment firms for prudential supervision'. These can be found on the PRA publications section of the PRA's website.

(6) www.bankofengland.co.uk/PRA/Pages/default.aspx.

(7) Mutuals are defined as building societies, friendly societies, industrial and provident societies and EEA mutual societies.

1.12 In making its rules and establishing its policies the PRA must have regard to the Regulatory Principles.⁽¹⁾ In addition, the PRA is currently required to have regard to the need to minimise any adverse effect on competition in relevant markets. Where specific impacts on the Regulatory Principles and/or competition are identified then these will be addressed in the relevant chapters of this CP.

1.13 In general the PRA considers the proposals in this CP to be compatible with the Regulatory Principles. Limited impacts on competition have been identified where new requirements are being set — see Chapter 3 on the Fundamental Rules. Adverse effects on competition are not expected where the PRA is proposing a move of current rules into the Rulebook format. Neither are they expected where the PRA proposes to redraft guidance provisions into rules because firm behaviour should already conform with PRA expectations.

1.14 The Financial Services (Banking Reform) Bill received Royal Assent on 18 December 2013. This introduces a new competition objective for the PRA. The competition objective will be secondary to the PRA's general objective to ensure the safety and soundness of the firms that it regulates and to its insurance objective. It provides that when discharging its general functions in a way that advances its objectives, the PRA must so far as is reasonably possible act in a way which, as a secondary objective, facilitates effective competition in the markets for services provided by PRA-authorized persons in carrying on regulated activities. This secondary objective will replace the competition 'have regards' considered in the above paragraph and will be brought into force by statutory instrument.

1.15 In preparation for this secondary objective, the PRA has assessed whether the proposals in this CP facilitate effective competition. Most of the proposals relate to existing rule and guidance provisions which are being carried over to the Rulebook so no new competition barriers are being set. The supervisory statements do not constrain firm behaviour, but are designed to assist firms to comply with PRA rules. The PRA has not identified any obstacles to competition where new rules are proposed. The impact of competition resulting from the proposals to replace the Principles of Businesses is considered separately in Chapter 3.

1.16 The transition to the Rulebook will benefit PRA firms who as a result will be able to access rules which are specific, where applicable, to their firm type and separate from the provisions of the Financial Conduct Authority (FCA). An additional benefit is the provision of clearly drafted supervisory statements which should assist firms in meeting PRA requirements.

1.17 The PRA does not expect the costs to firms arising from the move to the Rulebook to be significant, because the PRA is

not proposing a material change to its rules. Given the benefits, the PRA has considered that any costs will be minimal and justified. A cost benefit analysis is addressed in the specific chapter where the PRA considers there to be a material change.

1.18 The PRA has considered the equality and diversity issues that may arise from the proposals in this CP. The conclusion reached is that the proposals do not give rise to discrimination issues and are of low relevance to the equality agenda.

2 The online Rulebook — response to Chapter 10 of CP8/13

2.1 This chapter confirms the approach to the online Rulebook as consulted on in Chapter 10 of CP8/13 and addresses the feedback received during the consultation. This chapter is relevant to all PRA firms.

2.2 The PRA proposed to move Handbook material into a new form and structure containing rules (and where relevant, directions) only, principally referred to as 'the Rulebook'. Chapter 10 of CP8/13 also confirmed the PRA's development of an 'online Rulebook' by mid-2015 and proposed new functionality designed to make the Rulebook content easy to engage and comply with.

Consultation responses

2.3 There were three respondents, all of whom welcomed the proposal to rewrite Handbook material. The most significant comment concerned removal of guidance from the Rulebook. Although the Rulebook will not contain guidance, the PRA is not ceasing to provide any form of guidance to firms. Supervisory statements will be used proportionately by the PRA to explain clearly and concisely the PRA's expectations, where it is not possible to make rules that fulfil the same function.

2.4 One respondent stressed the importance of good search facilities and easy linkage between rules and supervisory statements. The PRA's proposals and the proposed functionality will assist to this end. This respondent queried whether additional assistance could be provided to help firms to determine, for example, whether banking rules apply to 'non-insurance' activities within a business. The PRA believes that the split of the Rulebook into banking and insurance sectors, with a further split into directive and non-directive firms, should help firms to work out what rules apply to them. Firms are expected to be able to interpret the application of the rules using this facility and the PRA is not planning to develop an online 'help facility' to confirm whether a specific rule applies to a specific activity.

(1) FSMA 2H and 3B.

2.5 One respondent raised a concern about visual impairment, in particular the disappearance of the 'hover-over popups' when the cursor is not on the defined term. The PRA will explore with the online supplier whether the popup box can remain on the screen for a longer duration. In any case, users will be able to access definitions from the central glossary, the Part glossary or external websites such as EUR-Lex or Legislation.gov.uk.

2.6 The PRA is alert to accessibility issues and will require the online supplier to provide details of how the proposed PRA Rulebook website promotes accessibility. It is the PRA's aim to ensure that the website meets W3C (Worldwide Web Consortium) standards⁽¹⁾ and is Priority 2 'AA' compliant.

3 The Fundamental Rules

3.1 This chapter sets out the PRA's proposal to replace the six Principles for Businesses⁽²⁾ (the Principles) inherited from the FSA with the Fundamental Rules (FRs). These new rules will apply to all PRA firms (subject to legal restrictions), irrespective of size and business carried on. The exceptions to the application of the Principles are currently shared and therefore relate to the Principles for Businesses of both the PRA and FCA. These have been amended to reflect that the FRs only relate to prudential matters.

3.2 Alongside the approach documents and Threshold Conditions (TCs), the FRs will be core to the PRA's supervisory approach and will be used to structure the Rulebook. The FRs amend the substance of the Principles and contain new rules which aim, collectively, to be an expression of the PRA's general objective of promoting the safety and soundness of regulated firms.⁽³⁾ The Parliamentary Commission on Banking Standards (PCBS) recommended that the Principles should be amended to include a requirement that a bank must operate in accordance with the safety and soundness of the firm and that directors' responsibilities to shareholders are to be interpreted in the light of this requirement. The combined effect of the proposed FRs address the PCBS recommendation that Principles include safety and soundness.

3.3 This chapter sets out how the PRA intends to use the FRs and each proposed rule is explained separately.

Rulebook structure

3.4 The FRs will form the foundation of the PRA's Rulebook. The rules will, like the Principles, be high level, so allowing them to act as overarching requirements, which apply at all times. Other PRA rules, whether specific or general, will make up the remainder of the Rulebook and will amplify the core expectations, which are set out in the FRs.

3.5 The FRs are intended to focus firms on the matters that the PRA considers to be important. As the FRs apply at all

times, they will apply where no other PRA rule exists and will be used to identify areas where rules are needed.

3.6 The Rulebook will be shaped considerably by prudential standards set by the European Union (EU).⁽⁴⁾ The FRs will interact with general intention of EU provisions which have already been or are yet to be implemented. They are limited to ensure compliance with EU law and the PRA may consider modifying the FRs (and/or their application) should it appear in future that EU legislation conflicts with or duplicate requirements within the FRs.

3.7 The new functionality of the online Rulebook will replicate the FRs within sectors, which will ensure that the FRs appear within the relevant set of rules, at all times, for all firm types.

Supervision

3.8 The FRs are drafted to be short and memorable. It is envisaged that the FRs will be mentioned in dialogue between supervisors and respective firms, just as the Principles are. The PRA expects the FRs to be referred to in supervisory statements and the PRA proposes to update the approach documents to reflect the importance it places on the FRs.

3.9 The FRs leave scope for firms to achieve compliance in a way they consider adequate; however, should the PRA judge this compliance to be inadequate or consider the FRs to be breached, then the PRA will seek recourse to its enforcement powers. A breach of the FRs could also flag a potential breach of the TCs. In such cases and in accordance with its forward-looking approach, the PRA will consider supervisory interventions and/or remedial actions suitable for a firm and its business.

Enforcement

3.10 The PRA wishes to encourage firms to exercise judgement, and take responsibility for what the FRs mean in relation to their business. Firms will therefore need to consider whether a particular action could breach, or will breach the FRs and take appropriate steps to avoid the breach.

3.11 As 'relevant requirements', the PRA can use the FRs for a range of enforcement action⁽⁵⁾ including in cases where no underlying detailed rule exists. Where the FRs and detailed rules are both relevant to alleged misconduct, a decision will

(1) www.w3.org/WAI/intro/accessibility.php.

(2) Principle 1 — Integrity, Principle 2 — Skill, care and diligence, Principle 3 — Management and control, Principle 4 — Financial prudence, Principle 8 — Conflicts of interest and Principle 11 — Relations with regulators.

(3) In line with its objectives, the PRA will promote the safety and soundness of these firms, seeking to minimise the adverse effects that they can have on the stability of the UK financial system; and contribute to ensuring that insurance policyholders are appropriately protected.

(4) This expectation is already reflected in the 'subsector' split proposed for the Rulebook based on directive firms (CRD IV and Solvency II) and non-directive firms — see discussion at 3.1 in Chapter 10 of PRA CP8/13.

(5) For example, censure, fine, imposition of a suspension and imposition of a limitation.

be taken by the PRA as to whether to take enforcement in respect of the FRs.

3.12 Just as the Principles overlapped, the FRs will overlap. The behaviour of a firm which violates two (or more) FRs will not necessarily be viewed more gravely than behaviour which violates one FR — timing, the situation causing the breaches and financial stability are also considerations for the PRA when judging how it should respond to a breach of the FRs.

3.13 Before deciding to take enforcement action, the PRA will look at a firm's decision-making process and the facts in question. The PRA will carefully consider all of the relevant circumstances before considering enforcement action.

Proposed rules

FR1 — A firm must act with integrity.

3.14 This rule is a shortened version of Principle 1 — *A firm must conduct its business with integrity*. The wording change from 'conduct its business' to 'act' reflects the desire to capture all behaviour that could affect a firm. A firm must show adherence to this standard in the everyday course of its business and when making business-related decisions. The PRA's understanding of integrity is the use of the term in its everyday sense.

FR2 — A firm must act with due skill, care and diligence.

3.15 This rule is a shortened version of Principle 2 — *A firm must conduct its business with due skill, care and diligence*. It should be noted that this FR is not limited to the internal arrangements of a firm. A firm must discharge the obligations required by the FR during the everyday course of its activities and when making decisions, including strategic decisions. For example, in compliance with FR2, the PRA will expect a firm to evidence thorough due diligence before any merger or acquisition.

3.16 Everyday use of the terms 'skill', 'care' and 'diligence' will be applied by the PRA. What is considered as adequate in relation to these terms will depend on all the relevant circumstances, including the nature of the firm, its counterparties and the business it undertakes.

FR3 — A firm must act in a prudent manner.

3.17 This is a new FR. In compliance with this FR, a firm must demonstrate sound judgement and exercise caution. A firm whose business includes speculation is not prevented from entering into speculative investments. But the FR does require the firm to take due account of all risks and possible consequences for the firm (and/or its group), before entering into such arrangements. The FR requires the firm not only to evaluate risks it exposes itself to, but also risks to which it exposes others in the financial system, before taking a course of action.

3.18 The PRA considers 'prudence' to be a term that firms should be able to understand and which connotes foresight, circumspection and caution.

FR4 — A firm must at all times maintain adequate financial resources.

3.19 This FR is similar to Principle 4 — *A firm must maintain adequate financial resources*. The inclusion of 'all times' is in line with the CRD IV and proposed Solvency II requirements. The PRA will, in times of financial stress and a likely breach of FR4, consider all the appropriate courses of action available to it.

3.20 In complying with this FR, the firm must ensure that its financial resources (including capital, liquidity and solvency) are adequate with regard to its business. A firm in a group will need to consider its financial resources by taking into account demands from the consolidated level of the group.

FR5 — A firm must have in place sound and effective risk strategies and risk management systems.

3.21 The rule takes wording on risk management from Principle 3 — *A firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems*. The remainder of wording from Principle 3 is in a separate rule (see FR6). This FR is drafted to address the shortcomings in risk management that contributed to the financial crisis, and to emphasise the significance the PRA places on risk management.

3.22 Compliance with FR5 requires firms to accurately identify and understand the risks inherent in their businesses and ensure there are robust structures for managing and reporting on these risks. Firms should clearly define the degree of risk they are prepared to assume in pursuing their strategic and business objectives. A vaguely expressed risk appetite could suggest a breach of this FR.

3.23 The PRA considers the references to 'risk strategies' and 'risk management systems' as having a wider application than just financial soundness; the FR is designed to cover risks material to a firm's activities including, for example, legal and strategic risk. In addition to complying with this FR, a firm will also be required to meet specific rules on management of credit, market, operational and counterparty risk as applicable. A firm must also be able to demonstrate clear strategies to identify risks, to provide a holistic view of the risk exposures to a firm's board and define measures to respond to risks appropriately.

FR6 — A firm must organise and control its affairs responsibly and effectively.

3.24 This FR is primarily focused on good internal governance and takes wording from Principle 3. It is now an absolute requirement and the 'take reasonable steps' wording in

Principle 3 has not been carried across. In complying with this rule, a firm is expected to have directors and senior managers who are fit and proper for their roles and adequate arrangements for securing the suitability of persons who carry out functions on its behalf. This will include apportioning responsibilities among senior managers and directors so that their individual responsibilities are clear. This will assist the business of the firm to be adequately monitored and controlled at senior level.

3.25 FR6 places a strict responsibility on a firm to ensure its staff⁽¹⁾ are suitable for the roles they hold. For senior persons, including those holding significant influence functions, FR6 will be complemented and strengthened by new rules on the PRA's Senior Management Regime resulting from changes made by the Financial Services (Banking Reform) Act 2013. These new rules will be consulted on in 2014.

FR7 — A firm must deal with its regulators in an open, co-operative and timely way and must appropriately disclose to the PRA anything relating to the firm of which the PRA would reasonably expect notice.

3.26 This FR is similar to Principle 11 — *A firm must deal with its regulators in an open and co-operative way, and must disclose to the appropriate regulator appropriately anything relating to the firm of which that regulator would reasonably expect notice.* This FR requires a firm to appropriately disclose to the PRA. It also requires a firm to maintain good relations when dealing with any other regulators, dealings which are expected to be undertaken in the spirit of co-operation and candour.

3.27 A firm's compliance with FR7 will be relevant to the question of mitigation or aggravation, when the PRA is considering appropriate action for breaches of other FRs and PRA rules. The PRA will provide, where necessary, detailed rules to elaborate on FR7, see chapters on Information gathering and Notifications in this CP.

3.28 The FR extends to the provision of information and notification of events concerning non-regulated activities and other members of a group, where appropriate. The rule includes the new wording of 'timely' to reflect the requirement to provide frank and full co-operation and disclosure within a reasonable time. What constitutes reasonable is dependent on the particular circumstances facing the PRA and the firm.

3.29 Fundamental Rule 3.7 clarifies that where FR7 refers to regulators, this means, in addition to the PRA, other regulators with recognised jurisdiction in relation to regulated activities, whether in the United Kingdom or abroad. So a firm that has a UK branch and is authorised in another EU member state would be expected to deal with its host state regulator in an open, co-operative and timely way, as required by FR7.

FR8 — A firm must prepare for resolution so, if the need arises, it can be resolved in an orderly manner with a minimum disruption of critical services.

3.30 This is a new FR. It reflects the importance the PRA places on a firm's resolvability through resolution planning. The manner in which a firm is expected to show compliance with this FR will be determined by the type of business it carries on. What constitutes a 'critical service' will be determined by reference to the PRA's general objective and, for insurers, its insurance objective.

3.31 There is a UK resolution regime, to support FR8, for deposit-takers (other than credit unions) and PRA-designated investment firms (collectively referred to in this section as 'banks'). This regime is based on new resolution rules set out in the Recovery and Resolution Part which came into effect on 1 January 2014,⁽²⁾ alongside a supervisory statement⁽³⁾ to set out PRA expectations.

3.32 There is no special resolution regime for insurers in the United Kingdom. As part of the PRA's supervisory approach, the PRA expects insurers to provide all information needed for the PRA to perform an assessment of their resolvability. Where significant barriers to resolvability are identified, insurers should propose and implement adequate changes to reduce these where possible. This also includes ensuring that the Financial Services Compensation Scheme and insolvency practitioners have sufficient understanding of insurers' systems that they can undertake their functions effectively including maintaining payments to, and cover for, policyholders in the event of an insolvency, should that be needed.

3.33 The PRA expects insurers whose failure would pose a threat to the stability of the UK financial system or be systemically significant or critical to be subject to an effective resolution regime in due course. The PRA therefore expects such insurers to prepare for resolution on the basis of the insolvency and insurance supervisory regime which currently exists and also with regard to the resolution regime which may be introduced in accordance with international agreements.

3.34 The failure of a credit union, given the nature of its business and likely comparative size, is unlikely to cause a significant disruption of critical services. For this reason, to show compliance with this FR, the PRA expects credit unions, in line with the PRA's supervisory approach, to prepare for resolution through the 'Single Customer View' (SCV).⁽⁴⁾ However, compliance with FR8 would depend on how adequately prepared the firm was for resolution. For example,

(1) This will include employees, self-employed representatives and corporate agents such as administrative companies.

(2) www.bankofengland.co.uk/pr/Pages/publications/recoveryresolution.aspx.

(3) www.bankofengland.co.uk/pr/Pages/publications/recoveryresolution.aspx.

(4) For more information, see page 29 of the banking approach document, available at www.bankofengland.co.uk/pr/Pages/supervision/approach/default.aspx.

the failure of a firm to adequately meet the SCV requirements might signal a breach of FR8, as well as SCV rules.

