



BANK OF ENGLAND  
PRUDENTIAL REGULATION  
AUTHORITY

Consultation Paper | CP26/14

# Senior insurance managers regime: a new regulatory framework for individuals

November 2014

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Responses are requested by Monday 2 February 2015.

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# 1 Overview

1.1 This Consultation Paper (CP) sets out some further proposed changes to the Prudential Regulation Authority's (PRA's) rules in order to implement the Solvency II Directive (the Directive). This CP is of primary interest to all insurance and reinsurance firms, including third country branch undertakings, within the scope of Solvency II, and to the Society of Lloyd's and managing agents.<sup>(1)</sup>

1.2 Consumers may be interested in how the PRA proposes to apply fit and proper standards to individuals working for insurers.

## Background

1.3 As explained in CP16/14,<sup>(2)</sup> the PRA will need to update the PRA's Approved Persons Regime (APR) to take into account the Solvency II measures relating to governance and the fitness and propriety of relevant individuals. In addition, the PRA has indicated its intention to amend the APR for insurers to include some aspects of the Senior Managers Regime (SMR) proposed for banks.<sup>(3)</sup>

1.4 The PRA believes that it should expect those who run regulated firms to have clearly defined responsibilities and to behave with integrity, honesty and skill. Also, the PRA recognises that many groups contain both banks and insurers, and that operating two very distinct regimes would be complex and inefficient.

1.5 However, the regime for insurers should not be identical to the regime for banks. The business model of an insurer and the risks it poses to the PRA's objectives are different from those of a bank. In addition, there are differences in the relevant legislative framework for insurers and banks respectively, both at European Union level and also in the application of the relevant provisions of the Financial Services and Markets Act 2000 (FSMA).

1.6 In the joint PRA/FCA CP14/14; Strengthening accountability in banking: a new regulatory framework for individuals, the PRA proposed to stop requiring pre-approval of all Non-Executive Directors (NEDs) except the Chairman, a Senior Independent Director, and the heads of the risk, audit and remunerations committee. The PRA and Financial Conduct Authority (FCA) have received a significant amount of feedback on the proposals relating to NEDs in CP14/14, and are considering the responses. The PRA proposes therefore

not to consult on the treatment of NEDs, under the Senior Insurance Managers Regime (SIMR) proposed in this CP, other than to the extent necessary to implement Solvency II. This should not be taken as indicating any decision has been taken at this stage in relation to the treatment of NEDs under either the Insurer SIMR or Banking SMR. Instead, this issue will be covered in a further CP in early 2015 once the PRA and FCA have reached a view on their approach to NEDs under each regime. This further CP will include in relation to NEDs for insurers the scope of the proposed SIMR pre-approval regime, the allocation of certain prescribed responsibilities, and the application of conduct standards.

## Implementation

### The legal framework for the Solvency II Directive

1.7 The PRA has generally followed the approach of 'intelligent copy out' in the transposition of the Directive. However, the 'fit and proper' requirement provisions of the Directive set out a high level framework, and the PRA believes some further elaboration of these provisions will also be needed to make these operational.

1.8 The provisions in the Directive along with the Solvency II Regulation and European Insurance and Occupational Pensions Authority (EIOPA) Guidelines (when they come into force) have carefully been compared with the procedures under the current APR. The PRA has concluded that the proposed SIMR is an appropriate means by which to implement the requirements. Accordingly, the PRA proposes to make rules that will allow it to operate an SIMR that is consistent with the framework proposed above.

### The Solvency II Regulations

1.9 The Solvency II Directive is supplemented by the Solvency II Regulations. The Solvency II Regulations include both Delegated Acts and Implementing Technical Standards (ITS). These will provide further detail in areas specified by the Directive.

(1) These are referred to collectively as 'insurers' in this CP.

(2) *PRA Consultation Paper CP16/14*, 'Transposition of Solvency II: Part 3', August 2014; [www.bankofengland.co.uk/pr/Pages/publications/cp/2014/cp1614.aspx](http://www.bankofengland.co.uk/pr/Pages/publications/cp/2014/cp1614.aspx).

(3) The PRA consulted on the corresponding regime for banks and large investment firms. See *PRA Consultation Paper CP14/14*, 'Strengthening accountability in banking: a new regulatory framework for individuals', July 2014; [www.bankofengland.co.uk/pr/Pages/publications/cp/2014/cp1414.aspx](http://www.bankofengland.co.uk/pr/Pages/publications/cp/2014/cp1414.aspx).

1.10 Unlike the Directive, the Solvency II Regulations are applicable in all Member States without the need for transposition by a national legal instrument. Firms within scope of the Solvency II Directive will be bound directly by the Solvency II Regulations. It is therefore important that firms refer to and apply the Solvency II Regulations which are expected to contain relevant material in the Delegated Acts on systems of governance, along with the 'fit and proper' assessment of individuals, in addition to the PRA's rules and supervisory statements.

## Alignment with regulatory reform in the United Kingdom

1.11 As the prudential regulator for insurers, the PRA will be responsible for those provisions of Solvency II that relate directly to the ongoing sound and prudent management of insurers and groups. The FCA will also have an interest through its own statutory objectives, in the provisions for the systems of governance and the suitability of individuals working for insurers and groups. The PRA and the FCA have established a Memorandum of Understanding to ensure co-ordination on issues of policy; that affect either organisation's objectives.<sup>(1)</sup>

1.12 The FCA is launching a separate CP with proposals for amendments to its own APR, which should be read in conjunction with the proposals in this CP.<sup>(2)</sup>

### Structure of this paper

1.13 The proposed rule changes are explained in Chapter 2 and set out in Appendices 1.1–1.6. Chapter 3 explains how the new regime will form a part of the PRA's regulatory lifecycle. Draft supervisory statements are set out in Appendices 2–4.

### The PRA's Policy Framework

1.14 The PRA has set out in *The PRA's approach to insurance supervision*<sup>(3)</sup> (the approach document) its intention to replace the PRA Handbook (which contains material carried forward from the FSA Handbook) with a Rulebook and to issue supervisory statements, where appropriate, to provide additional general guidance. This new policy framework will set out clearly, and concisely, what the PRA expects from firms.

1.15 The implementation of Solvency II is the first significant move towards establishing the PRA's new policy framework for insurers and groups. The proposed set of rules in this CP will complement the proposed set of rules transposing other elements of Solvency II that was provided in Appendix 1 of CP16/14.<sup>(4)</sup> All these draft instruments and accompanying draft supervisory statements should be read together to understand all the PRA's expectations.

### Scope

1.16 As noted in CP16/14, Solvency II will apply to between 400 and 450 retail and wholesale insurance and reinsurance firms. Approximately 100 smaller firms, will though remain classified as non-Directive firms (NDFs) under both Solvency I and II. The regulation of these firms will continue under existing rules. Work on developing the regime for NDFs, and other firms that are out of scope of the Directive, will start when the PRA determines its approach for these firms. Any proposals would be subject to appropriate consultation in due course.