FR9 — A firm must not knowingly or recklessly give the PRA information that is false or misleading in a material particular.

3.35 This is a new FR, which is drafted to emphasise the importance of the quality of information, regardless of form or type, which the PRA receives. The rule has similar wording to the criminal offence in section 389 FSMA. The one difference to the statutory offence is that it is not limited to information provided pursuant to a regulatory requirement. Where FR9 and an offence under section 398 FSMA overlap, the PRA will have the option to pursue a criminal action and/or proceed with enforcement action.

3.36 The rule as drafted allows information to be submitted on a 'best endeavours' approach because there is no obligation to ensure accuracy. But as the rule is focused on 'material particular', there is an expectation of reasonable accuracy.

Statutory obligations

3.37 The FRs are intended to form a comprehensive and overarching set of requirements that reflect the PRA's approach. Therefore, when taken together, they will require firms to act in a safe and sound manner. For this reason, the PRA believes that it meets the statutory requirement for it, so far as reasonably possible, to act in a way that advances its general objective.

3.38 The FRs will apply to all PRA-regulated firms (subject to legal restrictions), including mutuals who are unlikely to be impacted in a significantly different way from other firms. The FRs, in general, are intentionally high level to accommodate differences in compliance.

3.39 In having regard to the Regulatory Principles, the PRA believes the benefits of the FRs to be proportionate to the requirements placed on firms and that the FRs will assist the PRA to direct its resources in an efficient and economical way. The benefits of the FRs include setting clear expectations on PRA firms in a succinct manner.

3.40 The FRs clearly communicates to firms and the financial services industry, those areas that the PRA considers important and behaviours it wishes to encourage. In flagging key requirements in this way, rather than producing detailed rules and further policy material, the PRA has used its legal and policy resources efficiently.

3.41 The PRA has considered the effect of the FRs when having regard to the need to minimise any adverse effect on competition in relevant markets. It is arguable that FR3 'a firm must act in a prudent manner' has the greatest potential among the FRs to direct firm behaviour and so could possibly

limit competition, for example, where a firm wishes to engage in innovative but risky financial products or where a firm wishes to compete aggressively to gain market share. In such instances, it is the PRA's view that compliance with FR3 will discourage irresponsible behaviour rather than prevent sensible competitive conduct. The PRA believes that the FRs, by encouraging positive behaviour and furthering financial stability, will also facilitate competition in accordance with the new competition objective.

Cost benefit analysis

3.42 Section 138J FSMA requires the PRA to perform a cost benefit analysis (CBA) when proposing draft rules. The PRA is required to publish an analysis of the costs together with an analysis of the benefits and an estimate of those costs and of those benefits.

3.43 However, if the PRA believe that these costs or benefits cannot reasonably be estimated or it is not reasonably practicable to produce an estimate, the PRA does not need to give one, as long as an explanation is given.

3.44 The PRA is not required to perform a CBA if it considers there will be no increase in costs or there will be a costs increase of minimal significance.

3.45 The PRA believes that the incremental benefits of recasting the Principles arise from setting out, in the case of FRs 3 and 8, clear PRA priorities, where they were not previously expressed. The PRA believe these changes will (i) help firms to understand the PRA's regulatory approach and behaviour; (ii) assist firms to mould their behaviour in line with these expectations and provide a clear link to the PRA's objective to promote safety and soundness;⁽¹⁾ and (iii) help ensure firms are compliant with relevant regulations.

3.46 The incremental costs of complying with the FRs should be minimal as, in large part, they are the same as the existing Principles. Where the FRs are different from the Principles, in the case of FRs 3 and 8, any costs to firms of compliance are not incremental to other relevant regulations.

3.47 Consequently, the costs are not expected to be large, however the PRA expects that these will be outweighed by the benefits articulated above.

4 Information Gathering

4.1 This chapter sets out the PRA's proposal to replace rule and guidance material in SUP 2 (Information gathering by the FSA on its own initiative) with a Rulebook Part, called Information

(1) A firm which is safe and sound brings benefits which are in the public interest — see discussion set out in Box 2 'Underlying economic justification for prudential regulation' set out in the banking and insurance approach documents.

Gathering. This Part will retain two SUP 2 rules and will contain three new rules.

4.2 Material in SUP 2 assists firms to comply with FR7 in instances where a firm is asked to provide information by the PRA on its own initiative. This includes guidance, for example, on confidentiality, admissibility of information in a Court/Tribunal and access to documents and premises. The proposed changes are explained below and the new Rulebook Part is set out in Annex 1.

Proposals

4.3 The PRA will, through the exercise of proposed FR7,⁽¹⁾ expect firm co-operation. In assisting firms to meet the expectations of the PRA, especially in cases where the PRA is investigating possible breaches of its requirements, the PRA will rely on rules in the Information Gathering Part of the Rulebook. Should a firm provide the PRA with access to false or misleading information, then the PRA will consider whether FR9 has been breached.

4.4 Two existing rules will be retained⁽²⁾ in substance and can be found in the following Chapters: Access to Premises and Access to Documents and Personnel.

4.5 A new proposed rule (Information Gathering 4.1) will require firms, in relation to the discharge of the PRA's functions under relevant legislation, to:

- (i) permit the PRA to have access to documents and personnel that the PRA reasonably requests;
- (ii) make itself readily available for meetings with representatives or appointees of the PRA as reasonably requested; and
- (iii) answer truthfully, fully and promptly all questions which are reasonably put to it by representatives or appointees of the PRA.

4.6 The rule expands on the type of behaviour that the PRA will expect to see in compliance with the proposed FR7.

4.7 Another new rule, Information Gathering 4.2, is proposed. This rule requires firms to take reasonable steps to ensure that its employees, agents and appointed representatives, and any other members of its group, and their employees and agents: (i) (subject to section 413 of FSMA) permit any representative or appointee of the PRA to have access to any document that the PRA reasonably requests; (ii) permit any representative or appointee of the PRA to have access to any personnel that the PRA reasonably requests; (iii) make itself readily available to meet any representative or appointee of the PRA as the PRA reasonably requests; and (iv) answer truthfully, fully and promptly all questions reasonably put to it by any representative or appointee of the PRA.

4.8 Firms will also have to comply with Information Gathering 5.1. This rule requires firms to co-operate with the PRA in providing information at the request of other regulators to enable the PRA to discharge its functions under relevant legislation.

5 Auditors

5.1 This chapter sets out the PRA's proposal to replace SUP 3 (Auditors) with a Rulebook Part, called Auditors. The Auditors Part sets out the PRA's expectations of the appointment of auditors, firms' co-operation with auditors and the rights and duties of auditors.

5.2 Firms are reminded to refer to the PRA's Supervisory Statement (LSS 7/13). The relationship between the external auditor and the supervisor: a code of practice ('the PRA Code') which sets out principles to guide interactions between supervisors and external auditors. The PRA Code will complement the rules set out in the Auditors Part.

5.3 The proposed rule changes are explained below. The new Rulebook Part is set out in Annex 1.

Proposals

5.4 Sixteen of the rules in the new Part are in substance the same as 16 existing rules.⁽³⁾ Two SUP 3 rules⁽⁴⁾ will be combined into another SUP 3 rule⁽⁵⁾ for completeness and clarity of the scope of application of the rules.

5.5 Two new rules are proposed. These rules capture content currently in SUP 3 guidance provisions and have been made into rules to ensure they always apply and so reflect the importance of the content.⁽⁶⁾ The first new rule, Auditors 5.2, will ensure that relevant third parties⁽⁷⁾ appointed by the firm provide auditors with the rights of access to the firms' books and records and an entitlement to information and explanations. The second new rule, Auditors 6.1, will require that the firms notify the PRA if it expects or knows its auditor will qualify its audit report or include any emphasis of matter.

5.6 SUP 3.8.10G, which includes guidance on an auditor's statutory duty to report, has been removed from the Rulebook Part because it replicates requirements in FSMA. However, given the importance of these requirements to the supervisory review, the PRA intends to include these in the PRA Code at a future date.

(1) New wording of FR7.

(2) SUP 2.3.5 and 2.3.7.

(3) SUP 3.1.1R, 3.3.2R, 3.3.7R, 3.3.10R, 3.4.2R, 3.4.5R, 3.4.7R, 3.5.2R, 3.5.3R, 3.6.1R, 3.8.2R, 3.8.4R, 3.8.5R, 3.8.6R, 3.8.11R and 3.8.12R.

(4) SUP 3.1.3R and 3.1.5R.

(5) SUP 3.1.1R.

(6) SUP 3.7.2G.

(7) Appointed representatives, suppliers under a material outsourcing arrangement or tied agents.

5.7 The Insurance market direction in SUP 3.1.13D, which applies to both auditors and actuaries, will be carried across to a new Rulebook Part.

6 Use of Skilled Persons

6.1 This chapter sets out the PRA's proposal to replace rule and guidance material in SUP 5 (Reports by Skilled Persons) with a Rulebook Part, called Use of Skilled Persons, and a supervisory statement, numbered SSX/13. Firms are invited to provide comment on both the proposed Part and the proposed statement.

6.2 SUP 5 contains guidance on the PRA's use of the power in section 166 (Reports by skilled persons) and section 166A (Appointment of skilled persons to collect and update information) of FSMA. SUP 5 contains rules requiring a firm to assist a skilled person and, where a firm is required to appoint a skilled person, rules requiring the inclusion of certain provisions in the contract that appoints the skilled person.

6.3 The Rulebook Part, as set out in Annex 1, will retain two of the SUP 5 rules and will contain four new rules based on SUP 5 guidance provisions. The majority of the guidance from SUP 5 has formed the basis of the supervisory statement, see Annex 2.

Proposals

6.4 Two of the rules in the new Part are in substance the same as two SUP 5 rules⁽¹⁾ which set out contract requirements between the firm and the skilled person.

6.5 Four new rules are proposed. These rules reflect provisions which are currently contained in guidance⁽²⁾ and have been made into rules to ensure they make explicit what the PRA considered implicit before and so ensure the effective use of skilled persons. These rules will require firms to:

- (i) provide the PRA with information about the estimated and final cost of the skilled person report;
- (ii) ensure the contract with the skilled person permits the skilled person to provide the PRA, if requested to do so, with interim and draft reports, source data, documents and working papers as well as specific information about the planning and progress of a report;
- (iii) provide the PRA with a copy of the draft contract between the skilled person and firm before the contract is executed; and
- (iv) ensure that a skilled person delivers a report or collects or updates information in accordance with the terms of the skilled person's appointment.

7 Permissions and Waivers

7.1 This chapter outlines the PRA's proposal to replace SUP 6 (Applications to vary and cancel Part 4A permission and to impose, vary or cancel requirements) and SUP 8 (Waiver and modification of rules) with a Rulebook Part, called Permissions and Waivers, see Annex 1.

Proposals

7.2 SUP 6 contains process-related guidance to assist those firms with a Part 4A permission who wish to vary that permission or to cancel their authorisation completely. SUP 8 contains mostly guidance explaining the regime for the waiver of rules and the process for firms to follow when making waiver applications. Such process-related guidance material from SUP 6 and SUP 8 will be incorporated into the PRA's Authorisation website. By moving this material to the website, firms will be able to access all the material relevant to an application in a uniform layout, with easy access to relevant forms and fees in one place.

7.3 The Permissions and Waivers Part retains a number of directions in SUP 6 and SUP 8.⁽³⁾ The Part also contains the following proposed new rules:

- (i) Permissions and Waivers 2.5 requires a firm, which has made an application for a cancellation of its Part 4A permission, to demonstrate to the PRA that it has ceased or will cease carrying on all regulated activities. This is an extension of the type of behaviour that firms are already expected to demonstrate before an application for cancellation of Part 4A permission is granted.
- (ii) Permissions and Waivers 5.1 requires a firm or person who submits an application to make changes to information or alter circumstances to immediately notify the PRA of any significant change to the information provided in the application.
- (iii) Permissions and Waivers 5.2 requires a firm or person who has applied for, or has been granted a waiver, to notify the PRA if it becomes aware of any matter which could affect the continuing relevance or appropriateness of the application of the waiver.

8 Notifications

8.1 This chapter outlines the PRA's approach to replace SUP 15 (Notifications to the FCA or PRA) with a Rulebook Part, called Notifications, see Annex 1.

(1) SUP 5.5.1 and 5.5.5.

(2) SUP 5.5.8, 5.5.2, 5.5.7 and 5.5.12.

(3) SUP 6.3.15, SUP 6.4.5, SUP 8.3.3.

8.2 SUP 15 contains a high proportion of guidance material on the type of event or change in condition which a firm should consider notifying the PRA in accordance with Principle 11, which this consultation proposes to replace with FR7. A number of rules required notification on certain events and changes in condition, on the core information that a firm must provide to the PRA, for example, its name and address and the names of its other regulators and to ensure the accuracy of information provided.

Proposals

8.3 In general, the PRA proposes to retain all the rules currently in SUP 15. The PRA does, however, propose the following new rules which are adaptations of SUP 15 guidance provisions:

- (i) Notifications 2.2⁽¹⁾ and 2.3⁽²⁾ requires a firm to give proper consideration of events, with detail on what this means within the rule itself, that would require a firm to notify the PRA in compliance with Notifications 2.1.⁽³⁾ Notifications 2.3 provides detail on how firms should determine whether a possible future event requires prompt disclosure to the PRA.
- (ii) Notifications 2.4 sets out various scenarios where the PRA expects notification. This text was previously set out in SUP 15.3.8G. It has been proposed as a rule to reflect the significance the scenarios could have on a firm's safety and soundness, thereby highlighting the need for the PRA to know if such events occur.
- (iii) Notifications 2.5 to 2.7⁽⁴⁾ provide detail on the content, form and type of notification. By making the requirements mandatory, the PRA is encouraging a behavioural shift away from unconsidered notification of certain events and is instead requiring full notification in a uniform manner.
- (iv) Notification 2.12⁽⁵⁾ requires firms to provide detail of matters disclosed in compliance to Notifications 2.11 and an estimate of the likely financial consequences. By converting a previous guidance provision in the way, the PRA hopes to encourage the provision of meaningful information which will allow the better exercise of supervisory judgement.
- (v) Notifications 6.2⁽⁶⁾ recognises that a firm may not be able to provide all relevant information (in compliance with Notification 6.1) and in such cases, it is prudent for the firm to tell the PRA of the scope of the information provided. This will assist the PRA to make a better assessment of the situation disclosed.
- (vi) Notifications 9.1⁽⁷⁾ requires a firm to consider the requirements in Notification 9.2 on a continuing basis, and

in particular when the group prepares its financial statements and on the occurrence of an event affecting the consolidation group. This rule reflects the importance the PRA places on notification of group events, especially those relating to financial conglomerates.

8.4 The PRA does not propose to change Form F, the Standing Data Form or the Notification Form. Links to these forms will be provided within the Notifications Part.

9 Statement of policy on the exercise of the PRA's financial stability information power

Introduction

9.1 This chapter introduces the PRA's draft statement of policy on the use of the financial stability information power conferred by section 165A of the Financial Services and Markets Act 2000 (FSMA). The proposed statement is set out in Annex 3.

Proposals

9.2 The draft statement is issued pursuant to section 165B(6) of FSMA, which requires the PRA to prepare a statement of its policy with respect to the exercise of the financial stability information power.

9.3 The statement previously existed in the Handbook as Chapter 1 of the Financial Stability and Market Confidence Sourcebook (FINMAR). The statement has not substantively changed — it has been restructured to better reflect how the PRA will impose the power, including detailing when prior notice will/will not be provided and a recipient of a notice's right to make representations.

9.4 The statement sets out background on the rationale behind the introduction of the financial stability power in 2008. This information provides context to firms and further perspective on why the PRA would choose to use the power.

9.5 Subject to responses received, the PRA will aim to issue the final statement of policy as a standalone document. This is in line with the approach the PRA has taken for other statements of policy, for example conducting statutory investigations⁽⁸⁾ and the PRA's approach to enforcement.⁽⁹⁾

(1) See SUP 15.3.2G.

(2) See SUP 15.3.3G.

(3) Notifications 2.1 sets out the situations where the PRA requires immediate notification, ie serious and significant events which could detrimentally impact the firm and the PRA's objectives.

(4) See SUP 15.3.9-10G.

(5) See SUP 15.3.16G.

(6) See SUP 15.6.3G.

(7) See SUP 15.9.3G.

(8) www.bankofengland.co.uk/pr/Pages/publications/conductstatinvestigations.aspx.

(9) www.bankofengland.co.uk/publications/Documents/other/pr/approachenforcement.pdf.

10 SUP 13A Annex 1 — Application of the Handbook to Incoming EEA Firms

10.1 SUP 13A Annex 1 sets out, in a table format, the application of the Handbook to incoming EEA firms. The table contains guidance only.

10.2 As the PRA moves towards the Rulebook, some references in the table to Handbook modules will no longer apply. In order to update these references, the PRA would need to amend the table through a production of a legal instrument each time an amendment is made. Updating the

table in this way would be costly, time-consuming and potentially confusing for firms. Additional complications arise around presentational layout because the table is currently shared with the FCA.

10.3 To update the table in the most efficient way, the PRA proposes to move the table on to its main website. Handbook references will be updated to Rulebook ones as when necessary. Should the table format not be the best way to present the guidance, then the PRA has the flexibility to vary its presentation and the main website will accommodate for this type of change, while the Handbook site will not.

PRA RULEBOOK FUNDAMENTAL RULES INSTRUMENT 2014

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 instruments) 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 Fundamental Rules Instrument 2014

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

Commencement

- E. This instrument comes into force on [DATE].