### Statutory Obligations

1.17 In discharging its general functions the PRA must, as far as it is reasonably possible, act in a way that advances its general objective and its insurance objective. The PRA's general objective is to promote the safety and soundness of PRA-authorised persons; and the PRA's insurance objective is to contribute to the securing of an appropriate degree of protection for those who are, or may become, policyholders.

1.18 The main intention of the proposals in this CP is to ensure the fitness and propriety of all those individuals who are effectively running an insurer or performing a key function for an insurer or group. The PRA believes that this will help promote sound governance of these firms and groups.

1.19 In developing the rules covered in this CP and determining its general policy and principles, the PRA has had regard to the eight Regulatory Principles which apply to the PRA. In particular, the principle that senior management should be responsible for compliance by firms with the PRA's requirements forms a central part of these proposals. In addition, the regulatory principle of proportionality requires the PRA to develop and implement rules that have a burden or restriction proportionate to the benefits which are expected as a result. The PRA has followed this principle when developing the rules outlined in this CP and, where relevant, the PRA has set out how its approach is consistent with the principle of proportionality. Furthermore, the PRA has taken account of the principle that it should use its resources efficiently when considering the proposed scope of the SIMR.

1.20 When consulting on draft rules, the PRA is also required to consider the impact on mutual firms; and equality and diversity.<sup>(5)</sup>

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(1) 'Memorandum of Understanding between the FCA and the PRA', [www.bankofengland.co.uk/pr/Pages/regulatorydata/workingwithfca.aspx](http://www.bankofengland.co.uk/pr/Pages/regulatorydata/workingwithfca.aspx).  
 (2) *FCA Consultation Paper CP14/25*, 'Changes to the Approved Persons Regime for Solvency II firms', November 2014; [www.fca.org.uk/news/cp1425-changes-to-the-approved-persons-regime-for-solvency-ii-firms](http://www.fca.org.uk/news/cp1425-changes-to-the-approved-persons-regime-for-solvency-ii-firms).  
 (3) *The PRA's approach to insurance supervision*, June 2014; [www.bankofengland.co.uk/publications/Pages/other/pr/supervisoryapproach.aspx](http://www.bankofengland.co.uk/publications/Pages/other/pr/supervisoryapproach.aspx).  
 (4) *PRA Consultation Paper CP16/14*, 'Transposition of Solvency II: Part 3', August 2014; [www.bankofengland.co.uk/pr/Pages/publications/cp/2014/cp1614.aspx](http://www.bankofengland.co.uk/pr/Pages/publications/cp/2014/cp1614.aspx).  
 (5) Equality Act 2010.

The PRA is also required to perform a cost-benefit analysis of the impact of its policy proposals (see paragraphs 1.21–1.22 below).

### Cost-benefit analysis

1.21 Overall, the PRA expects the incremental costs to be minimal. The proposals aim to ensure the effectiveness of insurance firms' governance structures and to reaffirm the importance attached by the PRA to the standards of fitness and propriety observed by individuals running insurance firms, which could help deter unsuitable conduct. How great a change is achieved in practice will depend on the extent of the incremental supervisory effectiveness that is achieved under the proposed regime.

1.22 The costs and benefits of the individual proposed rule changes are considered within the following chapter.

### Impact on mutuals

1.23 The PRA has a statutory requirement to state whether the impact on mutuals will be significantly different from the impact on other firms. The provisions in this CP will affect mutuals, but the effect on mutuals would not be significantly different to the effect on other insurers and groups.

### Impact on competition

1.24 The PRA has a secondary objective to facilitate effective competition in the markets for services provided by PRA-authorized persons. This means that, in taking action which advances its general and insurance objectives it must, as far as reasonably possible, act in a way which advances its secondary objective.

1.25 The incremental costs from the proposals in this CP are not expected to be significant enough to have an adverse effect on effective competition.

### Equality and diversity

1.26 The proposals in this CP have the following potential equality and diversity implications:

- The proposals will allow more than one individual to perform a senior managerial role at the same firm, thereby accommodating individuals working under a job-share arrangement. If this was not the case, the proposed rules could be deemed to discriminate indirectly against individuals working under a job-share arrangement.
- The assessment of prospective and current individuals within the SIMR will consider their fitness and propriety to carry out their function. For some roles, this assessment may involve consideration of the individual's experience, which is only acquired over time. This could result in a bias in favour of individuals in certain age groups. However, this does not depart from existing practice and is offset by the

requirement to take into account other assessment criteria not directly related to age, such as qualifications.

- A requirement for regulatory references has the potential to raise equality and diversity concerns if the information that the references contain were to relate to protected characteristics. However, the proposals do not affect a firm's existing legal obligations, including the need to ensure references are true, accurate and fair.

1.27 Accordingly, the proposals in this consultation do not result in discrimination for any of the groups with protected characteristics. Overall, the PRA does not consider that the proposals in this CP raise concerns with regards to equality and diversity.

### Responses and next steps

1.28 In choosing the length of the consultation period for these proposals, the PRA has attempted to balance the desire to give reasonable time for consultation on these proposals, while still being able to meet the commitment to transpose Solvency II by 31 March 2015, and to give insurers a reasonable amount of lead time to prepare themselves before 1 January 2016.

1.29 This consultation therefore closes on 2 February 2015. Views are welcomed on the issues raised in the CP.

1.30 As indicated in paragraph 1.6 above, we propose to issue a further CP early next year which will set out the proposed regulatory framework for the role of NEDs within the SIMR for insurers (and groups), other than the minimum changes needed to implement Solvency II which are included in this CP.

1.31 A second technical CP will follow this one early next year. This will cover forms, consequential changes, and the detailed rules on the transitional arrangements from the current APR to the proposed new SIMR for insurers.

1.32 The PRA is required to transpose the Directive by 31 March 2015. Rules and supervisory statements, needed to ensure that there is an operationally effective regime that will enable Solvency II implementation on 1 January 2016 will be made by 31 March 2015 and commenced from 1 January 2016. These proposed changes are detailed in paragraphs 2.42–2.44 below.

1.33 The PRA will set out its planned timetable later this year for the implementation of the remaining rules proposed in this CP.

# 2 Senior Insurance Managers Regime (SIMR)

## Introduction

2.1 This chapter sets out the PRA's proposals in relation to the:

- scope of the PRA's proposed new SIMR for insurers;
- allocation of responsibilities to senior persons;
- application of conduct standards to individuals performing key functions; and
- assessment of fitness and propriety of those individuals, including the requirement for firms to take reasonable steps to ensure individuals performing key functions observe certain conduct standards.

2.2 It includes the relevant changes to update the PRA's APR in order to introduce a new SIMR. The proposed changes are formulated around the legislative provisions in the Directive, and aim to advance the PRA's regulatory objectives of promoting the safety and soundness of insurers and contributing to the securing of an appropriate degree of protection for policyholders.