Citation

- F. This instrument may be cited as the PRA Rulebook Fundamental Rules Instrument 2014.

By order of the Board of the Prudential Regulation Authority

[DATE]

Annex A

PRA RULEBOOK – GLOSSARY

Insert the following new definitions into the Glossary Part of the PRA Rulebook:

ancillary activity

means an activity which is not a *regulated activity* but which is:

- (a) carried on in connection with a *regulated activity*; or
- (b) held out as being for the purposes of a *regulated activity*.

dealing in investments as principal

means the *regulated activity* specified in article 14 of the *Regulated Activities Order* (Dealing in investments as principal).

EU instrument

has the meaning given to that term in Part II of Schedule 1 to the European Communities Act 1972.

Fundamental Rules

means the *rules* set out in Fundamental Rules 2.

incoming EEA firm

means an *EEA firm* which is exercising, or has exercised, its right to carry on a *regulated activity* in the *UK* in accordance with Schedule 3 of *FSMA*.

incoming Treaty firm

means a *Treaty firm* which is exercising, or has exercised, its right to carry on a *regulated activity* in the *UK* in accordance with Schedule 4 of *FSMA*.

permission

means permission to carry on *regulated activities*.

regulatory system

means the arrangements for regulating a *firm* or other *person* in or under *FSMA*, including the *threshold conditions*, the *Fundamental Rules* and other *rules*, the *Statements of Principle*, codes and guidance given by the *PRA* and including any relevant directly applicable provisions of a *EU Directive* or *Regulation*.

top-up permission

means a *Part 4A permission* given to an *incoming EEA firm* or an *incoming Treaty firm*.

Annex B

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

Part

FUNDAMENTAL RULES

Chapter content

- 1. APPLICATION AND DEFINITIONS**
- 2. FUNDAMENTAL RULES**
- 3. RESTRICTIONS**

Links

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to all *firms*.

1.2 In this Part, the following definitions shall apply:

branch

has the meaning specified in Article 4(1)(17) of the *CRR*.

cross border services

means:

- (1) (in relation to a *UK firm*) services provided within an *EEA State* other than the *UK* under the freedom to provide services; and
- (2) (in relation to an *incoming EEA firm* or an *incoming Treaty firm*) services provided within the *UK* under the freedom to provide services.

prudential context

means, in relation to activities carried on by a *firm*, the context in which the activities have, or might reasonably be regarded as likely to have, a negative effect on:

- (a) the safety and soundness of *firms*; or
- (b) the ability of the *firm* to meet either:
 - (i) the "fit and proper" test in *threshold conditions* 4E and 5E (Suitability); or
 - (ii) the applicable requirements and standards under the *regulatory system* relating to the *firm's* financial resources.

UK firm

has the meaning given in paragraph 10 of Schedule 3 to *FSMA* (EEA Passport Rights).

2 FUNDAMENTAL RULES

2.1 *Fundamental Rule 1: A firm must act with integrity.*

2.2 *Fundamental Rule 2: A firm must act with due skill, care and diligence.*

2.3 *Fundamental Rule 3: A firm must act in a prudent manner.*

2.4 *Fundamental Rule 4: A firm must at all times maintain adequate financial resources.*

2.5 *Fundamental Rule 5: A firm must have in place sound and effective risk strategies and risk management systems.*

2.6 *Fundamental Rule 6: A firm must organise and control its affairs responsibly and effectively.*

- 2.7 *Fundamental Rule 7: A firm must deal with its regulators in an open, cooperative and timely way and must appropriately disclose to the PRA anything relating to the firm of which the PRA would reasonably expect notice.*
- 2.8 *Fundamental Rule 8: A firm must prepare for resolution so, if the need arises, it can be resolved in an orderly manner with a minimum disruption of critical services.*
- 2.9 *Fundamental Rule 9: A firm must not knowingly or recklessly give the PRA information that is false or misleading in a material particular.*

3 RESTRICTIONS

- 3.1 The *Fundamental Rules* apply to every *firm*, except that:
- (1) for an *incoming firm*, the *Fundamental Rules* apply only in so far as responsibility for the matter in question is not reserved by an *EU instrument* to the *firm's home state regulator*;
 - (2) for an *incoming EEA firm* that is a *credit institution* without a *top-up permission*, *Fundamental Rule 4* applies only in relation to the liquidity of a *branch* established in the *UK*; and
 - (3) for an *incoming EEA firm* that has *permission* only for *cross border services* and does not carry on *regulated activities* in the *UK*, the *Fundamental Rules* do not apply.
- 3.2 A *firm* will not be subject to a *Fundamental Rule* to the extent that it would be contrary to the *UK's* obligations under *EU* legislation.
- 3.3 The *Fundamental Rules* apply with respect to the carrying on of:
- (1) *regulated activities*;
 - (2) activities that constitute *dealing in investments as principal*, disregarding the exclusion in article 15 of the *Regulated Activities Order* (Absence of holding out etc); and
 - (3) *ancillary activities* in relation to *PRA-regulated activities*.
- 3.4 *Fundamental Rules* 3, 4, 5, 6, 8 and (in so far as it relates to disclosing to the *PRA*) 7 and 9 (and this chapter) also:
- (1) apply with respect to the carrying on of *unregulated activities* (for *Fundamental Rules* 5, 6 and 8 this is only in a *prudential context*); and
 - (2) take into account any activity of other members of a *group* of which the *firm* is a member.
- 3.5 The *Fundamental Rules* apply with respect to activities wherever they are carried on.
- 3.6 Where *Fundamental Rule 7* refers to regulators, this means, in addition to the *PRA*, other regulators with recognised jurisdiction in relation to *regulated activities*, whether in the *UK* or abroad.

PRA RULEBOOK INFORMATION GATHERING INSTRUMENT 2014

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 instruments) 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 Information Gathering Instrument 2014

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

Commencement

- E. This instrument comes into force on [DATE].

Citation

- F. This instrument may be cited as the PRA Rulebook Information Gathering Instrument 2014.

By order of the Board of the Prudential Regulation Authority

[DATE]

Annex A

PRA RULEBOOK – GLOSSARY

Insert the following new definition in the Glossary Part of the PRA Rulebook.

Capital Requirements Regulations

means the Capital Requirements Regulations 2013 (SI 2013/3115).

employee

means an individual:

- (1) who is employed or appointed by a *person* in connection with that *person's* business, whether under a contract of service or for services or otherwise;
or
- (2) whose services, under an arrangement between that *person* and a third party, are placed at the disposal and under the control of that *person*.

relevant legislation

means:

- (1) *FSMA*;
- (2) the *Capital Requirements Regulations*;
- (3) any other *enactment*; or
- (4) any directly applicable *EU* regulation.

material outsourcing

means outsourcing services of such importance that weakness, or failure, of the services would cast serious doubt upon the *firm's* continuing satisfaction of the *threshold conditions* or compliance with the *Fundamental Rules*.

Annex B

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

Part

INFORMATION GATHERING

Chapter content

1. APPLICATION
2. COOPERATION
3. ACCESS TO PREMISES
4. ACCESS TO DOCUMENTS AND PERSONNEL
5. INFORMATION REQUESTED ON BEHALF OF OTHER REGULATORS

Links

1 APPLICATION

- 1.1 This Part applies to every *firm*.

2 COOPERATION

- 2.1 A *firm* must take reasonable steps to ensure that its agents, *appointed representatives* and suppliers under *material outsourcing* arrangements deal in an open, cooperative and timely way with the *PRA* in the discharge of its functions under any *relevant legislation*.

3 ACCESS TO PREMISES

- 3.1 A *firm* must permit any representative or appointee of the *PRA* to have access, with or without notice, during reasonable business hours to any of its business premises, in relation to the discharge of the *PRA*'s functions under any *relevant legislation*.
- 3.2 A *firm* must take reasonable steps to ensure that its agents, *appointed representatives* and suppliers under *material outsourcing* arrangements permit any representative or appointee of the *PRA* to have access, with or without notice, during reasonable business hours to any of its business premises, in relation to the discharge of the *PRA*'s functions under any *relevant legislation*.

4 ACCESS TO DOCUMENTS AND PERSONNEL

- 4.1 A *firm* must, in relation to the discharge of the *PRA*'s functions under any *relevant legislation*:
- (1) (subject to section 413 of *FSMA*) permit any representative or appointee of the *PRA* to have access to any document that the *PRA* reasonably requests;
 - (2) permit any representative or appointee of the *PRA* to have access to any personnel that the *PRA* reasonably requests;
 - (3) make itself readily available to meet any representative or appointee of the *PRA* as the *PRA* reasonably requests; and
 - (4) answer truthfully, fully and promptly all questions reasonably put to it by any representative or appointee of the *PRA*.
- 4.2 A *firm* must take reasonable steps to ensure that the following *persons* act in the manner set out in 4.1:
- (1) its *employees*, agents and *appointed representatives*; and
 - (2) any other members of its *group*, and their *employees* and agents.

5 INFORMATION REQUESTED ON BEHALF OF OTHER REGULATORS

- 5.1 A *firm* must cooperate with the *PRA* in providing information at the request of another regulator to enable the *PRA* to discharge its functions under any *relevant legislation*.

PRA RULEBOOK: AUDITORS INSTRUMENT 2014

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);
 - (2) section 137T (general supplementary powers);
 - (3) section 340(1) and (4) (Appointment: requirements on firms);
 - (4) section 340(3A) (Appointment: requirements as to co-operation);
 - (5) section 340(3B) (Appointment: duties on auditors); and
 - (6) section 340(6) and (7) (Appointment: qualifications of auditors).
- 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 with the Financial Conduct Authority (“FCA”), the PRA consulted the FCA. After consulting, the PRA published a draft of proposed rules and had regard to representations made.

PRA Rulebook: Auditors Instrument 2014

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

Commencement

- E. This instrument comes into force on [DATE].

Citation

- F. This instrument may be cited as the PRA Rulebook: Auditors Instrument 2014.

By order of the Board of the Prudential Regulation Authority
[DATE]

Annex A

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

Part

AUDITORS

Chapter content

1. APPLICATION
2. APPOINTMENT OF AUDITORS
3. AUDITORS' QUALIFICATIONS
4. AUDITORS' INDEPENDENCE
5. FIRMS' COOPERATION WITH THEIR AUDITORS
6. NOTIFICATION OF MATTERS RAISED BY AUDITORS
7. RIGHTS AND DUTIES OF AUDITORS

Links

1 APPLICATION

- 1.1 This Part applies to:
- (a) every *firm*, except for an *incoming firm* that does not have a *top-up permission*; and
 - (b) the external auditor of such a *firm* (if appointed under 2 or appointed under or as a result of a statutory provision other than in *FSMA*).

2 APPOINTMENT OF AUDITORS

- 2.1 A *firm* must:
- (1) appoint an auditor;
 - (2) when it becomes aware that a vacancy in the office of auditor will arise or has arisen:
 - (a) notify the *PRA*; and
 - (b) give reasons for the vacancy,without delay, using the form in Notifications 10.2;
 - (3) appoint an auditor to fill any vacancy in the office of auditor;
 - (4) ensure that the replacement auditor can take up office at the time the vacancy arises or as soon as reasonably practicable after that; and
 - (5) when a new auditor is appointed:
 - (a) notify the *PRA* of that appointment; and
 - (b) advise the *PRA* of the name and business address of the auditor appointed and the date from which the appointment has effect,using the form in Notifications 10.2.
- 2.2 Where a *firm* that is not under an obligation to appoint an auditor imposed by an *enactment* other than *FSMA* fails to appoint an auditor within 28 days of a vacancy arising, the *PRA* may appoint an auditor for that *firm* on the following terms:
- (a) the auditor to be remunerated by the *firm* on the basis agreed between the auditor and *firm* or, in the absence of agreement, on a reasonable basis; and
 - (b) the auditor to hold office until he resigns or the *firm* appoints another auditor.
- 2.3 A *firm* must comply with and is bound by the terms on which an auditor has been appointed by the *PRA*.

3 AUDITORS' QUALIFICATIONS

- 3.1 Before a *firm* appoints an auditor, it must take reasonable steps to ensure that the auditor:
- (1) has the required skill, resources and experience to perform its functions under the *regulatory system* commensurate with the nature, scale and complexity of the *firm's*

business and the requirements and standards under the *regulatory system* to which it is subject; and

(2) is eligible for appointment as an auditor under any applicable laws.

3.2 A *firm* must not appoint as auditor a *person* who is disqualified under Part XXII of *FSMA* (Auditors and Actuaries) from acting as an auditor either for that *firm* or for a relevant class of *firm*.

3.3 A *firm* must take reasonable steps to ensure that an auditor, which it is planning to appoint or has appointed, provides information to the *PRA* about the auditor's qualifications, skills, experience and independence in accordance with the reasonable requests of the *PRA*.

4 AUDITORS' INDEPENDENCE

4.1 A *firm* must take reasonable steps to ensure that the auditor which it appoints is independent of the *firm*.

4.2 If a *firm* becomes aware at any time that its auditor is not independent of the *firm*, it must take reasonable steps to ensure that it has an auditor independent of the *firm*. The *firm* must notify the *PRA* if independence is not achieved within a reasonable time.

5 FIRMS' COOPERATION WITH THEIR AUDITORS

5.1 A *firm* must cooperate with its auditor in the discharge of the auditor's duties under this Part.

5.2 (1) A *firm* must give its auditor a right of access at all times to the *firm's* accounting and other records, in whatever form they are held, and *documents* relating to its business.

(2) Subject to section 413 of *FSMA* (Protected items), a *firm* must allow its auditor to copy *documents* or other material on the premises of the *firm* and to remove copies or hold them elsewhere, or give the auditor such copies on request.

5.3 A *firm* must take reasonable steps to ensure that:

(1) each of its:

- (a) appointed representatives;
- (b) suppliers under a *material outsourcing* arrangement; and
- (c) tied agents,

where applicable, gives the *firm's* auditor the same rights of access to their own books, accounts and vouchers, and entitlement to information and explanations from their officers as are given in respect of the *firm* by section 341 of *FSMA* (Access to books etc); and

(2) all its employees cooperate with its auditor in the discharge of the duties of the auditor under this Part,

in each case subject to section 413 of *FSMA* (Protected items).

6 NOTIFICATION OF MATTERS RAISED BY AUDITORS

6.1 A *firm* must notify the *PRA* if the *firm* expects or knows that the auditor will qualify the report on the audited annual financial statements or include any emphasis of matter.

7 RIGHTS AND DUTIES OF AUDITORS

- 7.1 An auditor of a *firm* must cooperate with the *PRA* in the discharge of its functions under any *relevant legislation* including by attending such meetings and supplying such information as the *PRA* reasonably requests to enable the *PRA* to discharge its functions under any *relevant legislation*.
- 7.2 An auditor of a *firm* must give a *skilled person* appointed by the *firm* all assistance that *person* reasonably requires.
- 7.3 An auditor of a *firm* must be independent of the *firm* when performing duties in respect of that *firm*.
- 7.4 An auditor of a *firm* must take reasonable steps to be satisfied that no conflict of interest exists in respect of that *firm* from which bias may reasonably be inferred. The auditor must take appropriate action where this is not the case.
- 7.5 An auditor must notify the *PRA* without delay if the auditor:
- (1) is removed from office by a *firm*;
 - (2) is formally notified of such removal from office;
 - (2) resigns before the term of office expires;
 - (3) is not re-appointed by a *firm*; or
 - (4) is disqualified from being the auditor of:
 - (a) any *undertaking* or particular class of *undertaking*; or
 - (b) any *firm* or particular class of *firm*.
- 7.6 In the circumstances set out in 7.5, the auditor must notify the *PRA* without delay:
- (1) of any matter connected with the removal or ceasing of the office of auditor that the auditor thinks ought to be drawn to the *PRA*'s attention; or
 - (2) that there is no such matter.

Annex B

In the Glossary Part, insert the following new definitions.

guidance

means guidance given by the *PRA* in the form of supervisory statements or otherwise.

internal controls

means the whole system of controls, financial or otherwise, established by the management of a *firm* in order to:

- (a) carry on the business of the *firm* in an orderly and efficient manner;
- (b) ensure adherence to management policies;
- (c) safeguard the assets of the *firm* and other assets for which the *firm* is responsible; and
- (d) secure as far as possible the completeness and accuracy of the *firm's* records (including those necessary to ensure continuous compliance with the requirements or standards under the *regulatory system* relating to the adequacy of the *firm's* financial resources).

Statement of Principle

means one of the Statements of Principle issued by the *PRA* under section 64(1A) of *FSMA* (Conduct: Statements and codes) with respect to the conduct of approved persons .

PRA RULEBOOK: LLOYD'S INSTRUMENT 2014

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);
 - (2) section 137T (General supplementary powers); and
 - (3) section 316(1) (Direction by a regulator).
- 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 with the Financial Conduct Authority ("FCA") and section 319 of the Act (Consultation), the PRA consulted the FCA. After consulting, the PRA published a draft of proposed rules and the proposed direction and had regard to representations made.

PRA Rulebook: Lloyd's Instrument 2014

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

Commencement

- E. This instrument comes into force on [DATE].

Citation

- F. This instrument may be cited as the PRA Rulebook: Lloyd's Instrument 2014.

By order of the Board of the Prudential Regulation Authority
[DATE]

Annex A

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

Part

LLOYD'S

Chapter content

1. APPLICATION AND DEFINITIONS
2. AUDITORS AND ACTUARIES DIRECTION

Links

1 APPLICATION AND DEFINITIONS

- 1.1 This Part applies to:
- (a) every *member*;
 - (b) any auditor of such a *member*; and
 - (c) any *actuary* acting for such a *member*.

- 1.3 In this Part the following definition applies:

insurance business

means the *regulated activities of effecting contracts of insurance or carrying out contracts of insurance* written at Lloyd's.

2 AUDITORS AND ACTUARIES DIRECTION

- 2.1 (1) The *PRA* directs that, with effect from [DATE INSTRUMENT COMES INTO FORCE], Part XXII of *FSMA* (Auditors and Actuaries) applies to the carrying on of *insurance business* by *members* as modified by (2).
- (2) Regulations made by the *Treasury* under section 342(5) and section 343(5) of Part XXII of *FSMA* apply only to *actuaries* appointed by a *managing agent* in respect of the *insurance business* of a *syndicate*, in relation to the *long-term insurance business* of that *syndicate*.
- (3) In Part XXII of *FSMA* (Auditors and Actuaries) as applied by this direction:
- (a) a reference to an auditor of an *authorised person* is to be read as including an auditor appointed by a *managing agent* in respect of the *insurance business* of a *syndicate*; and
 - (b) a reference to an *actuary* acting for an *authorised person* is to be read as including an *actuary* appointed by a *managing agent* in respect of the *insurance business* of a *syndicate*.
- 2.2 The direction in SUP 3.1.13D of the *PRA Handbook* continues to have effect from the date specified in that direction to the date on which the direction in 2.1 has effect.

Annex B

Insert the following new definitions into the Glossary Part of the PRA Rulebook:

actuarial body

means the Institute and Faculty of Actuaries.

actuary

means a fellow of an *actuarial body* or (in connection with *general insurance business*) a Fellow of the Casualty Actuarial Society who is a member of an *actuarial body*.

carrying out contracts of insurance

means the *regulated activity* specified in article 10(2) of the *Regulated Activities Order* (Effecting and carrying out contracts of insurance).

contracts of general insurance

has the meaning given in article 3(1) of the *Regulated Activities Order*.

contracts of long-term insurance

has the meaning given in article 3(1) of the *Regulated Activities Order*.

Council

means the governing body of the *Society* constituted by section 3 of the Lloyd's Act 1982.

effecting contracts of insurance

means the *regulated activity* specified in article 10(1) of the *Regulated Activities Order* (Effecting and carrying out contracts of insurance).

general insurance business

the business of *effecting contracts of insurance* or *carrying out contracts of insurance* in each case in relation to *contracts of general insurance* only.

long-term insurance business

the business of *effecting contracts of insurance* or *carrying out contracts of insurance* in each case in relation to *contracts of long-term insurance* only.

managing agent

has the meaning given in article 3(1) of the *Regulated Activities Order*.

member

means a *person* admitted to membership of the *Society* or any *person* by law entitled or bound to administer its affairs.

PRA Handbook

means the PRA's Handbook of rules and guidance.

syndicate

means one or more *persons*, to whom a particular syndicate number has been assigned by or under the authority of the *Council*, *carrying out contracts of insurance* or *effecting contracts of insurance* written at Lloyd's.

PRA RULEBOOK: USE OF SKILLED PERSONS INSTRUMENT [2014]

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);
 - (2) section 137T (general supplementary powers);
 - (3) section 166 (Reports by skilled persons); and
 - (4) section 166A (Appointment of skilled person to collect and update information).
- 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 with the Financial Conduct Authority), 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: Use of Skilled Persons Instrument [2014]

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

Commencement

- E. This instrument comes into force on [DATE].

Citation

- F. This instrument may be cited as the PRA Rulebook: Use of Skilled Persons Instrument [2014].

By order of the Board of the Prudential Regulation Authority
[DATE]

Annex A

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

Part

USE OF SKILLED PERSONS

Chapter content

- 1. APPLICATION AND DEFINITIONS**
- 2. COST OF THE SKILLED PERSON'S REPORT**
- 3. CONTRACT WITH THE SKILLED PERSON**
- 4. DELIVERY OF THE SKILLED PERSON'S REPORT TO THE PRA**

Links

1 APPLICATION AND DEFINITIONS

1.1 This Part applies to all *firms*.

1.2 In this Part, the following definition shall apply:

relevant requirement

has the meaning specified in section 204A(2) of *FSMA*.

2 COST OF THE SKILLED PERSON'S REPORT

2.1 A *firm* must, including where applicable in complying with the *Fundamental Rules*, give the *PRA* information about the cost of the *skilled person's* report. This includes both an initial estimate of the cost as well as the cost of the completed report.

3 CONTRACT WITH THE SKILLED PERSON

3.1 When a *firm* appoints a *skilled person* the *firm* must, in a contract with the *skilled person*:

- (1) require and permit the *skilled person* during and after the course of their appointment:
 - (a) to cooperate with the *PRA* in the discharge of its functions under *relevant legislation* in relation to the *firm*; and
 - (b) to communicate to the *PRA* information on, or the *skilled person's* opinion on, matters of which they have, or had, become aware in their capacity as *skilled person* reporting on the *firm* in the following circumstances:
 - (i) the *skilled person* reasonably believes, as regards the *firm* concerned:
 - (A) that there is or has been, or may be or may have been, a contravention of any *relevant requirement* that applies to the *firm* concerned; and
 - (B) that the contravention may be of material significance to the *PRA* in determining whether to exercise, in relation to the *firm* concerned, any functions conferred on the *PRA* by or under *relevant legislation*; or
 - (ii) the *skilled person* reasonably believes that the information on, or their opinion on, those matters may be of material significance to the *PRA* in determining whether the *firm* concerned satisfies and will continue to satisfy the *threshold conditions*; or
 - (iii) the *skilled person* reasonably believes that *firm* is not, may not be or may cease to be a going concern;
- (2) require the *skilled person* to prepare a report or collect or update information, as notified to the *firm* by the *PRA*, within the time specified by the *PRA*; and

- (3) waive any contractual or other duty of confidentiality owed by the *skilled person* to the *firm* which might limit the provision of information or opinion by that *skilled person* to the *PRA* in accordance with (1) or (2).
- 3.2 A *firm* must ensure that the contract it makes with the *skilled person* requires and permits the *skilled person* to provide the following to the *PRA* if requested to do so:
 - (1) interim reports;
 - (2) source data, *documents* and working papers;
 - (3) copies of any draft reports given to the *firm*; and
 - (4) specific information about the planning and progress of the work to be undertaken (which may include project plans, progress reports including percentage of work completed, details of time spent, costs of date, and details of any significant findings and conclusions).
- 3.3 A *firm* must ensure that the contract required by 3.1:
 - (1) is governed by the laws of a part of the *UK*;
 - (2) expressly:
 - (a) provides that the *PRA* has a right to enforce the provisions included in the contract under 3.1, 3.2 and 3.3(2)(b)-(d);
 - (b) provides that, in proceedings brought by the *PRA* for the enforcement of those provisions, the *skilled person* is not to have available by way of defence, set-off or counterclaim any matter that is not relevant to those provisions;
 - (c) (if the contract includes an arbitration agreement) provides that the *PRA* is not, in exercising the right in (a), to be treated as a party to, or bound by, the arbitration agreement; and
 - (d) provides that the provisions included in the contract under 3.1, 3.2 and 3.3(2)(a)-(c) are irrevocable and may not be varied or rescinded without the *PRA*'s consent; and
 - (3) is not varied or rescinded in such a way as to extinguish or alter the provisions referred to in (2)(d).
- 3.4 A *firm* must give the *PRA* a copy of the draft contract required by 3.1 before it is made with the *skilled person*.

4 DELIVERY OF THE SKILLED PERSON'S REPORT TO THE PRA

- 4.1 When a *firm* appoints a *skilled person*, a *firm* must, including where applicable in complying with the Fundamental Rules, ensure that a *skilled person* delivers a report or collects or updates information in accordance with the terms of the *skilled person's* appointment.

Annex B

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

skilled person

means a person appointed to:

- (1) make and deliver to the PRA a report as provided for by section 166 *FSMA* (Reports by skilled persons); or
- (2) collect or update information as provided for by section 166A *FSMA* (Appointment of skilled person to collect and update information).

PRA RULEBOOK: PERMISSIONS AND WAIVERS INSTRUMENT 2014

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 55U(4) (Applications under Part 4A FSMA);
 - (2) section 137G (The PRA’s general rules);
 - (3) section 137T (General supplementary powers; and
 - (4) section 138A(3) (Modification or waiver of rules).
- 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 with the Financial Conduct Authority), 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: Authorisations Instrument [2014]

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

Commencement

- E. This instrument comes into force on [DATE].

Citation

- F. This instrument may be cited as the PRA Rulebook: Permissions and Waivers Instrument 2014.

By order of the Board of the Prudential Regulation Authority

[DATE]

Annex

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

Part

PERMISSIONS AND WAIVERS

Chapter content

- 1. APPLICATION AND DEFINITIONS**
- 2. APPLICATIONS TO VARY AND CANCEL PART 4A PERMISSION**
- 3. APPLICATIONS TO IMPOSE, VARY AND CANCEL REQUIREMENTS**
- 4. WAIVER AND MODIFICATION OF RULES**
- 5. CHANGES TO INFORMATION, ADDITIONAL INFORMATION AND NOTIFICATION OF ALTERED CIRCUMSTANCES**

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to every *firm*.

1.2 In this Part, the following definitions shall apply:

requirement

means a requirement imposed by the *PRA* on a *firm* under section 55M of *FSMA* (Imposition of requirements by *PRA*).

waiver

means a direction waiving or modifying a *rule*, given by the *PRA* under section 138A of *FSMA* (Modification of waiver of rules).

2 APPLICATIONS TO VARY AND CANCEL PART 4A PERMISSION

2.1 This Chapter applies to every *firm* that wishes to:

- (1) vary its *Part 4A permission*; or
- (2) cancel its *Part 4A permission*.

2.2 The *PRA* directs that a *firm* other than a *credit union* wishing to make an application to vary or cancel a *Part 4A permission* apply online using the form specified on the *PRA*'s online system for the submission of applications and notifications, unless otherwise advised by the *PRA*.

2.3 Where the *PRA*'s online system fails and is unavailable for 24 hours or more, the *PRA* directs that a *firm* which is required to make an application in the manner set out in 2.2 make the application by using the relevant form on the *PRA*'s website and submit it using one of the alternative ways set out in Notifications 7.3.

2.4 The *PRA* directs that a *credit union* wishing to make an application vary or cancel a *Part 4A permission* submit the relevant form on the *PRA*'s website using one of the alternative ways set out in Notifications 7.3.

2.5 Where a *firm* has applied for cancellation of its *Part 4A permission*, it must demonstrate to the *PRA* that it has ceased or will cease carrying on all *regulated activities*.

3 APPLICATIONS TO IMPOSE, VARY AND CANCEL REQUIREMENTS

3.1 This Chapter applies to every *firm* that wishes to:

- (1) have a new *requirement* imposed on it; or
- (2) vary a *requirement* imposed on it; or
- (3) cancel a *requirement* imposed on it.

3.2 The *PRA* directs that a *firm* other than a *credit union* wishing to make an application to impose, vary or cancel a *requirement* apply online using the form specified on the *PRA*'s

online system for the submission of applications and notifications, unless otherwise advised by the *PRA*.

- 3.3 Where the *PRA*'s online system fails and is unavailable for 24 hours or more, the *PRA* directs that a *firm* which is required to make an application under 3.2 make the application by using the relevant form on the *PRA*'s website and submit it using one of the alternative ways set out in Notifications7.3.
- 3.4 The *PRA* directs that a *credit union* wishing to make an application impose, vary or cancel a *requirement* submit the relevant form on the *PRA*'s website using one of the alternative ways set out in Notifications7.3.

4 WAIVER AND MODIFICATION OF RULES

- 4.1 This Chapter applies to every *firm* or *person* who is subject to *PRA rules*.
- 4.2 The *PRA* directs that a *firm* or *person* wishing to apply for a *waiver* must complete the relevant form on the *PRA*'s website and submit it in the way set out in Notifications7.3 unless otherwise advised by the *PRA*.

5 CHANGES TO INFORMATION AND NOTIFICATION OF ALTERED CIRCUMSTANCES

- 5.1 Until an application under this Part has been determined, a *firm* or *person* who submits the application must immediately notify the *PRA* of any significant change to the information provided in the application.
- 5.2 A *firm* or *person* which has applied for or has been granted a *waiver* must immediately notify the *PRA* if it becomes aware of any matter which could affect the continuing relevance or appropriateness of the application of the *waiver*.

PRA RULEBOOK NOTIFICATIONS INSTRUMENT 2014

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);
 - (2) section 137T (general supplementary powers); and
 - (3) section 318(1) (Exercise of powers through Council).
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Pre-conditions to making

- C. In accordance with section 138J of the Act (consultation by the PRA) and section 319 (Consultation) of the Act, the PRA consulted the Financial Conduct Authority. After consulting, the PRA published a draft of proposed rules and directions and had regard to representations made.

PRA Rulebook Notifications Instrument 2014

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

Commencement

- E. This instrument comes into force on [DATE].

Citation

- F. This instrument may be cited as the PRA Rulebook Notifications Instrument 2014.

By order of the Board of the Prudential Regulation Authority

[DATE]

Annex A

PRA RULEBOOK – GLOSSARY

Insert the following new definitions into the Glossary Part of the PRA Rulebook:

approved person

means a *person* in relation to whom the *FCA* or the *PRA* has given its approval under section 59 of *FSMA* (Approval for particular arrangements) for the performance of a *controlled function*.

bank

means:

- (1) a *firm* with a *Part 4A Permission* to carry on the *regulated activity* of accepting deposits and is a *credit institution*, but is not a *credit union*, *friendly society* or a *building society*, or
- (2) an *EEA bank*.

business day

means:

- (1) in relation to anything done or to be done in (including to be submitted to a place in) any part of the *UK*) any day which is not a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday in that part of the *UK*;
- (2) (in relation to anything done or to be done by reference to a market outside the *UK*) any day on which that market is normally open for business.

Consolidated Life Directive

means the Council Directive of 5 November 2002 on the taking-up and pursuit of the business of life assurance (No 2002/83/EC), which consolidates the provisions of the *First Life Directive*, the *Second Life Directive* and the *Third Life Directive*.

controlled function

means a function, relating to the carrying on of a *regulated activity* by a *firm*, which is specified by either the *FCA* or the *PRA*, under section 59 of *FSMA* (Approval for particular arrangements).

CRD credit institution

means a *credit institution* that has its registered office (or, if it has no registered office, its head office) in an *EEA State*, excluding an institution to which the *CRD* does not apply under Article 2 of the *CRD*.

credit institution

has the meaning given in point (1) of Article 4(1) of the *CRR*.

EEA bank

means an *incoming EEA firm* that is a *CRD credit institution*.

First Life Directive

means the Council Directive of 5 March 1979 on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance (No 79/267/EEC).

First Non-Life Directive

the Council Directive of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct insurance other than life insurance (No 73/239/EEC).

insurance business

means the *regulated activities of effecting contracts of insurance or carrying out contracts of insurance*.

Insurance Groups Directive

means Directive of the European Parliament and of the Council of 27 October 1998 on the supplementary supervision of insurance undertakings in an insurance group (1998/78/EC).

insurance special purpose vehicle

means an *undertaking*, other than an *insurance undertaking* or *reinsurance undertaking* which has received an official authorisation in accordance with article 6 of the *First Non-Life Directive*, article 4 of the *Consolidated Life Directive* or article 3 of the *Reinsurance Directive*:

- (1) which assumes risks from such *insurance undertakings* or *reinsurance undertakings*; and
- (2) which fully funds its exposures to such risks through the proceeds of a debt issuance or some other financing mechanism where the repayment rights of the providers of such debt or other financing mechanism are subordinated to the *undertaking's reinsurance obligations*.

insurance undertaking

means an *undertaking*, whether or not an *insurer*, which carries on *insurance business*.

insurer

means a *firm* with *permission* to *effect contracts of insurance* or *carry out contracts of insurance* (other than a *UK ISPV*);

officer

means, in relation to a *body corporate*:

- (1) a *director*, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a *person* purporting to act in any such capacity; and

(2) an individual who is a *controller* of the body.

reinsurance

includes retrocession.

Reinsurance Directive

means the Directive of 16 November 2005 of the European Parliament and of the Council (No 2005/68/EC) on reinsurance and amending the *First Non-Life Directive* and the *Third Non-Life Directive* as well as the *Insurance Groups Directive* and the *Consolidated Life Directive*.

reinsurance undertaking

means an *insurance undertaking* whose *insurance business* is restricted to *reinsurance*.

Second Life Directive

means the Council Directive of 8 November 1990 on the coordination of laws, etc and laying down provisions relating to facilitate the effective exercise of freedom to provide services and amending Directive 79/267/EEC (No 90/619/EEC).

Society

means the society incorporated by the Lloyd's Act 1871 by the name of Lloyd's.

Third Life Directive

means the Council Directive of 10 November 1992 on the coordination of laws, etc, and amending Directives 79/267/EEC and 90/619/EEC (No 92/96/EEC).

Third Non-Life Directive

means the Council Directive of 18 June 1992 on the coordination of laws, etc, and amending Directives 73/239/EEC and 88/357/EEC (No 92/49/EEC).

UK ISPV

means an *insurance special purpose vehicle* with a *Part 4A permission* to carry out *contracts of insurance* or *effect contracts of insurance*.

Annex B

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

Part

NOTIFICATIONS

Chapter content

1. APPLICATION AND DEFINITIONS
2. GENERAL NOTIFICATION REQUIREMENTS
3. LLOYD'S OF LONDON
4. NOTIFIED PERSONS
5. CORE INFORMATION REQUIREMENTS
6. INACCURATE, FALSE OR MISLEADING INFORMATION
7. FORM AND METHOD OF NOTIFICATION
8. SPECIFIC NOTIFICATIONS
9. FINANCIAL CONGLOMERATE NOTIFICATIONS
10. FORMS

Links

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to every *firm*.