2.3 The proposed rule changes in Solvency II Firms: Insurance — Senior Insurance Management Functions Instrument, Solvency II Firms: Insurance — Allocation of Responsibilities Instrument, Solvency II Firms: Insurance — Conduct Standards Instrument, Solvency II Firms: Insurance — Fitness and Propriety Instrument, and Solvency II Firms: Group Supervision Instrument, are explained below and set out in Appendices 1.1–1.6 respectively; along with draft supervisory statements in Appendices 2–4.

## Proposals

### Scope of the SIMR

2.4 The proposed SIMR seeks to ensure that the senior persons who are effectively running insurers, or who have responsibility for other key functions at those firms, will behave with integrity, honesty and skill. It acknowledges the responsibility and accountability of these key individuals for the sound and prudent management of their firms.

2.5 As set out in paragraph 1.3, the scope of the SIMR will be broadly aligned with the regime for banks.<sup>(1)</sup> The regime will be tailored to take account of the specific features of the insurance industry and the relevant legislative framework, including the Directive requirements, as indicated in paragraph 1.5.

2.6 The scope of the proposed SIMR will cover senior insurance managers who are subject to pre-approval by the PRA for a Controlled Function;<sup>(2)</sup> together with all the other senior persons (termed 'key function holders') who are effectively running an insurers or who have responsibility for other key functions<sup>(3)</sup> at those insurers (or groups), and who will also need to be assessed as being fit and proper by the PRA.<sup>(4)</sup>

2.7 The following Controlled Functions (CFs) (to be known also as Senior Insurance Management Functions) are proposed for insurers to bring these in line with the comparable functions proposed for banks:

- Chief Executive Officer (SIMF1);
- Chief Finance Officer (SIMF2);
- Chief Risk Officer (SIMF4); and
- Head of Internal Audit (SIMF5).

It should be noted though that none of the sanctions in section 36 of the Financial Services (Banking Reform) Act 2013, nor the presumption of responsibility in section 66B(5) of FSMA would apply to any of these individuals in senior insurance management functions. There will also not be any requirement for certificates to be provided by insurers for their employees.

2.8 For all insurers, the CFs would also include the Chief Actuary (SIMF20) and, for life insurers writing with-profits

(1) *PRA Consultation Paper CP14/14*, 'Strengthening accountability in banking: a new regulatory framework for individuals', July 2014; [www.bankofengland.co.uk/pr/Pages/publications/cp/2014/cp1414.aspx](http://www.bankofengland.co.uk/pr/Pages/publications/cp/2014/cp1414.aspx).

(2) As defined in section 59 of FSMA.

(3) Firms will need to determine themselves which are their key functions depending on their business and organisation. There are though four functions specified in Solvency II that have to be included within the system of governance as a key function, namely the Actuarial Function, Risk Management Function, Internal Audit Function, and Compliance Function.

(4) In accordance with Article 42(2) of the Directive.

business, the With-Profits Actuary (SIMF21). For general insurance and reinsurance firms, and managing agents at Lloyd's, it is proposed to include the Chief Underwriting Officer (SIMF22), and for the Society of Lloyd's an Underwriting Risk Oversight Function (SIMF23).

2.9 The actuarial function plays a unique and critical role in ensuring the safety and soundness of an insurer, given its responsibility for determining insurance liabilities and advising on capital needs. The underwriting function at general insurers is responsible for the key decisions taken on the insurance risks borne by these firms. However, the PRA does not propose to include other heads of business areas as CFs, as these would normally be subject to the oversight of one or more of the other CFs.

2.10 The scope of people subject to approval before taking up their appointment (to a CF) would generally be more granular and role specific than those covered under the current APR, as detailed in the PRA Handbook.

2.11 The more focused range of people that the PRA proposes to be subject to regulatory pre-approval for a CF reinforces the critical role that these individuals play within an organisation. These are the individuals who would be held responsible and accountable for ensuring the ongoing safety and soundness of their firm and the appropriate protection of policyholders.

2.12 The FCA is consulting separately on proposals for which executive functions (not within the scope of the PRA's CFs) would be included in the FCA's APR.<sup>(1)</sup>

2.13 Solvency II fit and proper requirements, in the Directive, apply with the necessary modifications to insurance groups, and to holding companies, as well as solo entities. Therefore, the PRA proposes that those individuals working for insurance groups who intend to take up CFs in insurers, along with holding (or other group) company senior executives who have a significant influence on the management or conduct of the affairs of the insurer, will be subject to pre-approval, with the latter being designated as a Group Entity Senior Insurance Manager (SIMF7).

2.14 As explained in paragraph 2.16 below, other individuals on a parent or holding company board of directors, or holding key group functions, will be subject to an *ex-post* supervision of insurers' own assessments.

2.15 The PRA considers this to be a proportionate implementation of Solvency II, which would be efficient to operate. Firms and groups will still need to notify the PRA (or the FCA) with relevant information (see paragraph 2.20 below) about all their 'key function holders' (ie those individuals who effectively run the firm or are responsible for another key function).<sup>(2)</sup> In addition, firms and groups will need to carry

out their own fit and proper assessment of these 'key function holders', along with all those individuals performing a key function, as envisaged by Solvency II.

2.16 In relation to those 'key function holders' who are covered by the Solvency II fit and proper requirements and notified to the PRA in accordance with Article 42(2) of the Directive, but who are not exercising either a PRA or an FCA CF, the PRA proposes to supervise insurers' assessments of whether a person is fit and proper on an *ex-post* basis. The PRA will take appropriate action in respect of persons that it considers do not meet these requirements. This is in accordance with Articles 34 and 42 of the Directive.

2.17 The PRA proposes to apply the principle of proportionality, so that smaller firms and third country branches may have more flexibility to combine responsibilities for different functions with a single individual (see paragraphs 2.11–2.12 in Appendix 2). This would be subject to the need for transparency, accountability, and appropriate management of conflicts of interest, and the need for at least two persons to be effectively running the firm or branch.

2.18 The PRA expects the incremental costs to be minimal. The narrower scope of the proposed CFs could help reinforce the particular importance of the roles subject to regulatory pre-approval. The narrower scope could also lead to more focused scrutiny at the pre-approval stage.

2.19 For the period between 1 January 2016 and the implementation (if later) of the full SIMR, it is proposed that the current list of CFs in the SUP 10B Part of the PRA Handbook will remain in place. In addition, it is proposed that the rules relating to 'key function holders', as described in paragraphs 2.15–2.17 above, will be commenced on 1 January 2016.

### Allocation of responsibilities

2.20 Solvency II recognises that central to good governance is the appropriate and transparent allocation of oversight and management responsibilities within each firm and group. This is intended to enable proper decision-making, avoid conflicts of interest, and ensure sound management of the undertaking. This is embodied in our proposals for a 'Governance Map' as set out in paragraph 2.24 below.

2.21 Consistent with this approach, it is proposed that firms will also need to allocate certain prescribed core responsibilities,<sup>(3)</sup> as summarised below, to one or more

(1) *FCA Consultation Paper CP14/25*, 'Changes to the Approved Persons Regime for Solvency II firms', November 2014; [www.fca.org.uk/news/cp1425-changes-to-the-approved-persons-regime-for-solvency-ii-firms](http://www.fca.org.uk/news/cp1425-changes-to-the-approved-persons-regime-for-solvency-ii-firms).