1.2 In this Part the following definitions shall apply:

authorised UK representative

means (in relation to a *firm*) a *person* resident in the *UK* who is authorised to act generally, and to accept service of any *document*, on behalf of the *firm*.

competent authority

has the meaning given in point (16) of Article 2 of the *Financial Groups Directive*.

consolidation group

means the undertakings included in the scope of consolidation pursuant to Articles 18(1), 18(8), 19(1), 19(3) and 23 of the *CRR* and Groups 2.1- 2.3.

coordinator

means, in relation to a *financial conglomerate*, the *competent authority* appointed as coordinator in accordance with Article 10(1) of the *Financial Groups Directive*.

dormant account fund operator

means a *firm* with *permission* for operating a *dormant account fund*.

financial conglomerate

has the meaning given in point (14) of Article 2 of the *Financial Groups Directive*.

Financial Groups Directive

means Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate.

injunction

means a court order made by the High Court that prohibits a *person* from doing or continuing to do a certain act or requires a *person* to carry out a certain act.

insolvency order

means an administration order, compulsory winding up order, bankruptcy order or sequestration order.

MIFID Regulation

means Commission Regulation (EC) 1287/2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive.

notification rule

(in relation to a *firm*) means a *rule* requiring a *firm* to give the *PRA* notice of, or information regarding, an event, but excluding a *rule* requiring periodic submission of a report.

occupational pension scheme

has the meaning given in Article 3(1) of the *Regulated Activities Order*.

operating a dormant account fund

means either of the *regulated activities* specified in Article 63N(1) of the *Regulated Activities Order*.

regulated entity

means one of the following:

- (1) a *credit institution*;
- (2) an insurance undertaking within the meaning of Article 4 of the *Consolidated Life Directive*, Article 6 of the *First Non-Life Directive* or Article 1(b) of the *Insurance Groups Directive*; or
- (3) an *investment firm*;

whether or not it is incorporated in, or has its head office in, an *EEA State*.

repurchase transaction

has the meaning given in point (83) of Article 4(1) of the *CRR*.

sole trader

means an individual who is a *firm*.

1.2 This Part applies to *incoming firms* without a *top-up permission* as follows:

- (1) 1 applies in full;
- (2) 2.1-2.7 apply in so far as responsibility for the matter in question is not reserved by an *EU* instrument to the *firm's Home State regulator*;
- (3) 2.8-2.9 apply in full;
- (4) 2.10-2.14 apply in so far as responsibility for the matter in question is not reserved by an *EU* instrument to the *firm's Home State regulator*;
- (5) 3-4 do not apply;
- (6) 5.1-5.3 apply in full except that 5.2(2) does not apply to an *incoming EEA firm* without a *top-up permission*;
- (7) 5.4 applies in so far as responsibility for the matter in question is not reserved by an *EU* instrument to the *firm's Home State regulator*;
- (8) 5.5 applies in full; and

(9) 6-9 apply in full.

1.3 This Part:

- (1) applies with respect to the carrying on of both *regulated activities* and *unregulated activities*; and
- (2) takes into account any activity of other members of a *group* of which the *firm* is a member.

2 GENERAL NOTIFICATION REQUIREMENTS

2.1 A *firm* must notify the *PRA* immediately it becomes aware, or has information which reasonably suggests, that any of the following has occurred, may have occurred or may occur in the foreseeable future:

- (1) the *firm* failing to satisfy one or more of the *threshold conditions*; or
- (2) any matter which could have a significant adverse impact on the *firm's* reputation; or
- (3) any matter which could affect the *firm's* ability to continue to provide adequate services to its customers and which could result in serious detriment to a customer of the *firm*; or
- (4) any matter in respect of the *firm* which could result in serious financial consequences to the *UK financial system* or to other *firms*.

2.2 In complying with 2.1, a *firm* must consider properly all potential consequences of events, notwithstanding that the circumstances which may give rise to any of the events in 2.1 are wide-ranging and the probability of any matter resulting in such an outcome, and the severity of the outcome, may be difficult to determine.

2.3 In determining whether the *PRA* should be notified of an event that may occur in the foreseeable future, a *firm* must consider both the probability of the event happening and the severity of the outcome should it happen.

2.4 A *firm* must give the *PRA* notice of:

- (1) any proposed restructuring, reorganisation or business expansion which could have a significant impact on the *firm's* risk profile or resources, including, but not limited to:
 - (a) setting up a new undertaking within a *firm's group*, or a new branch (whether in the *UK* or not);
 - (b) commencing the provision of cross border services into a new territory;
 - (c) commencing the provision of a new type of product or service (whether in the *UK* or not);
 - (d) ceasing to undertake a *regulated activity* or *ancillary activity*, or significantly reducing the scope of such activities;
 - (e) entering into, or significantly changing, a *material outsourcing* arrangement;
 - (f) a substantial change or a series of changes in the *governing body* of an *overseas firm* (other than an *incoming firm*);

- (g) any proposed change which limits the liability of any of the members or partners of a *firm* such as a general partner becoming a limited partner or re-registration as a limited liability company of a company incorporated with unlimited liability; or
 - (i) in relation to a *dormant account fund operator*, notify the *PRA* when the operator intends to rely on a third party for the performance of operational functions which are critical or important for the performance of relevant services and activities in connection with *operating a dormant account fund* on a continuous and satisfactory basis;
- (2) any significant failure in the *firm's* systems or controls, including those reported to the *firm* by the *firm's* auditor;
- (3) any action which a *firm* proposes to take which would result in a material change in its capital adequacy or solvency, including, but not limited to:
- (a) any action which would result in a material change in the *firm's* financial resources or financial resources requirement;
 - (b) a material change resulting from the payment of a special or unusual dividend or the repayment of share capital or a subordinated loan;
 - (c) for *firms* which are subject to consolidated financial supervision, any proposal under which another *group* member may be considering such an action; or
 - (d) significant trading or non-trading losses (whether recognised or unrecognised).
- 2.5 In giving notice to the *PRA*, a *firm* must discuss relevant matters with the *PRA* at an early stage, before making any internal or external commitments.
- 2.6 A *firm* must ensure that matters are promptly, properly and clearly communicated to the *PRA*.
- 2.7 A *firm* must provide a written notification if:
- (1) the *PRA* requests written confirmation of a *firm's* oral notification; or
 - (2) a matter either is complex or may be such as to make it necessary for the *PRA* to take action.
- 2.8 (1) A *firm* must notify the *PRA* of:
- (a) a significant breach of a *rule* or *Statement of Principle*;
 - (b) a breach of any requirement imposed by *FSMA* or by regulations or an order made under *FSMA* by the *Treasury* (except if the breach is an offence, in which case (c) applies);
 - (c) the bringing of a prosecution for, or a conviction of, any offence under *FSMA*;
 - (d) a breach of a directly applicable provision in the *MiFID Regulation*;
 - (e) a breach of a directly applicable provision in the *CRR* or any directly applicable regulations made under the *CRD* or the *CRR*;

- (e) a breach of any requirement in regulation 4C(3) (or any successor provision) of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007; or
- (g) it exceeding (or becoming aware that it will exceed) the limit in Article 395 of the *CRR*,

by (or as regards (c) against) the *firm* or any of its *directors, officers, employees, approved persons, or appointed representatives* or, where applicable, *tied agents*.

- (2) A *firm* must make the notification in (1) immediately it becomes aware, or has information which reasonably suggests, that any of the matters in (1) has occurred, may have occurred or may occur in the foreseeable future.

2.9 A notification under 2.8 must include:

- (1) information about any circumstances relevant to the breach or offence;
- (2) identification of the *rule* or requirement or offence; and
- (3) information about any steps which a *firm* or other *person* has taken or intends to take to rectify or remedy the breach or prevent any future potential occurrence.

2.10 A *firm* must notify the *PRA* immediately if:

- (1) civil proceedings are brought against the *firm* and the amount of the claim is significant in relation to the *firm's* financial resources or its reputation; or
- (2) any action is brought against the *firm* under section 71 (Actions for damages) or section 150 (Actions for damages) of *FSMA*; or
- (3) disciplinary measures or sanctions have been imposed on the *firm* by any statutory or regulatory authority, professional organisation or trade body (other than the *PRA*) or the *firm* becomes aware that one of those bodies has started an investigation into its affairs; or
- (4) the *firm* is prosecuted for, or convicted of, any offence involving fraud or dishonesty, or any penalties are imposed on it for tax evasion; or
- (5) it is removed as trustee of an *occupational pension scheme* by a court order.

2.11 A notification under 2.10 must include details of the matter and an estimate of the likely financial consequences, if any.

- 2.12 (1) A *firm* must notify the *PRA* immediately if one of the following events arises and the event is significant:
- (a) it becomes aware that an *employee* may have committed a fraud against one of its customers;
 - (b) it becomes aware that a *person*, whether or not employed by it, may have committed a fraud against it;
 - (c) it considers that any *person*, whether or not employed by it, is acting with intent to commit a fraud against it;

- (d) it identifies irregularities in its accounting or other records, whether or not there is evidence of fraud; or
 - (e) it suspects that one of its *employees* may be guilty of serious misconduct concerning their honesty or integrity and which is connected with the *firm's regulated activities* or *ancillary activities*.
- (2) A notification under (1) must provide all relevant and significant details of the incident or suspected incident of which the *firm* is aware.
- 2.13 A *firm* must notify the *PRA* immediately of any of the following events:
- (1) the calling of a meeting to consider a resolution for winding up the *firm*;
 - (2) an application to dissolve the *firm* or to strike it off the Register of Companies;
 - (3) the presentation of a petition for the winding up of the *firm*;
 - (4) the making of, or any proposals for the making of, a composition or arrangement with any one or more of its creditors;
 - (5) an application for the appointment of an administrator or trustee in bankruptcy to the *firm*;
 - (6) the appointment of a receiver to the *firm* (whether an administrative receiver or a receiver appointed over particular property);
 - (7) an application for an interim order against the firm under section 252 of the Insolvency Act 1986 (or, in Northern Ireland, section 227 of the Insolvency (Northern Ireland) Order 1989);
 - (8) if the *firm* is a *sole trader*:
 - (a) an application for a sequestration order on the *firm*; or
 - (b) the presentation of a petition for bankruptcy; or
 - (9) anything equivalent to (1) to (8) above occurring in respect of the *firm* in a jurisdiction outside the *UK*.

3 LLOYD'S OF LONDON

- 3.1 The *PRA* directs that:
- (1) the *Society* must immediately inform the *PRA* in writing if it becomes aware that any matter likely to be of material concern to the *PRA* may have arisen in relation to:
 - (a) the *regulated activities* for which the *Society* has permission; or
 - (b) *managing agents*; or
 - (c) *approved persons* or individuals acting for or on behalf of *managing agents*.
 - (2) the *Society* must inform the *PRA* if it commences investigations or disciplinary proceedings relating to apparent breaches:
 - (a) of *FSMA* or requirements made or imposed under *FSMA*, including the *threshold conditions* or any *rules*, by a *managing agent*; or

- (b) of the *Statements of Principle* by an individual or other *person* who carries out *controlled functions* for or on behalf of a *managing agent*.
- (3) that the *Society* must inform the *PRA* if it commences investigations or disciplinary proceedings which do not fall within the scope of 3.2 but which:
- (a) involve a *managing agent*, or an *approved person* who carries out *controlled functions* for it or on its behalf; or
 - (b) may indicate that an individual acting for or on behalf of a *managing agent* may not be a fit and proper person to perform functions in relation to *regulated activities*,

and in each case the direction is given in relation to the exercise of the powers of the *Society* and of the *Council* generally, with a view to achieving the objective of enabling the *PRA* to (1) comply with its general duty under section 314 of *FSMA*, (2) determine whether *managing agents* or *approved persons* acting for them or on their behalf, are complying with the requirements imposed on them by or under *FSMA* and (3) enforce the provisions of *FSMA*, or requirements made under *FSMA*, by enabling the *PRA* to consider, where appropriate, whether it should use its powers, for example to:

- (a) vary or cancel the *permission* of a *managing agent*, under section 55J of *FSMA* (Variation or cancellation on initiative of regulator);
- (b) withdraw approval from an *approved person* acting for or on behalf of a *managing agent*, under section 63 of *FSMA* (Withdrawal of approval);
- (c) prohibit an individual acting for or on behalf of a *managing agent* from involvement in *regulated activities*, under section 56 of *FSMA* (Prohibition orders);
- (d) require a *managing agent* to make restitution, under section 384 of *FSMA* (Power of FCA or PRA to require restitution);
- (e) discipline a *managing agent*, or an *approved person* acting for it or on its behalf, for a breach of a requirement made under *FSMA*, including the *Fundamental Rules*, *Statements of Principle* and *rules*;
- (f) apply to court for an *injunction*, restitution order or *insolvency order*; and
- (g) prosecute any criminal offence that the *PRA* has power to prosecute under *FSMA*.

3.2 Each direction in SUP 15.3.23D to SUP 15.3.25D of the *PRA Handbook* continues to have effect from the date the relevant direction was given to the date on which the direction in 2.1 has effect .

4 NOTIFIED PERSONS

- 4.1 (1) An *overseas firm*, which is not an *incoming firm*, must notify the *PRA* within 30 *business days* of any *person* taking up or ceasing to hold the following positions:
- (a) the *firm's* worldwide chief executive (that is, the *person* who, alone or jointly with one or more others, is responsible under the immediate authority of the *directors* for the whole of its business) if the *person* is based outside the *UK*;
 - (b) the *person* within the *overseas firm* with a purely strategic responsibility for *UK* operations;

- (c) for a *bank*: the two or more *persons* who effectively direct its business; or
 - (d) for an *insurer*: the *authorised UK representative*.
- (2) The notification in (1) must be submitted in the form set out in 10.1 (Form F). However, if the *person* is an *approved person*, notification giving details of their name, the *approved person's* individual reference number and the position to which the notification relates, is sufficient.

[Note: 4.1 is not made under the powers conferred on the PRA by Part V of FSMA (Performance of Regulated Activities). A person notified to the PRA under 4.1 is not subject to the Statements of Principle or Code of Practice for Approved Persons, unless they are also an approved person.]

- 4.2 (1) A *firm* other than a *credit union* must submit the form in 10.1 online using the *PRA's* ONA system.
- (2) Where a *firm* is obliged to submit an application online under (1), if [the *PRA's* information technology systems fail and] online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored:
- (a) a *firm* must submit the form in the way set out in 7.3 to 7.5; and
 - (b) the *rules* in relation to non-compliance with *rules* by a *firm* in the case of an emergency do not apply.

5 CORE INFORMATION REQUIREMENTS

- 5.1 A *firm* must give the *PRA* reasonable advance notice of a change in any of the following names, and give details of the new name and the date of the change:
- (1) the *firm's* name (which is the registered name if the *firm* is a *body corporate*); and
 - (2) any business name under which the *firm* carries on a *regulated activity* or *ancillary activity* either from an establishment in the *UK* or with or for clients in the *UK*,
- in each case by submitting the form set out in 10.2 (Standing Data Form).
- 5.2 A *firm* must give the *PRA* reasonable advance notice of a change in any of the following addresses, and give details of the new address and the date of the change:
- (1) the *firm's* principal place of business in the *UK*; and
 - (2) in the case of an *overseas firm*, its registered office (or head office) address,
- in each case by submitting the form set out in 10.2 (Standing Data Form).
- 5.3 A *firm* must give the *PRA* reasonable advance notice of a change in any of the following telephone numbers, and give details of the new telephone number and the date of the change:
- (1) the number of the *firm's* principal place of business in the *UK*; and
 - (2) in the case of an *overseas firm*, the number of its head office,
- in each case by submitting the form set out in 10.2 (Standing Data Form).

- 5.4 A *firm* must notify the *PRA* immediately if it becomes subject to or ceases to be subject to the supervision of any *overseas regulator* (including a *Home State regulator*).
- 5.5 (1) A *firm* other than a *credit union* must submit the forms required in 5.1 to 5.3 online using the *PRA*'s ONA system.
- (2) Where a *firm* is obliged to submit a notice online under (1), if the *PRA*'s information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored:
- (a) a *firm* must submit any notice required by 5.1 to 5.3 in the way set out in 7.3 to 7.5; and
- (b) the *rules* in relation to non-compliance with *rules* by a *firm* in the case of an emergency do not apply.

6 INACCURATE, FALSE OR MISLEADING INFORMATION

- 6.1 A *firm* must take reasonable steps to ensure that all information it gives to the *PRA* in accordance with a *rule* is:
- (1) factually accurate or, in the case of estimates and judgments, fairly and properly based after appropriate enquiries have been made by the *firm*; and
- (2) complete, in that it should include anything of which the *PRA* would reasonably expect notice.
- 6.2 If a *firm* is unable to obtain the information required in 6.1, then it must inform the *PRA* that the scope of the information provided is, or may be, limited.
- 6.3 If a *firm* becomes aware, or has information that reasonably suggests that it has or may have provided the *PRA* with information which was or may have been false, misleading, incomplete or inaccurate, or has or may have changed in a material particular, it must notify the *PRA* immediately. Subject to 6.4, the notification must include:
- (1) details of the information which is or may be false, misleading, incomplete or inaccurate, or has or may have changed;
- (2) an explanation why such information was or may have been provided; and
- (3) the correct information.
- 6.4 If the information in 6.3(3) cannot be submitted with the notification (because it is not immediately available), it must instead be submitted as soon as possible afterwards.

7 FORM AND METHOD OF NOTIFICATION

- 7.1 A notification required from a *firm* under any *notification rule* must be given in writing, and in English, and must be submitted on the form specified for that *notification rule*, or if no form is specified, on the form in 10.3 (Notification form), and must give the *firm*'s Firm Reference Number unless:
- (1) the *notification rule* states otherwise; or
- (2) the notification is provided solely in compliance with 2.4 or *Fundamental Rule 7*.

- 7.2 A *firm* must have regard to the urgency and significance of a matter and, if appropriate, should also notify its usual supervisory contact at the *PRA* by telephone or by other prompt means of communication, before submitting a written notification. Oral notifications must be given directly to the *firm's* usual supervisory contact at the *PRA*. An oral notification left with another person or left on a voicemail or other automatic messaging service is unlikely to have been given appropriately.
- 7.3 Unless stated in the *notification rule*, or on the relevant form (if specified), a written notification required from a *firm* under any *notification rule* must be:
- (1) given to or addressed for the attention of the *firm's* usual supervisory contact at the *PRA*; and
 - (2) delivered to the *PRA* by one of the following methods:
 - (a) post to the *PRA's* address;
 - (b) leaving the notification at the *PRA's* address and obtaining a time-stamped receipt;
 - (c) electronic mail to an address for the *firm's* usual supervisory contact at the *PRA* and obtaining an electronic confirmation of receipt;
 - (d) hand delivery to the *firm's* usual supervisory contact at the *PRA*;
 - (e) fax to a fax number for the *firm's* usual supervisory contact at the *PRA* and receiving a successful transmission report for all pages of the notification;
 - (f) online submission via the *PRA's* website at www.bankofengland.co.uk/pr/.

[Note: The current published address of the PRA for postal submission or hand delivery of notifications is 20 Moorgate, London EC2R 6DA.]

- 7.4 If the *firm* or its *group* is subject to lead supervision arrangements by the *PRA*, the *firm* or *group* may give or address a notice under 7.3(1) to the supervisory contact at the *regulator* designated as lead supervisor, if the *firm* has chosen to make use of the lead supervisor as a central point of contact.
- 7.5 If a *firm* is a member of a *group* which includes more than one *firm*, any one undertaking in the *group* may notify the *PRA* on behalf of all *firms* in the *group* to which the notification applies. In this way, that undertaking may satisfy the obligation of all relevant *firms* in the *group* to notify the *PRA*. Nevertheless, the obligation to make the notification remains the responsibility of the individual *firm* itself.
- 7.6 If a *notification rule* requires notification within a specified period:
- (1) the *firm* must give the notification so as to be received by the *PRA* no later than the end of that period; and
 - (2) if the end of that period falls on a day which is not a *business day*, the notification must be given so as to be received by the *PRA* no later than the first *business day* after the end of that period.

8 SPECIFIC NOTIFICATIONS

- 8.1 A *CRR firm* must report to the *PRA* immediately any case in which its counterparty in a *repurchase transaction* or securities or commodities lending or borrowing transaction defaults on its obligations.

9 FINANCIAL CONGLOMERATE NOTIFICATIONS

- 9.1 A *firm* that is a *regulated entity* must notify the *PRA* immediately it becomes aware that any *consolidation group* of which it is a member:
- (1) is a *financial conglomerate*; or
 - (2) has ceased to be a *financial conglomerate*.
- 9.2 (1) A *firm* that is a *regulated entity* must establish whether or not any *consolidation group* of which it is a member:
- (a) is a *financial conglomerate*; or
 - (b) has ceased to be a *financial conglomerate*;
- if:
- (c) the *firm* believes; or
 - (d) a reasonable *firm* that is complying with the requirements of the *regulatory system* would believe,
- that it is likely that (a) or (b) is true.
- (2) A *firm* does not need to determine whether (1)(a) is the case if the *consolidation group* is already being regulated as a *financial conglomerate*.
- (3) A *firm* does not need to determine whether (1)(b) is the case if notification has already been given as contemplated by 9.4.
- 9.3 A *firm* must consider the requirements in 9.2 on a continuing basis, and in particular, when the *group* prepares its financial statements and on the occurrence of an event affecting the *consolidation group*. Such events include, but are not limited to, an acquisition, merger or sale.
- 9.4 A *firm* does not have to give notice to the *PRA* under 9.1 if it or another member of the *consolidation group* has already given notice of the relevant fact to:
- (1) the *PRA*; or
 - (2) (if another *competent authority* is *coordinator* of the *financial conglomerate*) that *competent authority*; or
 - (3) (in the case of a *financial conglomerate* that does not yet have a *coordinator*) the *competent authority* who would be *coordinator* under Article 10(2) of the *Financial Groups Directive* (Competent authority responsible for exercising supplementary supervision (the *coordinator*)).

10 FORMS

10.1 Form F can be found [here](#).

10.2 The Standing Data Form can be found [here](#).

10.3 The Notification Form can be found [here](#).

HANDBOOK (RULEBOOK CONSEQUENTIALS) INSTRUMENT (NO 1) 2014**Powers exercised**

- A. The Prudential Regulation Authority (“PRA”) makes this instrument in the exercise of the following powers and related provisions in 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 instruments) of the Act.

Pre-conditions to making

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

Commencement

- D. This instrument comes into force on *[date]*.

Amendments

- E. The modules of the PRA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex B
General provisions (GEN)	Annex C
Fees manual (FEES)	Annex D
General Prudential sourcebook (GENPRU)	Annex E
Prudential sourcebook for Insurers (INSPRU)	Annex F
Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)	Annex G
Supervision manual (SUP)	Annex H

Deletion

- G. Each of the following modules and chapters of the PRA’s Handbook is deleted:

PRIN (Principles for Businesses)

FINMAR (Financial Stability and Market Confidence Sourcebook)
SUP 2 (Information gathering by the FSA on its own initiative)
SUP 3 (Auditors)
SUP 5 (Reports by skilled persons)
SUP 6 (Applications to vary and cancel Part 4A permission and to impose, vary or cancel requirements)
SUP 8 (Waiver and modification of rules)
SUP 15 (Notifications to the FCA or PRA)

Citation

H. This instrument may be cited as the Handbook (Rulebook Consequentials) Instrument (No 1) 2014.

By order of the Board of the Prudential Regulation Authority

[*date*]

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text.

<i>close links</i>	...	(2) (except where (1) applies and except in SUP 3 (Auditors) and SUP 4 (Actuaries)) (in accordance with paragraph 3(2) in Schedule 6 to the Act (Close links)) the relationship between a <i>person</i> (“A”) and another <i>person</i> (“CL”) which exists if:
	...	(3) (in SUP 3 (Auditors) and SUP 4 (Actuaries)) (in accordance with section 343(8) of the Act (Information given by auditor or actuary to a regulator: persons with close links)) the relationship in (2)104, disregarding (e) and (f).
	...	
<i>eligible counterparty</i>	(1)	(for the purposes other than those set out in (2)) (in accordance with COBS 3.6.1R) a <i>client</i> that is either a <i>per se eligible counterparty</i> or an <i>elective eligible counterparty</i> .
	(2)	(for the purposes of PRIN, in relation to activities other than designated investment business) a client categorised as an eligible counterparty in accordance with PRIN 1 Annex 1 R.[deleted]
	...	
<i>Fundamental Rules</i>		the Fundamental Rules set out in Fundamental Rules 2 in the <i>PRA Rulebook</i> .
	...	
<i>PRIN</i>		the part of the <i>Handbook in High Level Standards</i> that has the title <u>Principles for Businesses</u> , in relation to any <i>rules</i> in PRIN, the equivalent provision (if any) in the <u>Fundamental Rules Part of the PRA Rulebook</u> .
	...	
<i>Principle</i>		one of the Principles set out in <i>PRIN 2.1.1R (Principles for Businesses)</i> ; <u>or</u> :

- (a) in relation to Principle 1, Fundamental Rule 1;
- (b) in relation to Principle 2, Fundamental Rule 2;
- (c) in relation to Principle 3, Fundamental Rule 5 or Fundamental Rule 6 as appropriate;
- (d) in relation to Principle 4, Fundamental Rule 4; and
- (e) in relation to Principle 11, Fundamental Rule 7.

...

regulatory system

the arrangements for regulating a *firm* or other *person* in or under the *Act*, including the *threshold conditions*, the ~~Principles~~ Fundamental Rules and other *rules*, the *Statements of Principle*, codes and *guidance* and including any relevant directly applicable provisions of a Directive or Regulation such as those contained in the *MiFID implementing Directive* and the *MiFID Regulation*.

...

rule

(in accordance with section 417(1) of the *Act* (Definitions)) a rule made by the *FCA* or the *PRA* under the *Act*, including: an evidential provision.

- (a) ~~a Principle;~~ and [deleted]
- (b) ~~an evidential provision~~ [deleted]

...

waiver

a direction waiving or modifying a *rule*, given by the ~~appropriate regulator~~ PRA under section 138A of the *Act* (Modification or waiver of rules) or by the *FCA* under sections 250, 261L or 294 of the *Act* (Modification or waiver of rules) or regulation 7 of the *OEIC Regulations* (see ~~SUP 8~~ and *REC 3.3*).

...

Annex B

Amendments to the Senior Management Arrangements, Systems and Controls sourcebook (SYSC)

In this Annex, underlining indicates new text and striking through indicates deleted text.

11.1 Application

...

- 11.1.8 G Appropriate systems and controls for the management of *liquidity risk* will vary with the scale, nature and complexity of the *firm's* activities. Most of the material in SYSC 11 is, therefore, guidance. SYSC 11 lays out some of the main issues that the PRA expects a *firm* to consider in relation to *liquidity risk*. A *firm* should assess the appropriateness of any particular item of *guidance* in the light of the scale, nature and complexity of its activities as well as its obligations ~~as set out in Principle 3~~ to organise and control its affairs responsibly and effectively.

...

14.1 Application

...

- 14.1.6 G This section is designed to amplify ~~Principle 3 (Management and control)~~ which requires the requirement that a *firm* ~~take reasonable care to~~ must organise and control its affairs responsibly and effectively, and have in place sound and effective risk strategies and ~~with~~ adequate risk management systems. This section is also designed to be complementary to SYSC 2, SYSC 3 and SYSC 13 in that it contains some additional *rules* and *guidance* on senior management arrangements and associated systems and controls for *firms* that could have a significant impact on the PRA's objectives
- 14.1.7 G In addition to supporting ~~PRIN and~~ SYSC 2, SYSC 3 and SYSC 13, this section lays the foundations for the more specific *rules* and *guidance* on the management of credit, market, liquidity, operational, insurance and group risks that are in SYSC 11, SYSC 12, SYSC 15, SYSC 16 and INSPRU 5.1. Many of the elements raised here in general terms are expanded upon in these sections.

...

15.1 Application

...

- 15.1.6 G Appropriate systems and controls for the management of credit risk will vary with the scale, nature and complexity of the *firm's* activities.

Therefore the material in this section is *guidance*. A *firm* should assess the appropriateness of any particular item of *guidance* in the light of the scale, nature and complexity of its activities as well as its obligations as set out in *Principle 3* to organise and control its affairs responsibly and effectively.

...

16.1 Application

...

16.1.4 G ...

(4) Appropriate systems and controls for the management of *market risk* will vary with the scale, nature and complexity of the *firm's* activities. Therefore the material in this section is *guidance*. A *firm* should assess the appropriateness of any particular item of *guidance* in the light of the scale, nature and complexity of its activities as well as its obligations as set out in *Principle 3* to organise and control its affairs responsibly and effectively.

...

17.1 Application

...

17.1.7 G Appropriate systems and controls for the management of insurance risk will vary with the scale, nature and complexity of a *firm's* activities. Therefore, the material in this section is *guidance*. A *firm* should assess the appropriateness of any particular item of *guidance* in the light of the scale, nature and complexity of its activities as well as its obligations, as set out in *Principle 3*, to organise and control its affairs responsibly and effectively.

...

20.1 Application and purpose

...

20.1.2 G ~~This chapter amplifies *Principle 2*, under which a *firm* must conduct its business with due skill, care and diligence, and *Principle 3*, under which a *firm* must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.~~ [deleted]

...

Annex C

General Provisions (GEN)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1.3 Emergency

...

1.3.2A R Notwithstanding GEN 1.3.2R(4), a notification under GEN 1.3.2R(3) must be given or addressed and delivered in accordance with Notifications 7 (Form and method of notification) of the PRA Rulebook (whether or not the *person is a firm*).

Annex D

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text and striking through indicates deleted text.

3.2 Obligation to pay fees

...

3.2.7A R Table of application, notification and vetting fees payable to the PRA

(1) Fee payer	(2) Fee payable	Due Date
...		
(h) <i>A person</i> in respect of which the <i>appropriate regulator</i> has given notice of its intention to itself appoint a <i>skilled person</i> to provide it with a report pursuant to section 166(3)(b) of the <i>Act</i> and <i>SUP 5.2</i>
...		

...

4.3 Periodic fee payable by firms (other than AIFM qualifiers, ICVCs and UCITS qualifiers)

...

4.3.6A R If a *firm* has applied to cancel its *Part 4A permission* in the way set out in Permissions and Waivers 2 of the *PRA Rulebook*, then *FEES 4.3.6R(1)* and *(2)* do not apply but it must pay the total amount due when the application is made.

...

4.3.13A R (1) If:

(a) a *firm* makes an application to vary its *permission* (by reducing its scope), or cancel it, in the way set out in Permissions and Waivers 2 of the *PRA Rulebook*; and

(b) the *firm* makes the application or notification referred to in (a) before the start of the *fee year* to which the fee relates,

FEES 4.2.1R applies to the *firm* as if the relevant variation or cancellation of the *firm's permission* took effect immediately before the start of the *fee year* to which the fee relates.

(2) But (1) does not apply if, due to the continuing nature of the business, the variation or cancellation is not to take effect on or before 30 June of the *fee year* to which the fee relates.

...

Annex 2B R **PRA fee rates and EEA/Treaty firm modifications for the period from 1 April 2013 to 28 February 2014**

...

Part 5		
...		
(2)	The conditions in this paragraph are:	
	(a)	<i>FEES 4.3.13R</i> and <i>FEES 4.3.13AR</i> (Firms Applying to Cancel or Vary Permission Before Start of Period) does <u>do not</u> apply with respect to the relevant fee blocks;
	...	
...		

Annex E

Amendments to the General Prudential sourcebook (GENPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text.

2 Capital

...

2.1.20 R ...

- (2) that election is made by written notice to the ~~appropriate regulator~~ PRA in a way that complies with the requirements for written notice in ~~SUP 15.7~~ Notifications 7 (Form and method of notification) of the PRA Rulebook.

...

2 R Guidance on applications for waivers relating to implicit items

Annex

8

1	...
2	Under section 138A of the <i>Act</i> , the <i>PRA</i> may, on the application of a <i>firm</i> , grant a <i>waiver</i> from PRU . There are general requirements that must be met before any <i>waiver</i> can be granted. As explained in SUP 8, <u>the PRA</u> may not give a <i>waiver</i> unless the <i>PRA</i> is satisfied that:
	...
4	<i>Implicit items</i> are economic reserves which are contained within the long-term insurance business provisions. Article 27(4) of the <i>Consolidated Life Directive</i> identifies three types of <i>implicit item</i> , in respect of: future profits, <i>zillmerisation</i> and hidden reserves. This annex is intended to amplify the <u>provide guidance</u> in SUP 8 relating to the granting of <i>waivers</i> for <i>implicit items</i> and to provide <i>guidance</i> on other aspects. Whilst this <i>guidance</i> applies to applications for <i>waivers</i> for <i>implicit items</i> generally, for a <i>realistic basis life firm</i> , to the extent that an <i>implicit item</i> is allocated to a <i>with-profits fund</i> , this <i>guidance</i> relates to <i>implicit items</i> for the purposes of determining the <i>regulatory value of assets</i> (see <i>INSPRU</i> 1.4.24R).
...	
9	This annex sets out the procedures to be followed and the form of calculations and data which should be submitted by <i>firms</i> to the appropriate regulator <u>PRA</u> . This <i>guidance</i> should also be read in conjunction with the general requirements relating to the <i>waiver</i>

	<p>process described in SUP 8. The PRA expects that applications for <i>waivers</i> in respect of future profits and <i>zillmerising</i> will not normally be considered to pass the "would not adversely affect the advancement of any of the PRA's objectives" test unless the relevant criteria set out in this <i>guidance</i> have been satisfied and an application for such a <i>waiver</i> may require further criteria to be satisfied for this test to be passed. As set out below, <i>waivers</i> in respect of either <i>zillmerising</i> or hidden reserves will not normally be given except in very exceptional circumstances.</p>
Timing	
10	<p>A <i>long-term insurer</i> may apply to the PRA for a <i>waiver</i> in respect of <i>implicit items</i>. A <i>waiver</i> will not apply retrospectively (see SUP 8.3.6 G). Consequently, applications intended for a particular accounting reference date will normally need to be made well before that reference date. Applications by <i>firms</i> must be made to the PRA in writing and include the relevant details specified under SUP 8.3.3D <u>Permissions and Waivers 4 in the PRA Rulebook</u>. Given the uncertainty in predicting the future, <i>waivers</i> will normally be granted for a maximum of 12 months at a time and any further applications will need to be made accordingly.</p>
...	
15	<p>An application for a <i>capital resources waiver</i> (which includes an application for an extension to or other variation of a <i>waiver</i>) should be prepared using the standard application form for a <i>waiver</i> (see SUP 8 Annex 2D). In addition, the application should be accompanied by full supporting information to enable the PRA to arrive at a decision on the merits of the case. In particular, the application should state clearly the nature and the amounts of the <i>implicit items</i> that a <i>firm</i> wishes to count against its <i>capital resources requirement</i> and whether it proposes to treat the <i>implicit item</i> as <i>tier one capital</i> or <i>tier two capital</i>. In order to assess an application, the PRA needs information as to the make-up of the <i>firm's capital resources</i>, the quality of the capital items which have been categorised into each tier of capital and a breakdown of capital both within and outside the <i>firm's long-term insurance fund</i> or <i>funds</i> and between the <i>firm's with-profits funds</i> and <i>non-profit funds</i>. An explanation as to the appropriateness of the proposed treatment of the <i>implicit item</i> under the <i>capital resources table</i> should also be provided, including a demonstration that, in allowing for <i>implicit items</i>, there has been no double counting of future margins and that the basis for valuing such margins is prudent.</p>
...	
19	<p><i>Firms</i> should take into account any material changes in financial conditions or other relevant circumstances that may have an impact on the level of future profits that can prudently be taken into account. <i>Firms</i> should also re-evaluate whether an application to vary an</p>

	<p><i>implicit item waiver</i> should be made whenever circumstances have changed. In the event that circumstances have changed such that an amendment is appropriate, the firm must contact the <i>PRA</i> as quickly as possible in accordance with <i>Principle 11</i> <i>Fundamental Rule 7</i>. In this context, the <i>PRA</i> would expect notice of any matter that materially impacts on the <i>firm's</i> financial condition, or any <i>waivers</i> granted.</p>
...	
45	<p>The <i>PRA</i> will publish the <i>waiver</i> (see <i>SUP 8.6</i> and <i>SUP 8.7</i>). Public disclosure is standard practice unless the <i>PRA</i> is satisfied that publication is inappropriate or unnecessary (see section 138AB <u>138B</u> of the <i>Act</i>). Any request that a direction not be published should be made to the <i>PRA</i> in writing with grounds in support, as set out in <i>SUP 8.6</i>. Disclosure of a <i>waiver</i> will normally be required in the <i>firm's</i> annual returns.</p>

Annex F

Amendments to the Interim Prudential sourcebook for Insurers (INSPRU)

In this Annex, underlining indicates new text and striking thorough indicates deleted text.