(2) This will include those individuals proposing to hold a CF.

(3) For third country branches, only the first, fourth, fifth, sixth and seventh responsibilities in this list will apply.

persons who have been approved for a CF by either regulator:<sup>(1)</sup>

- ensuring that the firm has complied with the obligation to satisfy itself that persons performing a key function are fit and proper;
- leading the development of the firm's culture and standards;
- embedding the firm's culture and standards in its day-to-day management;
- production and integrity of the firm's financial information and regulatory reporting;
- allocation and maintenance of the firm's capital and liquidity;
- development and maintenance of the firm's business model;
- performance of the firm's Own Risk and Solvency Assessment (ORSA);
- induction, training and professional development for all the firm's key function holders;
- maintenance of the independence, integrity and effectiveness of the whistleblowing procedures, and the protection of staff raising concerns; and
- oversight of the firm's remuneration policies and practices.<sup>(2)</sup>

2.22 Those core responsibilities are additional to those key attributes of certain functions prescribed by the PRA rules in the Conditions Governing Business Part of the Rulebook, or by the Delegated Acts, to be ascribed to certain key functions.<sup>(3)</sup> They are designed to ensure that responsibility for certain key activities relating to the effective governance of the firm and to its ongoing safety and soundness are allocated to a designated senior person.

2.23 In addition, for all those individuals who are taking up a post as a senior insurance manager or 'key function holder',<sup>(4)</sup> insurers will be required to complete and send to the PRA a form containing relevant information about the individual. This information will include, *inter alia*, information about their skills and experience, along with the scope of all their responsibilities at the firm. The detailed form to be completed for this purpose will be included in a further technical CP.

2.24 As part of their governance arrangements, the PRA proposes a new rule which would require insurers to compile and maintain a document, to be called a 'Governance Map', recording the positions of those that effectively run the firm, along with the key functions within the firm, and the names of

the individuals in each of these positions or with responsibility for a key function. This document should also record the allocation of significant management responsibilities and reporting lines for each of these senior persons within the firm or group.

2.25 There will be some costs in compiling and maintaining this Governance Map. However, the PRA does not expect these costs to be significant. The Governance Map could help promote greater clarity for all concerned over the allocation and exercise of the relevant responsibilities, and thereby may contribute to the establishment and promotion of effective governance arrangements.

2.26 The allocation of individual responsibilities is not intended to undermine or change the fiduciary, legal and regulatory responsibilities of the board which will retain ultimate decision-making power and authority over all aspects of the firm's affairs.

2.27 It is proposed that the notification requirements and the rules for the Governance Map, described in paragraphs 2.23 and 2.24 above, will be commenced on 1 January 2016. However, the allocation of certain prescribed responsibilities, described in paragraph 2.21 above, will not be required to be made during the period between 1 January 2016 and the implementation of the full SMR.

### Conduct standards for individuals

2.28 The PRA proposes to revise the conduct standards which are set out in the APER Part in the PRA Handbook, along the lines of the conduct rules proposed for individuals working for banks and investment firms. This will enable a suitable alignment of the conduct standards for individuals at both insurers and banks. These conduct standards will include three generic standards that are relevant to all those individuals performing a key function, together with a set of further conduct standards that are relevant specifically to senior insurance managers and 'key function holders' (other than NEDs).

2.29 These three generic standards would comprise acting with integrity; and with due skill, care and diligence; as well as dealing with the PRA and other regulators in an open and co-operative way. Subjecting individuals to conduct standards helps ensure the safety and soundness of insurers and policyholder protection, which is consistent with the PRA's statutory objectives and the objectives of supervision set out in Articles 27 and 28 of the Directive.

(1) Or subject to our further consultation a NED.

(2) Subject to further consultation, the latter two responsibilities in this list would have to be allocated to a NED.

(3) Namely the actuarial, risk management, internal audit, and compliance functions.

(4) This will include all those individuals proposing to hold a CF.

2.30 In addition, it is proposed that a specific conduct standard will be introduced for 'key function holders' at insurers. This is intended to advance the PRA's insurance objective relating to policyholder protection. This standard is intended to ensure that appropriate attention is given to the protection of insured benefits for policyholders (including in the management of any conflicts of interest arising within firms and groups, and in recovery and resolution scenarios).

2.31 These conduct standards will all be applied directly through the Rulebook to those individuals, who are either in a CF subject to pre-approval by the PRA, or who are approved by the FCA for a CF that is deemed to be a 'relevant senior management function'.<sup>(1)</sup> We propose to consult in a further technical CP on the definition of this term.<sup>(2)</sup>

2.32 In addition, the PRA proposes that firms and groups themselves should require all those individuals performing key functions to observe the conduct standards that are relevant to them.

2.33 The PRA proposes that the revised conduct standards described above will be applied from the date that the full SIMR is commenced. For the period from 1 January 2016 until then, it is proposed that the current conduct principles in the APER Part of the PRA Handbook will remain in place.

2.34 There would be some additional costs incurred by firms in applying these standards to individuals. However, these will be minimal as approved persons are already subject to certain regulatory conduct standards, and firms should already be applying the three proposed generic standards to persons who are performing key functions.

### Fit and proper assessments by firms and groups

2.35 The PRA proposes to set out in the Insurance — Fitness and Propriety Part of the Rulebook a non-exhaustive set of factors that should be considered by firms (and groups) when assessing the fit and proper status of individuals. In addition, firms will be required to request (and to provide when so requested) regulatory references, and to carry out criminal record checks, for all those individuals notified to the PRA for approval for taking up a CF. There will be some costs involved in providing these references and carrying out these checks. However, the PRA expects that, generally, firms will already have a referencing process, even though they may now have to include some additional information. Therefore, the PRA expects the incremental costs to be minimal.

2.36 Solvency II requires individuals performing key functions to be fit and proper at all times. Firms and groups should have policies and procedures to assess the fitness and propriety of the persons who effectively run the undertaking or perform other key functions, on an ongoing basis. In performing this ongoing assessment, it is proposed that firms and groups

should satisfy themselves that an individual discharges his or her key functions in accordance with the relevant conduct standards specified in the Insurance — Conduct Standards Part of the Rulebook.

2.37 The PRA proposes to retain the existing requirement in the PRA Handbook that firms should notify the PRA if they become aware of any information, including any breaches of the PRA's conduct standards, that would reasonably be material to the fit and proper assessment of any individual approved by the PRA. It is proposed to extend this notification requirement also to cover key function holders.

2.38 There will be some incremental costs for individuals and their firms from these proposals. However, the PRA expects the incremental costs to be minimal. How great a change in the conduct of individuals is achieved in practice may depend on the extent to which these individuals believe that their firms or the regulators are likely to take disciplinary action, or other relevant actions, in respect of any breaches of the conduct standards.