2.1 Application

...

- 2.1.6 G The requirements in this section address both current and contingent exposure to credit risk. ~~PRIN and SYSC~~ requires a *firm* to establish adequate internal systems and controls for exposure to credit risk. This section requires a *firm* to restrict its exposure to different *counterparties* and assets to prudent levels and to ensure that those exposures are adequately diversified. It also requires a *firm* to make deductions from the value of assets in respect of exposures to one asset, *counterparty* or group of closely related *counterparties* in excess of prescribed limits.

...

- 2.1.23 R A *firm* must notify the *PRA* in accordance with ~~SUP 15.7~~ Notifications 7 (Form and method of notification) of the *PRA* Rulebook as soon as it first becomes aware that:

(1) ...

...

...

4.1 Application

...

- 4.1.5 G The purpose of this section is to amplify parts of *INSPRU* in their application to *liquidity risk* and, in so doing, to suggest minimum standards for management of that risk. The main relevant part, *SYSC* 14 (Prudential risk management and associated systems and controls), itself amplifies ~~Principle 3 (Management and control) and SYSC~~ (Senior management arrangements, Systems and Controls).
- 4.1.6 G Appropriate management of *liquidity risk* will vary with the scale, nature and complexity of the *firm's* activities. Most of the material in this section is, therefore, *guidance*. The section lays out some of the main issues that the *PRA* expects a *firm* to consider in relation to *liquidity risk*. A *firm* should assess the appropriateness of any particular item of *guidance* in the light of the scale, nature and complexity of its activities as well as its obligations ~~as set out in Principle 3~~ to organise and control its affairs responsibly and effectively.

...

5.1 Application

...

- 5.1.8 G Appropriate management of operational risk will vary with the scale, nature and complexity of a *firm's* activities. Therefore the material in this section is *guidance*. A *firm* should assess the appropriateness of any particular item of *guidance* in the light of the scale, nature and complexity of its activities as well as its obligations ~~as set out in *Principle 3*~~ to organise and control its affairs responsibly and effectively.

...

6.1 Application

...

- 6.1.16 G ~~*Principle 4* requires a~~ A *firm* is required to maintain adequate financial resources, taking into account any activity of other members of the *group* of which the *firm* is a member. *INSPRU* 6.1 sets out provisions that deal specifically with the way the activities of other members of the *group* should be taken into account. This results in the *firm* being required to hold sufficient capital resources so that the *group capital resources* are at least equal to the *group capital resources requirement*. However, the adequacy of the *group capital resources* needs to be assessed both by the *firm* and the *PRA*. *Firms* are required to carry out an assessment of the adequacy of their financial resources under the *overall financial adequacy rule*, the *overall Pillar 2 rule* and *GENPRU* 1.2.39R, and the *PRA* will review this and may provide individual guidance on the amount and quality of *capital resources* the *PRA* considers adequate. As part of such reviews, the *PRA* may also form a view on the appropriateness of the *group capital resources requirement* and *group capital resources*. Where necessary, the *PRA* may also give individual guidance on the capital resources a *firm* should hold in order to comply with ~~*Principle 4*~~ the requirement to maintain adequate financial resources expressed by reference to *INSPRU* 6.1.9R and *INSPRU* 6.1.15R.

...

- 6.1.26 R A *firm* may elect to use the calculation method referred to in *INSPRU* 6.1.25R(2) if it has made the election by written notice to the *PRA* in a way that complies with the requirements for written notice in ~~*SUP 15.7 Notifications 7*~~ of the *PRA* Rulebook.

...

7.1 Application

...

- 7.1.26 G ~~The ICA should assume that a firm will continue to manage its business having regard to the PRA's and FCA's Principles for Businesses. In particular, a firm should take into account how the Principles for Businesses may constrain its prospective management actions, for example, the FCA's Principle 6 (Treating Customers Fairly). [deleted]~~
- 7.1.26A G The ICA should assume that a firm will continue to manage its business having regard to the Principles. In particular, a firm should take into account how the Principles may constrain its prospective management actions.

Annex G

Amendments to the Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text.

3.1 Application and purpose

- 3.1.5 G ~~Under *Principles 3 and 4* a firm is required to take reasonable care to organise and control its affairs responsible and effectively with adequate risk management systems and to maintain adequate financial resources. Under *Principle 9* a firm is obliged to take reasonable care to ensure the suitability of its *advice on investments* and discretionary decisions for any *customer* who is entitled to rely upon its judgement.~~[deleted]
- 3.1.5A G Under ~~*Principles 3 and 4*~~ *Fundamental Rules 4, 5 and 6* a firm is required to ~~take reasonable care to organise and control its affairs responsible and effectively with adequate risk management systems~~ have in place sound and effective risk strategies and risk management systems, to organise and control its affairs responsibly and effectively and to maintain adequate financial resources at all times.

...

Annex H

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

4.4 Appropriate actuaries

...

- 4.4.3 G An *appropriate actuary* should have skills and experience appropriate to the nature, scale and complexity of the *firm's* business and the requirements and standards under the regulatory system to which it is subject. ~~In complying with Principle 3, a~~ A firm should have regard to whether its proposed *appropriate actuary* has adequate qualifications and experience, and seek confirmation of this from the *actuary*, or the *actuary's* current and previous employers, as appropriate.

...

4.5 Provisions applicable to all actuaries

...

- 4.5.7A G In relation to Lloyd's, an effect of the *insurance market direction* set out ~~at SUP 3.1.13D~~ in Auditors 1.2 of the PRA Rulebook is that sections 342(5) and 343(5) of the *Act* (Information given by auditor or actuary to a regulator) apply also to *actuaries* who are appointed to evaluate the *long-term insurance business* of a *syndicate*.

...

10B PRA Approved Persons

...

10B.11.7 G Outsourcing arrangements

Outsourcing arrangements		Submitting form
...		
Outsourcing by A to B (both being a member of the same <i>United Kingdom group</i> and each having its registered office in the <i>United Kingdom</i>)	See SUP 10B.3.4G	See SUP 15.7.8G <u>If a firm is a member of a group which includes more than one firm, any one undertaking in the group may notify the PRA on behalf of all firms in the group to which the notification applies. In this way, that undertaking may satisfy the obligation of all relevant firms in the group to notify</u>

		the <i>PRA</i> . Nevertheless, the obligation to make the notification remains the responsibility of the individual <i>firm</i> itself.
...		

10B.14.1 D ...

- (3) An application by a *credit union* must be made using the form in *SUP* 10B Annex 4D or *SUP* 10B Annex 8D and must be submitted in the way set out in ~~*SUP* 15.7.4R to *SUP* 15.7.9G~~ Notifications 7 (Form and method of notification) of the *PRA* Rulebook.
- (4) Where a *firm* is obliged to submit an application online under (2), if the information technology systems used by the *PRA* fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored a *firm* must use the form in *SUP* 10B Annex 4D or *SUP* 10B Annex 8D and submit it in the way set out in ~~*SUP* 15.7.4R to *SUP* 15.7.9G~~ Notifications 7 (Form and method of notification) of the *PRA* Rulebook.

...

10B.14.3 G If the information technology systems used by the *PRA* fail and online submission is unavailable for 24 hours or more, the *FCA* and *PRA* will endeavour to publish a notice on their websites confirming that online submission is unavailable and that the alternative methods of submission set out in *SUP* 10B.14.1D(4) and ~~*SUP* 15.7.4R to *SUP* 15.7.9G~~ Notifications 7 (Form and method of notification) of the *PRA* Rulebook should be used.

...

11.9 Changes in close links

...

11.9.3-B G The *PRA* may ask the *firm* for additional information following a notification under *SUP* 11.9.1BR in order to satisfy itself that the *firm* continues to satisfy the *threshold conditions* ~~(see *SUP* 2: Information gathering by the *FCA* and *PRA* on their own initiative)~~.

...

13 Exercise of passport rights by UK firms

...

13.5.3 R (1) ~~A *UK firm*, other than a *credit union*, must submit any notice under *SUP* 13.5.1R(1), *SUP* 13.5.1AR or *SUP* 13.5.2R online at www.fca.org.uk using the ONA system. [deleted]~~

...

- (3) ~~Where a *firm* is obliged to submit a notice in accordance with (1), if the information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored, a *firm* must submit that notice in the way set out in SUP 15.7.4 R to SUP 15.7.9 G (Form and method of notification). [deleted]~~

13.5.3-A R (1) A UK firm, other than a credit union, must submit any notice under SUP 13.5.1R(1), SUP 13.5.1AR or SUP 13.5.2R online at the PRA's website using the ONA system.

- (2) Where a *firm* is obliged to submit a notice in accordance with (1), if the information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored, a *firm* must submit that notice in the way set out in Notifications 7 (Form and method of notification) of the PRA Rulebook.

13.5.3A G ~~A credit union must submit any notice under SUP 13.5.1R(1), SUP 13.5.1AR or SUP 13.5.2R in the way set out in SUP 15.7.4R to SUP 15.7.9 G (Form and method of notification). [deleted]~~

13.5.4 G (1) ~~If the information technology systems fail and online submission is unavailable for 24 hours or more, the appropriate UK regulator will endeavour to publish a notice on its website confirming that online submission is unavailable and that the alternative methods of submission set out in SUP 13.5.3R(3) and SUP 15.7.4R to SUP 15.7.9G (Form and method of notification) should be used. [deleted]~~

- (2) ~~Where SUP 13.5.3 R(3) applies to a *firm*, GEN 1.3.2R (Emergency) does not apply. [deleted]~~

...

13.8.1A G ~~The effect of SUP 13.8.1R(1) is that a firm should submit any form, notice or application under SUP 13.8.1R(1) in the following ways: [deleted]~~

- (1) ~~A UK firm, other than a credit union, should submit it online at www.fca.org.uk using the ONA system. [deleted]~~

- (2) ~~If the information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored, a *firm* should submit it in the way set out in SUP 13.5.3 R(3) and SUP 15.7.4R to SUP 15.7.9G (Form and method of notification). GEN 1.3.2R (Emergency) does not apply in these circumstances. [deleted]~~

- (3) ~~If the information technology systems fail and online submission is unavailable for 24 hours or more, the appropriate UK regulator will~~

~~endeavour to publish a notice on its website confirming that online submission is unavailable and that the alternative methods of submission should be used. [deleted]~~

(4) [deleted]

13.8.1B G ~~A credit union should submit any form, notice or application under SUP 13.8.1R(1) in the way set out in SUP 13.5.3R(3) and SUP 15.7.4R to SUP 15.7.9G (Form and method of notification). [deleted]~~

...

SUP 13A Annex 1 (Application of the Handbook to Incoming EEA Firms) is deleted in its entirety.

14.7 Cancellation of a top-up permission to carry on regulated activities outside the scope of the Single Market Directives or the auction regulation

14.7.1 G ~~Where an incoming EEA firm, an incoming Treaty firm or a UCITS qualifier wishes to cancel its top up permission, either with or without cancellation of its qualification for authorisation under Schedule 3, 4, or 5 to the Act, it should make an application following the procedures set out in SUP 6 (Applications to vary and cancel Part 4A Permission). [deleted]~~

...

16.2 Purpose

...

16.2.1 G (1) ~~In order to discharge its functions under the Act, the appropriate regulator needs timely and accurate information about firms. The provision of this information on a regular basis enables the appropriate regulator to build up over time a picture of firms' circumstances and behaviour. [deleted]~~

(2) ~~Principle 11 requires a firm to deal with its regulators in an open and cooperative way, and to disclose to the appropriate regulator appropriately anything relating to the firm of which the appropriate regulator would reasonably expect notice. The reporting requirements are part of the appropriate regulator's approach to amplifying Principle 11 by setting out in more detail the information that the appropriate regulator requires. They supplement the provisions of SUP 2 (Information gathering by the appropriate regulator on its own initiative) and SUP 15 (Notifications to the FCA or PRA). The reports required under these rules help the appropriate regulator to monitor firms' compliance with Principles governing relationships between firms and their customers, with Principle 4, which requires firms to maintain adequate financial resources, and with other requirements and standards under the~~

~~regulatory system.~~ [deleted]

- 16.2.1A (1) In order to discharge its functions under the Act, the PRA needs timely and accurate information about firms. The provision of this information on a regular basis enables the PRA to build up over time a picture of firms' circumstances and behaviour.
- (2) A firm is required to deal with the PRA in an open, cooperative and timely way, and to appropriately disclose to the PRA anything relating to the firm of which the PRA would reasonably expect notice. The reporting requirements are part of the PRA's approach to amplifying these requirements by setting out in more detail the information that the PRA requires. They supplement the rules relating to information gathering and notifications to the PRA. The reports required under these rules help the PRA to monitor firms' compliance with the requirement to maintain adequate financial resources, and with other requirements and standards under the regulatory system.

...

16.3 General provisions on reporting

...

- 16.3.23 G ~~When the appropriate regulator receives a report which contains confidential information and whose submission is required under this chapter, it is obliged under Part 23 of the Act (Public Record, Disclosure of Information and Co-operation) to treat that information as confidential. (See SUP 2.2.4G for the FCA and SUP 2.2.4AG for the PRA)~~ [deleted]
- 16.3.24 G ~~SUP 2.3.12AG and SUP 2.3.12BG state that the appropriate regulator may pass to other regulators information which it has in its possession. Such information includes information contained in reports submitted under this chapter. The appropriate regulator's disclosure of information to other regulators is subject to SUP 2.2.4G or SUP 2.2.4AG (Confidentiality of information).~~ [deleted]

...

- 16.10.4-A R The form referred to in SUP 16.10.4R is the Standing Data Form set out in Notifications 10.2 of the PRA Rulebook.

...

App 2 Insurers: Regulatory intervention points and run-off plans

- 2.3.9 R ~~These rules are in addition to the other rules and guidance in SUP and in the PRA Rulebook, in particular SUP 2 (Information gathering by the appropriate regulator on its own initiative), SUP 15 (Notifications to the FCA or PRA), SUP 16 (Reporting requirements) and the Principles for~~

~~Businesses (PRIN):~~

...

- 2.13.1 R A *firm* which has submitted a *scheme of operations* to the *PRA*, whether required by *SUP* App 2.4, *SUP* App 2.5 or *SUP* App 2.8, or as part of an application under ~~*SUP* 6.3 (see *SUP* 6.3.25G), *SUP* 6.4 (see *SUP* 6 Annex 4), Permissions and Waivers 2 of the *PRA* Rulebook or *SUP* 11.5 (see *SUP* 11.5.5G)~~, or an amended *scheme of operations*, must during the period covered by that *scheme of operations*:

- (1) ...

...

...

Supervisory statement — Use of skilled persons

1 Introduction

1.1 This supervisory statement is addressed to all firms regulated by the Prudential Regulation Authority (PRA). Its purpose is to set out the PRA's policy on and expectations for the use of the following powers as supervisory tools:

- (1) section 166 (Reports by skilled persons) of the Financial Services and Markets Act (FSMA); and
- (2) section 166A (Appointment of skilled person to collect and update information) FSMA.

1.2 This statement is intended to be read together with the Use of Skilled Persons Part of the PRA Rulebook which sets out rules on the contract with the skilled person, and associated delivery and costs. Firms are also advised to read sections 166 and 166A of FSMA.

Who may be required to provide a report under sections 166 and 166A FSMA?