2.39 The PRA proposes that the new rules in the Insurance — Fitness and Propriety Part of the Rulebook setting out the factors for a fit and proper assessment will be commenced from 1 January 2016; along with the requirements described in paragraphs 2.36 and 2.37 for firms and groups to assess on an ongoing basis the fitness and propriety of individuals performing key functions, and to notify the PRA about information relevant to a fit and proper assessment of a key function holder. However, it is proposed that the requirements for firms to satisfy themselves that individuals discharge their functions in accordance with the relevant conduct standards, along with the requirements described in paragraph 2.35, to seek regulatory references and criminal record checks for individuals taking up a CF, will not apply until the full SIMR is commenced.

### Insurance Special Purpose Vehicles (ISPVs)

2.40 For ISPVs, it is proposed to have a more limited range of CFs that will cover the key individuals including a CEO, CFO and Chief Actuary. The proposed rules in the Insurance — Fitness and Propriety, and the Insurance — Conduct Standards, Parts of the Rulebook will then also be applied to ISPVs.

### Supervisory statements

2.41 Appendices 2–4 set out the draft supervisory statement which detail the PRA's expectations of how the new regime will operate in practice. This will cover in particular the following aspects of the proposed new regime:

(1) This term is defined in section 64A(3) of FSMA.

(2) Our current expectation is that all members of the governing body who are approved by the FCA, along with persons approved by the FCA for CFs 10 or 29 would be deemed to be holders of a relevant senior management function.

- scope of SIMR, identification of key functions; and the allocation of responsibilities;
- application of criteria for a fit and proper assessment of individuals by firms and groups; and
- application of conduct standards, and associated notifications.

### Sequencing of proposed rule changes

2.42 As indicated in paragraphs 1.32–1.33 above, a number of the above proposed changes to the PRA's rules, along with the corresponding supervisory statements, will be needed to ensure that there is an operationally effective regime that will enable Solvency II implementation on 1 January 2016. This initial tranche of rules is listed in the table below.

Rulebook Part	Relevant sections and rules
Insurance — Senior Insurance Management Functions Instrument Part	None commenced for the initial tranche
Insurance — Fitness and Propriety Instrument Part	Chapter 1, Rules 2.1, 2.2, 2.3(1), 2.6, 3.1, 4.1, 4.3, 4.4 and 5.1
Insurance — Allocation of Responsibilities Instrument Part	Chapters 1 and 4–5
Insurance — Conduct Standards Instrument Part	None commenced for the initial tranche
Insurance — Group Supervision Amendments Instrument Part	Relevant rules for groups, as above
Insurance — Glossary Amendments Instrument Part	Annex A
<b>Supervisory Statement</b>	
Scope of SIMR for insurers, identification of key functions, and allocation of responsibilities to individuals	Sections 1 and 3
Assessing fitness and propriety and providing references	Sections 1–2
Application of the PRA's conduct standards and associated notifications	None commenced for the initial tranche

2.43 The initial tranche of the PRA's proposed rules would therefore cover:

- The requirement for firms to ensure all persons performing a key function are fit and proper.
- The criteria for the fit and proper assessment, including consideration of a person's past business conduct.
- Notifications of information on individuals to the PRA.
- Identification of key functions.
- Compilation of a Governance Map.

2.44 The PRA proposes that this initial tranche of rules, and the corresponding parts of the supervisory statements, would be made in March 2015, and commenced on 1 January 2016.<sup>(1)</sup>

2.45 The final tranche of the PRA's proposed rules would then cover the following additional areas:

- the full set of CFs for insurers;
- application of conduct standards to individuals;
- allocation of prescribed responsibilities; and
- a requirement for regulatory references and criminal record checks in respect of individuals proposed to be in a CF.

2.46 The PRA will set out its planned timetable later this year for the implementation of the remaining rules that are proposed in this CP.

(1) The current rules in SUP10B and APER in the PRA Handbook would remain in place until the final tranche of the proposed rules in this CP are commenced.

# 3 PRA's approach to the regulatory lifecycle

## Introduction

3.1 The new Solvency II framework, along with the proposed rules and supervisory statements set out in this CP, will lead to changes to the regulators' supervision of individuals and standards in relevant firms.

3.2 The new framework will have practical repercussions for every aspect of the regulatory life cycle from authorisation to enforcement and, in particular, ongoing supervision.

3.3 The PRA is currently considering the potential impact of the new framework on supervision, including the potential need to modify its supervisory approach and practices in light of the new rules and expectations. In order to assist stakeholders in understanding the implications of the PRA's proposals, this chapter outlines the PRA's intended approach to supervising the new regime. This approach is likely to evolve and mature once the SIMR is implemented; and the description below should not be treated as replacing existing statements of supervisory approach.

## Authorisations

3.4 An important part of the PRA's supervision of insurers' management and governance is monitoring that individuals who are performing a role requiring PRA approval, and whom the PRA view as critical to the advancement of its objectives, have the appropriate competence, expertise, and propriety to carry out their roles. Assessing propriety reduces the risk of individuals behaving in a way that is inconsistent with the PRA's objectives. Evaluating competence is necessary given the prime role of these individuals in ensuring an insurer's safety and soundness.

3.5 Assessing these qualities at the point of application enables the PRA to stop individuals who fall below the required standards from performing a role where they could pose a risk to the insurer or the PRA's objectives. Consequently, the approval process for individuals in CFs will continue to play an important role for the PRA in mitigating risks to insurers from poor management.

3.6 The process for approving individuals has already undergone a number of enhancements in recent years. The introduction by the FSA in October 2008 of the enhanced Significance Influence Function (SIF) regime, led to the introduction of interviews for individuals applying for SIF roles. Subsequent enhancements by the PRA include changes to the composition of panels that hold these interviews.

3.7 Individuals seeking approval to perform a CF specified by the PRA will be subject to a process that will involve an assessment of the candidate's propriety, reputation and financial soundness; competence and capability to carry out the role, taking into account their qualifications, training, competencies and personal characteristics; and understanding of the regulatory requirements and the nature of the relationship they envisage maintaining with the regulators.

3.8 The nature and intensity of the assessment is ultimately a matter for supervisory discretion, having regard to the circumstances of each application. More generally, this evaluation, including the decision to interview the candidate, will take into account the nature of the role, the potential impact of the insurer on the PRA's objectives, and the risks inherent in the insurer's business model.

3.9 Interviews will include an assessment of the applicant's technical and non-technical expertise and his or her understanding of the risks to the viability of the insurer and of the risks posed by the insurer to the wider financial system.

3.10 Consistent with the expectation outlined in the approach document<sup>(1)</sup> that 'the board should have a mix and balance of skills so that collectively it can understand the breadth of the business', along with the similar requirement in Solvency II, the PRA is likely to take into account the board's collective mix of skills and expertise when considering individual applications.

3.11 While the mechanics of the approval process are expected to remain essentially the same, the PRA does expect a number of the requirements on individuals and/or insurers to

(1) *The PRA's approach to insurance supervision*, June 2014; [www.bankofengland.co.uk/publications/Pages/other/prasupervisoryapproach.aspx](http://www.bankofengland.co.uk/publications/Pages/other/prasupervisoryapproach.aspx).

change under these proposals for the implementation of the new SIMR. These are set out below.

### Due diligence requirements on insurers

3.12 The PRA expects insurers to undertake their own due diligence on whether the candidates seeking to perform a CF have the requisite competence and capability to carry out their function effectively.

3.13 Solvency II has turned this expectation into a legal requirement on insurers to satisfy themselves, before applying for approval on a candidate's behalf, that the candidate is fit and proper to perform the function to which the application relates. In doing so, insurers will be required to have regard to the PRA's proposed rules and supervisory statement on fitness and propriety.

3.14 The PRA will assess whether the insurer has conducted an appropriately rigorous recruitment process and will take into account the due diligence done by the insurer on the applicant.

### The PRA's expectations of fitness and propriety

3.15 The PRA is proposing a new supervisory statement, as set out in Appendix 3, setting out the PRA's expectations for the application of the proposed new rules in the Insurance — Fitness and Propriety Part of the PRA Rulebook presented in Appendix 1.2.

3.16 Regulatory expectations of fitness and propriety have evolved towards a greater emphasis on technical competencies and personal characteristics. As noted in Chapter 2, the PRA proposes to adopt rules requiring all persons performing a key function to have appropriate qualifications, training, competence and personal characteristics to perform their particular functions. The PRA will take these factors into account in its assessment of candidates. Insurers will also be required to obtain documentary evidence, including criminal checks and employer references, to support the assessment of fitness and propriety for individuals who are responsible for a CF, and are encouraged to obtain such evidence for all individuals performing a key function.

3.17 The PRA's proposed list of CFs will be more granular and role specific than the current list of CFs requiring approval by the PRA. Greater granularity should in turn facilitate a more tailored assessment of candidates' knowledge and competencies for the particular function in question.

## Supervision

3.18 Whether or not those managing an insurer are fit and proper and equipped with a mix and balance of skills collectively to understand and manage its business prudently

is critical to determining whether an insurer meets a number of the Threshold Conditions,<sup>(1)</sup> including 'prudent conduct' and 'suitability'. Accordingly, the PRA reviews the fitness and propriety of senior persons at PRA-authorized insurers on an ongoing basis, including as part of its supervisory assessment of whether an insurer is meeting the PRA's Threshold Conditions.

3.19 As indicated in the draft supervisory statements in Appendices 2–4, the PRA has a continuing expectation that insurers should have in place clear structures of accountability and delegation of individual and collective responsibilities, including checks and balances to prevent dominance by an individual. Key function holders should remain accountable for the actions of those to whom they delegate responsibilities, including where insurers use third parties in respect of outsourced functions.

3.20 The updated regime for the fit and proper assessment, and the responsibilities, of individuals working for insurers and insurance groups, is consistent with that expectation and should help in supervising insurers.

3.21 It is important to note that the PRA's CFs may not cover all members of the board and executive committee.

3.22 Alongside the narrower scope, the PRA will continue to engage with individuals who may come outside its CFs, including possibly NEDs, as part of its ongoing supervisory oversight of insurers and in its periodic reviews of board effectiveness. All NEDs should therefore continue to 'stand ready to have an open exchange of views with the PRA on the performance of senior management' as noted in the PRA approach document.<sup>(2)</sup>

3.23 The PRA will generally expect to look first to the chairs of the board or relevant sub-committees to address governance concerns regarding the effectiveness of individuals on these governing bodies.

3.24 The PRA will, however, retain legal powers under section 66B of FSMA to take formal supervisory and enforcement action against approved persons in respect of breaches of conduct standards, or in circumstances where these individuals are knowingly concerned in breaches of requirements imposed on insurers. The PRA will also continue to have the ability to prohibit an individual from performing a function in relation to regulated activities where it appears to the PRA that the individual is not a fit and proper person to do so.

(1) *The Financial Services and Markets Act 2000 (Threshold Conditions) Order 2013*; [www.legislation.gov.uk/uksi/2013/555/contents/made](http://www.legislation.gov.uk/uksi/2013/555/contents/made).

(2) *The PRA's approach to insurance supervision*, June 2014; [www.bankofengland.co.uk/publications/Pages/other/prasupervisoryapproach.aspx](http://www.bankofengland.co.uk/publications/Pages/other/prasupervisoryapproach.aspx).

## Governance Maps

3.25 The PRA expects Governance Maps, including information on the scope of individual responsibilities, to become an important tool for supervising insurers, including in particular in its assessment of the overall corporate governance of insurers.

3.26 Supervisors are likely to refer to Governance Maps, including information on the scope of individual responsibilities, in a number of scenarios, including:

- during the initial assessment for PRA approval, where information provided on the scope of an individual's responsibilities will be used to highlight the areas which the candidate will be responsible for managing and assess their ability to do so;
- in daily supervision, where the PRA expects to use them to:
  - (1) identify the relevant individual to whom specific regulatory queries should be directed;
  - (2) understand how the allocation of responsibilities to individuals have changed to reflect changes to the insurer's business model or as a result of changes in the external environment; and
  - (3) clarify which individuals are ultimately responsible for certain actions which supervisors expect the insurer to take; and
- in enforcement cases, as evidence of individual responsibility for the area where an alleged breach occurred.

## Ongoing internal assessment of individuals' fitness and propriety by insurers

3.27 In addition to the requirement to assess the fitness and propriety of individuals before they are appointed to be responsible for a key function, Solvency II introduces a new requirement on insurers to assess, on an ongoing basis, the fitness and propriety of individuals performing a key function. As part of this ongoing assessment, the proposed rules in the Insurance — Fitness and Propriety Part of the Rulebook require that an insurer must consider an individual's past business conduct, and be satisfied that the individual is discharging their key function in accordance with the relevant conduct standards.

3.28 These new requirements codify a longstanding regulatory expectation that insurers should be primarily responsible for assessing the fitness and propriety of their key decision-makers, and of those employees who are capable of

causing significant harm either to the insurer or to its policyholders. Therefore, where an insurer identifies any matter which might be relevant to an assessment of whether an individual who is performing a key function is fit and proper, it should promptly and fully investigate the position and take appropriate action, including complying with any obligation to notify the PRA.

## Assessment by the PRA of the ongoing fitness and propriety of individuals, and of the suitability of insurers' approach to the assessment of individuals

3.29 Whilst emphasising the primary responsibility of insurers in assessing fitness and propriety, the PRA may also make its own independent assessment of the ongoing fitness and propriety of individuals who are responsible for key functions.

3.30 The PRA may also wish to consider fitness and propriety issues where regulatory concerns have arisen within an insurer, and see how insurers have addressed these issues with the responsible individual(s). This could include considering whether an insurer had identified a possible breach by an individual of a conduct standard sufficiently quickly when the relevant information became available to them.

3.31 The PRA may also test the robustness of both the design and effectiveness in practice of an insurer's policies and procedures for reviewing the fitness and propriety of relevant individuals, as part of its supervision of management and governance. Where appropriate, this may result in the PRA requiring an insurer to make changes to its framework.