1.3 Under section 166 FSMA, the PRA may, by giving notice, appoint a skilled person to provide it with a report, or require any of the following persons ('relevant persons') to provide it with a skilled persons report:

- (1) an authorised firm ('firm');
- (2) any other member of the firm's group;
- (3) a partnership of which the firm is a member; or
- (4) a person who has at any relevant time been a person falling within (1), (2) or (3); but only if the person is, or was at the relevant time, carrying on a business.

1.4 Under section 166A of FSMA, the PRA may require a firm to appoint, or may itself appoint, a skilled person to collect or update information.

The use of skilled persons as a supervisory tool

1.5 The appointment of a skilled person to produce a report under section 166 FSMA is one of the PRA's regulatory tools. The tool may be used:

- (a) **for diagnostic purposes:** to identify, assess and measure risks;
- (b) **for monitoring purposes:** to track the development of identified risks, wherever these arise;
- (c) **for preventative action:** to limit or reduce identified risks and so prevent them from crystallising or increasing; or
- (d) **for remedial action:** to allow the PRA to respond to risks when they have crystallised.

1.6 The use of the tool could be prompted by:

- a specific requirement by the PRA for information;
- an analysis of information undertaken by the PRA;
- an assessment of a situation by the PRA;
- expert advice or recommendations received by the PRA; or
- a decision by the PRA to seek assurance in relation to a regulatory return.

1.7 The tool may also be used as part of the supervisory programme applicable to a firm, or the result of an event or development in relation to a firm, that is prompted by a need for verification of information provided to the PRA or part of the PRA's regular monitoring of a firm.

Collecting and updating information as a supervisory tool

1.8 The appointment of a skilled person to collect and update information under section 166A FSMA is another one of the PRA's regulatory tools. It may be used where the PRA considers that a firm has failed to collect, and keep up to date, information required by the PRA.

2 PRA considerations

2.1 When determining whether to use powers under section 166 or section 166A, the PRA will consider a range of factors relevant to the specific case. These factors include those covered under the headings below.

Circumstances relating to a firm

2.2 The PRA will consider circumstances relating to a firm, including, for example:

- (1) **the attitude of a firm:** whether the firm is being co-operative;
- (2) **history of similar issues:** whether similar issues have arisen in the past and, if so, whether timely corrective action was taken;
- (3) **quality of a firm's systems and records:** whether the PRA has confidence that a firm has the ability to provide the required information;
- (4) **objectivity:** whether the PRA has confidence in a firm's willingness and ability to deliver an objective report;
- (5) **conflicts of interest:** whether the subject matter of the report involves actual or potential misconduct and it would be inappropriate for the PRA to rely on a firm itself to enquire into the matter; and
- (6) **knowledge or expertise available to a firm:** whether the firm has the required technical expertise.

Alternative and complementary tools available, including other statutory powers

2.3 The PRA will consider the relative effectiveness of the alternative and complementary tools available to achieve its

objectives, including, for example:

- (1) non-statutory powers such as an informal PRA visit or information request;
- (2) section 165 (Power to require information) FSMA;
- (3) section 167 (Appointment of investigator in general cases) FSMA; or
- (4) section 168 (Appointment of investigator in specific cases) FSMA.

2.4 If the objectives are limited to gathering historic information, or evidence for possible enforcement actions, information gathering and investigation powers are likely to be more appropriate than the powers to use skilled person.

2.5 If the objectives include obtaining expert analysis or recommendations, or it is desirable to obtain an authoritative and independent report to use in any subsequent proceedings, it may be appropriate to use the section 166 powers instead of, or in conjunction with, the PRA's other available powers.

Cost considerations and objectives

2.6 Information about the number and cost of reports by skilled persons will be published by the PRA on its website.⁽¹⁾

2.7 The PRA will be mindful of costs, particularly because a firm will normally have to pay for the services of the skilled person, irrespective of whether the skilled person is engaged by a firm or contracts directly with the PRA.

2.8 The PRA will take into account relevant factors when considering costs, including, for example:

- (1) whether a firm may derive some benefit from the work carried out and recommendations made by the skilled person (eg better understanding of its business and its risk profile, the operation of its information systems, or improvements to its systems and controls);
- (2) whether the work to be carried out by the skilled person is work that should otherwise reasonably have been carried out by a firm, or by persons instructed by a firm on its own initiative; for instance a compliance review or the development of new systems;
- (3) whether a firm's record-keeping and management information systems are poor and:
 - (a) the required information and documents are not readily available; or
 - (b) an analysis of the required information cannot readily be performed without expert assistance;
- (4) the extent to which there appear to be risks that could threaten the safety and soundness of a firm or the protection of policyholders; and
- (5) the perceived probability and seriousness of possible breaches of regulatory requirements and the possible need for further action.

Considerations relating to PRA resources

2.9 The PRA will consider whether it has the necessary expertise, whether the resources required are available within the PRA and whether the exercise will be the best use of PRA resources at the time.

3 Appointment of the skilled person

Appointment

3.1 The PRA may itself appoint a skilled person. Where the PRA requires the firm to appoint a skilled person the PRA may nominate an individual skilled person, provide a shortlist of skilled persons for a firm to choose from or ask the firm to submit a shortlist of skilled persons for the PRA to approve.

Panel

3.2 To enable the PRA to use its power to appoint a skilled person in line with the European Procurement Directive and the Public Contracts Regulation 2006, a panel of skilled person firms ('the Panel') has been developed for use by the PRA.

3.3 Where the PRA is contracting directly with the skilled person, the PRA will conduct a tender process, where appropriate, to identify the most suitable skilled person. This will include the considerations detailed below.

3.4 It is expected that the Panel will also be used where it is considered appropriate for a firm to contract with the skilled person directly. It remains a firm's responsibility to assess the individual appropriateness of the skilled person.

Skills, resources and conflicts of interest

3.5 When considering whether to nominate, approve or appoint a skilled person, the PRA will consider the circumstances of the case, including whether the proposed skilled person appears to have:

- (1) **the necessary skills and any relevant specialised knowledge:** relating to the business model of the firm and the particular subject matter area;
- (2) **sufficient resources:** to complete the report or collect or update the information within the time expected by the PRA;
- (3) **any professional difficulty, potential conflict of interest, or insufficient detachment:** such matters would include:
 - (a) matters already reported on by the skilled person (for example, on the financial statements of a firm or in relation to their systems and controls);
 - (b) matters that are likely to be contentious and may result in disciplinary or other enforcement action against a firm, its management, shareholders or controllers; or

(1) www.bankofengland.co.uk/pr/Pages/supervision/activities/reportsskilledpersons.aspx.

- (c) matters that the skilled person has been involved in, in another capacity (for example, when a skilled person has been involved in developing an information system it may not be appropriate for them to provide a subsequent opinion on the adequacy of the system).

4 Expectations of the skilled person

4.1 The PRA expects a skilled person to clarify or discuss any matters that are raised by the PRA regarding a contract before it is finalised.

4.2 The PRA expects the skilled person normally to give a periodic update on progress and issues during the engagement, the frequency of which is to be discussed with the PRA. This should allow for a refocusing of the report if necessary.

4.3 The channel of communication would normally be directly between the skilled person and the PRA. The skilled person would usually be expected to keep the firm informed of any communication between the skilled person and the PRA. It may be appropriate for the skilled person to communicate matters of material significance to the PRA set out in the rule in Use of Skilled Persons 3.1(1)(b), without first informing the firm.

4.4 If the PRA is considering asking for additional information during the engagement, it will take into consideration the cost of the skilled person complying with the request and the benefit that the PRA may derive from the information. In most cases, the PRA will not need to request a skilled person to give it source data, documents and working papers. However, the PRA may do so when it reasonably believes that this information will be relevant to any investigation it may be conducting, or any action it may consider taking against the firm.

Scope of report

4.5 The PRA will normally contact the relevant persons to discuss the PRA's requirements before finalising its notice to require a report or the updating or collection of information by a skilled person.

4.6 The PRA will give written notification to the relevant persons of the purpose of the report or collection or updating of information, its scope, the timetable for completion and any other relevant matters. The PRA will state the matters which the report is to contain, or the information which is to be collected or updated, as well as any requirements as to the report's format.

Delivery of reports

4.7 Where the skilled person is appointed by a firm, the PRA will normally require the skilled person to report to the PRA

through that firm. Where the skilled person is to be appointed by the PRA itself, the skilled person will report directly to the PRA.

4.8 The skilled person is expected to provide the PRA with identical copies of any draft report or relevant information at the same time they are issued to the firm. The PRA expects that a firm will be given the opportunity to provide written comments on the report or the collection of the relevant information prior to its final submission to the PRA.

4.9 The PRA will normally specify a time limit within which it expects the skilled person to deliver the report or collect or update the relevant information.

4.10 The PRA attaches importance to there being a timetable for each report and to the skilled person, with the co-operation of the relevant persons, keeping to that timetable.

4.11 If the skilled person becomes aware that the report, or collection or updating of the relevant information, may not be delivered on time, they should inform the PRA and the firm as soon as possible. Where the skilled person is appointed by a firm and if the skilled person becomes aware that there may be difficulties delivering the report, or collecting or updating the relevant information, within cost estimates, the skilled person should advise the firm.

4.12 The PRA may meet with the firm and the skilled person together to discuss the final report. The PRA may also wish to discuss the final report with the skilled person but without the regulated firm.

5 Assisting the skilled person

5.1 A firm is expected to provide reasonable assistance, which should include:

- (1) access at all reasonable business hours for the skilled person to a firm's accounting and other records in whatever form;
- (2) the provision of such information and explanations as the skilled person reasonably considers necessary or desirable for the performance of his duties; and
- (3) permitting a skilled person to obtain such information directly from a firm's auditor as he reasonably considers necessary or desirable for the proper performance of his duties.

5.2 In providing reasonable assistance, a firm should take reasonable steps to ensure that, when reasonably required by the skilled person, each of its appointed representatives or, where applicable, tied agents waives any duty of confidentiality and provides reasonable assistance expected of a firm.

6 Confidential information and privilege

6.1 Within the legal constraints that apply, the PRA may pass on to a skilled person any information which it considers relevant to the skilled person's function. A skilled person, being a primary recipient under section 348 FSMA (Restrictions on disclosure of confidential information by PRA), is bound by the confidentiality provisions in Part XXIII FSMA (Public record, disclosure of information and co-operation) as regards confidential information the skilled person receives from the PRA or directly from a firm or other person.

6.2 A skilled person may not pass on confidential information without lawful authority, for example, where an exception applies under the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (SI 2001/2188) or with the consent of the person from whom that information was received and (if different) the person to whom the information relates. The PRA will indicate to a skilled person if there is any matter which cannot be discussed with the firm.

Statement of Policy on the exercise of the financial stability information power

Introduction

1. The Prudential Regulation Authority (PRA) may exercise, under section 165A of the Financial Services and Markets Act 2000 (FSMA), the power to require certain persons to provide (i) specified information or information of a specified description or (ii) specified documents or documents of a specified description, that it considers are, or might be, relevant to the stability of one or more aspects of the UK financial system (the financial stability information power).
2. This statement may be relevant to authorised persons⁽¹⁾ and unauthorised persons, in particular persons whose activities are or may be relevant to the stability of one or more aspects of a relevant financial system.
3. This statement is issued pursuant to section 165B(6) of FSMA which requires the PRA to prepare a statement of its policy with respect to the exercise of the financial stability information power. It has been approved by HM Treasury.

Information use

4. Section 250 of the Banking Act 2009 imposes a duty on the PRA to collect information that it thinks is, or may be, relevant to the stability of individual financial institutions or to one or more aspects of the UK financial system. Some information relevant to UK financial stability will be accessible to the PRA through authorised persons' regular reports to the PRA, from other UK or international authorities or through information gathered by the PRA under other information-gathering powers, such as section 165⁽²⁾ of FSMA or section 250(2) of the Banking Act 2009.
5. The PRA may require additional information relevant to UK financial stability which cannot be obtained through means specified in paragraph 4 above. In such cases, the PRA may use the financial stability information power to gather additional information. This information may relate to the exercise of the PRA's functions, or the PRA may collect the information in order to disclose it to another person or authority, for example the Bank of England, the Financial Policy Committee (FPC)⁽³⁾ or HM Treasury. In urgent cases, it may be appropriate for the PRA to exercise these powers without delay.

Scope

6. The PRA's general objective is to promote the safety and soundness of PRA-authorised firms, primarily by seeking to minimise the adverse effect their failure could have on the stability of the UK financial system, and by seeking to ensure

that they carry on their business in a way that avoids any adverse effect on the stability of the UK financial system.

7. Consistent with this objective, the PRA may require any person in the categories listed below to provide information or documents that it considers are, or might be, relevant to the stability of one or more aspects of the UK financial system:
 - (a) a person who has a legal or beneficial interest in any of the assets of a relevant investment fund⁽⁴⁾ whose assets consist of or include financial instruments which (i) are traded in the United Kingdom or (ii) were issued by a body incorporated in the United Kingdom;
 - (b) a person who is responsible for the management⁽⁵⁾ of a relevant investment fund;
 - (c) a person (a 'service provider') who provides any service⁽⁶⁾ to an authorised person;
 - (d) a person prescribed by an order made by the HM Treasury under section 165C of FSMA or any person of a description prescribed by such an order;
 - (e) a person who is connected with a person specified in (a) to (d) above.

HM Treasury orders

8. HM Treasury may prescribe additional persons, or descriptions of persons, in respect of whom the financial stability information power contained in section 165A of FSMA can be exercised. The conditions for making such an order are contained in section 165C of FSMA.

Deciding to impose a requirement

9. In deciding whether to impose a requirement on a person using the financial stability information power (financial stability information requirement) the PRA will:

- (1) review the material before it;
- (2) consider any representations received from the proposed recipient of the requirement; and
- (3) take into account:
 - (a) the nature and extent of the risks to financial stability;
 - (b) whether the information is more readily available from another source, taking into account the likely

(1) For the definition of 'authorised person' see section 31 of FSMA.

(2) Section 165 confers on the PRA the power to require in writing from authorised persons specified information or specified documents of a specified description.

(3) The FPC is charged with a primary objective of identifying, monitoring and taking action to remove or reduce systemic risks with a view to protecting and enhancing the resilience of the UK financial system. The PRA may use the financial stability information power to require firms to provide information at the request of the FPC.

(4) 'relevant investment fund' means arrangements may constitute an investment fund even if there is only one person participating in the arrangements. The reference to 'financial instruments' has the meaning given by Article 4.1(17) of the markets in financial instruments directive.

(5) 'management' includes any of the activities listed in Annex II to the UCITS directive.

(6) 'service' includes facility.

- time and cost implications of seeking information from that source;
- (c) whether the information may assist the PRA in fulfilling its functions, for example if the information relates to the exercise of the PRA's statutory powers.

Prior notice

10. The PRA will give a person a notice in writing if it proposes to impose a financial stability information requirement unless the PRA is satisfied that information or documents are required without delay. The notice will include the reasons why the PRA proposes to impose the financial stability information requirement and the time period in which the person may make representations to the PRA in respect of the proposal.

11. The PRA may give a notice to a service provider, or to a person who is connected with a service provider, only if the PRA consider that the service or the way in which it is provided or any failure to provide the service, poses, or would be likely to pose, a serious threat to the stability of the UK financial system.

12. Information or documents required under notice must be provided or produced before the end of such reasonable period as specified by the PRA and at such place as specified by the PRA.

Right to make representations

13. If the PRA is satisfied that it is appropriate to give notice in writing before imposing a financial stability information requirement, the recipient of the notice will have the right to make representations to the PRA. The PRA will specify in the notice a reasonable period in which to make representations and will determine a reasonable period for representations taking into account all the circumstances. The PRA will generally invite the recipient of a notice to make representations in writing to the address provided in the notice. In determining the period for representations the PRA will take into account the following:

- (a) the nature, type and number of documents likely to be required;
- (b) the reasons for imposing the requirement;
- (c) whether the person is likely to wish to seek legal advice;
- (d) whether the person is an authorised person;
- (e) any cost implications for the person.

14. The PRA will consider a request by a person to make oral representations and will take into account whether oral representations would be likely to:

- (a) improve the PRA's understanding of the representations;
- (b) be more convenient or less costly than written representations;
- (c) assist the PRA in making a decision more quickly.

15. In accordance with the Disability Discrimination Act 1995, the PRA will take into account any reason relating to the disability of the person which would mean that they could not otherwise have a fair hearing.

16. Once the period for making representations has expired the PRA will determine within a reasonable period whether to impose the financial stability information requirement. If the PRA does not receive any representations during the period specified in the notice it will determine whether to impose the financial stability information requirement based on the information available to it.

Without prior notice

17. The PRA may impose the financial stability information requirement on a person without prior notice if it is satisfied that the information or documents to be provided or produced are required without delay. The PRA will determine whether to impose a financial stability information requirement without prior notice based on the facts of each case and after taking into account the information before it concerning:

- (a) the nature of the risk to financial stability and whether the risk appears to be increasing rapidly;
 - (a) the extent of the risk to financial stability;
 - (b) whether it is fair to impose the requirement without notice; and
 - (c) whether the information sought may lead to prompt action by the PRA.

18. A person who receives a financial stability information requirement without prior notice should consider whether to contact the PRA concerning the requirement. The person should raise any proposal to make representations with the PRA at the earliest opportunity.

Form and authentication

19. The PRA may require any information provided pursuant to the exercise of the financial stability information requirement to be provided in a particular form or verified or authenticated. The PRA may, where it is reasonable to do so, require the information or documents to be verified or authenticated in any manner. When deciding the form or whether to require verification or authentication the PRA will take into account the circumstances of each case.