# Appendices

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- 1.1 PRA Rulebook: Solvency II Firms: Insurance — Senior Insurance Management Functions Instrument

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  - 1.2 PRA Rulebook: Solvency II Firms: Insurance — Fitness and Propriety Instrument

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  - 1.3 PRA Rulebook: Solvency II Firms: Insurance — Allocation of Responsibilities Instrument

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  - 1.4 PRA Rulebook: Solvency II Firms: Insurance — Conduct Standards Instrument

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  - 1.5 PRA Rulebook: Solvency II Firms: Insurance — Group Supervision Amendments Instrument

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  - 1.6 PRA Rulebook: Solvency II Firms: Insurance — Glossary Amendments Instrument

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  - 2 Draft supervisory statement — Scope of SIMR for insurers, identification of key functions, and allocation of responsibilities to individuals

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  - 3 Draft supervisory statement — Assessing fitness and propriety and providing references

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  - 4 Draft supervisory statement — Application of the PRA's conduct standards and associated notifications

**PRA RULEBOOK: SOLVENCY II FIRMS: INSURANCE – SENIOR INSURANCE MANAGEMENT  
FUNCTIONS INSTRUMENT [YEAR]**

**Powers exercised**

- A. The Prudential Regulation Authority (“PRA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 59 (approval for particular arrangements);
  - (2) section 137G (the PRA’s general rules); and
  - (3) section 137T (general supplementary powers);
- B. The rule-making powers referred to above are specified for the purpose of section 138G (2) (Rule-making instrument) of the Act.

**Pre-conditions to making**

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

**PRA Rulebook: Solvency II Firms: Insurance - Senior Insurance Management Functions  
Instrument [Year]**

- D. The PRA makes the rules 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: Solvency II Firms: Insurance - Senior Insurance Management Functions Instrument [YEAR].

**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

# **INSURANCE - SENIOR INSURANCE MANAGEMENT FUNCTIONS**

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## **Chapter content**

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

## 1 APPLICATION AND DEFINITIONS<sup>1</sup>

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1.1 Unless otherwise stated, this Part applies to:

- (1) a *UK Solvency II firm*;
- (2) in accordance with General Application<sup>2</sup> 3, the *Society*, as modified by 10;
- (3) in accordance with General Application 3, *managing agents*, as modified by 10;
- (4) a *third country branch undertaking* (other than a *Swiss general insurer*); and
- (5) an *ISPV*, in accordance with 11.

1.2 In this Part, the following definitions shall apply:

*Chief Actuary function*

has the meaning given in 6.1.

*Chief Executive function*

has the meaning given in 3.1.

*Chief Finance function*

has the meaning given in 3.2.

*Chief Risk function*

has the meaning given in 3.3.

*Chief Underwriting Officer function*

has the meaning given in 8.2.

*Group Entity Senior Insurance Manager function*

has the meaning given in 4.1.

*Head of Internal Audit function*

has the meaning given in 3.4.

*senior insurance management function*

means that aspect of any *key function* relating to the carrying on of a *regulated activity* by a *firm*, which is specified by the *PRA* in 3 – 9 pursuant to section 59 of *FSMA*.

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<sup>1</sup> Defined terms referred to in this Part (which are not are not specific to this Part under rule 1.2 or defined in the Insurance – Senior Insurance Manager Regime – Glossary Amendments Part also being consulted on in this consultation paper) either appear in *FSMA* or are being consulted on in the *PRA*'s consultation paper CP14/14 "Strengthening accountability in banking: a new regulatory framework for individuals" or CP16/14 "Transposition of Solvency II: Part 3".

<sup>2</sup> This Part is being consulted on in CP16/14 which can be found at <http://www.bankofengland.co.uk/pradocuments/publications/cp/2014/cp1614.pdf>

*Third Country Branch Manager function*

has the meaning given in 5.2.

*Underwriting Risk Oversight function*

has the meaning given in 9.2.

*With-Profits Actuary function*

has the meaning given in 7.2.

## **2 GENERAL**

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- 2.1 Each of the functions in 3 – 9 is a *controlled function* and a *senior insurance management function*.
- 2.2 *Senior insurance management function holders* must each be approved by the PRA to perform the applicable *senior insurance management function*.
- 2.3 (1) A *firm* (other than a *third country branch undertaking*) must ensure that one or more *persons* performs each of the following *senior insurance management functions* on its behalf:
- (a) the *Chief Executive function*; and
  - (b) the *Chief Finance function*.
- (2) If a vacancy arises in respect of one or more of the *senior insurance management functions* set out in (1), a *firm* must ensure that it appoints a *person* to fill that vacancy as soon as practicable.
- 2.4 To the extent that:
- (1) a *firm* appoints a *person* to perform a *key function* which, but for this *rule*, would be a *senior insurance management function*;
  - (2) the appointment is solely to provide cover for a *senior insurance management function holder* whose absence is:
    - (a) temporary; or
    - (b) reasonably unforeseen; and
  - (3) the appointment is for less than 12 weeks in a consecutive 12-month period;
- the description of the applicable *senior insurance management function* does not relate to those activities of that *person*.

## **3 EXECUTIVE**

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- 3.1 The *Chief Executive function* (SIMF1) is the function of having responsibility, under the immediate authority of the *governing body*, alone or jointly with others, for carrying out the management of the conduct of the whole of the business (or relevant activities) of a *firm*.
- 3.2 The *Chief Finance function* (SIMF2) is the function of having responsibility for the management of the financial resources of a *firm* and reporting to the *governing body* of a *firm* in relation to its financial affairs.

- 3.3 The *Chief Risk function* (SIMF4) is the function of having responsibility for overall management of the risk management system specified in Conditions Governing Business<sup>3</sup> 3.
- 3.4 The *Head of Internal Audit function* (SIMF5) is the function of having responsibility for management of the internal audit *function* specified in Conditions Governing Business 5.

#### 4 GROUP ENTITIES

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

#### 5 THIRD COUNTRY BRANCH MANAGER

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- 5.1 This Chapter applies only to a *firm* that is a *third country branch undertaking*.
- 5.2 The *Third Country Branch Manager function* (SIMF19) is the function of having responsibility for the conduct of all activities of the *third country branch undertaking* that are subject to the *regulatory system*.
- 5.3 A *third country branch undertaking* must have at least one *person* approved to perform the *Third Country Branch Manager function*.
- 5.4 A *third country branch undertaking* that transacts *with-profits insurance business* must have at least one *person* approved to perform the *With-Profits Actuary function* (SIMF21).
- 5.5 A *third country branch undertaking* is not required to have a *person(s)* approved to perform any of the other *functions*.

#### 6 CHIEF ACTUARY

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

#### 7 WITH-PROFITS ACTUARY

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- 7.1 This Chapter applies only to *firms* that carry on *with-profits insurance business*.
- 7.2 The *With-Profits Actuary function* (SIMF21) is the function of having responsibility for advising the *governing body* of a *firm* transacting *with-profits insurance business* on the exercise of discretion affecting part or all of that business.

#### 8 CHIEF UNDERWRITING OFFICER FUNCTION

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- 8.1 This Chapter applies only to *firms* that carry on *general insurance business* and to *managing agents*.

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<sup>3</sup> This Part is being consulted on in CP16/14 which can be found at <http://www.bankofengland.co.uk/prd/Documents/publications/cp/2014/cp1614.pdf>

8.2 The *Chief Underwriting Officer function* (SIMF22) is the function of having responsibility, for the underwriting decisions in respect of material insurance risks that:

- (1) in relation to *firms* that carry on *general insurance business*, are borne by the *firm*; or
- (2) in relation to *managing agents*, are borne by *members*.

## 9 UNDERWRITING RISK OVERSIGHT FUNCTION

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9.1 This Chapter applies only to the *Society*.

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

## 10 LLOYD'S

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

10.2 Subject to 10.3, the *Society* and *managing agents* shall comply with this Part to the extent that the *senior insurance management functions* apply to the *Society* or the *managing agent*.

10.3 The *With-Profits Actuary function* (SIMF21) does not apply to the *Society* or to *managing agents*.

## 11 ISPVS

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

11.2 The following senior insurance management functions do not apply to *ISPVs*:

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

**PRA RULEBOOK: SOLVENCY II FIRMS: INSURANCE - FITNESS AND PROPRIETY  
INSTRUMENT [YEAR]**

**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 60 (Applications for approval);
  - (2) section 137G (the PRA’s general rules); and
  - (3) section 137T (general supplementary powers).
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instrument) of the Act.

**Pre-conditions to making**

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

**PRA Rulebook Solvency II Firms: Insurance - Fitness and Propriety Instrument [YEAR]**

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

**Commencement**

- E. This instrument comes into force on [DATE]<sup>1</sup>.

**Citation**

- F. This instrument may be cited as the PRA Rulebook: Solvency II Firms: Insurance - Fitness and Propriety Instrument [YEAR].

**By order of the Board of the Prudential Regulation Authority**

[DATE]

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<sup>1</sup> Provisions 1, 2.1, 2.2, 2.3 (other than 2.3(2)), 2.6, 3.1, 4.1, 4.3, 4.4 and 5.1 are intended to come into force by no later than 1 January 2016. The PRA will set out its planned timetable later for the commencement of the remaining provisions.

**Annex A**

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

**Part**

# **INSURANCE - FITNESS AND PROPRIETY**

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**Chapter content**

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

## 1 APPLICATION

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

## 2 FITNESS AND PROPRIETY ASSESSMENTS BY FIRMS

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

required to enable such *person* to perform his or her *key function* effectively and in accordance with any relevant regulatory requirements, including those under the *regulatory system*, and to enable sound and prudent management of the *firm*.
- 2.3 Before deciding, and in considering on an on-going basis, whether a *person* is fit and proper pursuant to 2.1 and 2.2, a *firm* must:
- (1) consider the *person's* past business conduct; and
  - (2) be satisfied that the *person* discharges his or her *key functions* in accordance with the relevant *conduct standards* specified in Insurance - Conduct Standards Instrument 3.
- 2.4 Before deciding whether a *person* (P) is fit and proper to become a *senior insurance management function holder* a *firm* must:
- (1) obtain P's consent for the *firm* to request the fullest information in relation to P that it is lawfully able to request under the Police Act 1997 and related subordinated legislation of the *UK* or any part of the *UK*;
  - (2) if P has lived or worked outside the *UK* for a material time in the previous five years, obtain P's consent for the *firm* to request the fullest information in relation to P that it is lawfully able to request under equivalent overseas legislation; and
  - (3) request, and have regard to, such information.

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<sup>2</sup> This Part is being consulted on in CP16/14 which can be found at <http://www.bankofengland.co.uk/prd/Documents/publications/cp/2014/cp1614.pdf>

- 2.5 Before deciding whether a *person* is fit and proper to become a *senior insurance management function holder*, a *firm* must take reasonable steps to obtain appropriate references from that *person's* previous employers covering at least the past 5 years.
- 2.6 Where a *firm* (A) seeks a reference from a previous employer that is an *FCA-authorised person* or a *PRA-authorised person* (B), it must request that B discloses all matters of which B is aware that are relevant to the assessment of that *person's* fitness and propriety.

### 3 OBLIGATION TO PROVIDE REFERENCES

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- 3.1 Where an *FCA-authorised person* or a *PRA-authorised person* (C):
- (1) is considering appointing a *person* (P) to perform any role
  - (2) makes a request for a reference or other information in respect of P from a *firm* to which this Part applies (B), in B's capacity as P's current or former employer; and
  - (3) indicates to B the purpose of the request;
- B must, as soon as reasonably practicable, give to C all relevant information of which B is aware that is relevant to C's assessment of whether P is fit and proper.

### 4 DISCLOSURE AND REPLACEMENTS

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- 4.1 (1) A *firm* (other than an *ISPV*) shall notify the *PRA* of any changes to the identity of *key function holders* and shall provide the *PRA* with:
- (a) all of the information needed to assess whether such *person* is fit and proper; and
  - (b) the information referred to in Insurance - Allocation of Responsibilities Instrument 5.1(3),
- save that this requirement shall not apply where the *key function holder* is to be approved under section 59 of *FSMA* by the *FCA* and the same information is required by the *FCA*.
- (2) An *ISPV* shall notify the *PRA* of any changes to the identity of *key function holders* who are effectively running the *firm* and shall provide the *PRA* with all of the information needed to assess whether such *person* is fit and proper, save that this requirement shall not apply where the *key function holder* is to be approved under section 59 of *FSMA* by the *FCA* and the same information is required by the *FCA*.
- 4.2 Where a *key function holder* is to be approved under section 59 of *FSMA* by the *PRA* a *firm* must ensure that any application it makes for the approval of that *person* to perform the relevant controlled function is accompanied by the information referred to in 4.1.
- 4.3 If a *firm* becomes aware of information which would reasonably be material to the assessment of a current or former *key function holder's* fitness and propriety under this Part, it must inform the *PRA* [on Form X], or (if it is more practical to do so and with the prior agreement of the *PRA*) by fax or e-mail, as soon as practicable.
- 4.4 Where a *firm* replaces a *key function holder* because the *firm* considers that that *person* no longer fulfils the requirements in 2.2, the *firm* must notify the *PRA* as soon as reasonably practicable.

**5. LLOYD'S**

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

**PRA RULEBOOK: SOLVENCY II FIRMS: INSURANCE - ALLOCATION OF RESPONSIBILITIES INSTRUMENT [YEAR]**

**Powers exercised**

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

**Pre-conditions to making**

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

**PRA Rulebook Solvency II Firms: Insurance - Allocation of Responsibilities Instrument [YEAR]**

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

**Commencement**

- E. This instrument comes into force on [Date]<sup>1</sup>.

**Citation**

- F. This instrument may be cited as the PRA Rulebook: Solvency II Firms: Insurance - Allocation of Responsibilities Instrument [YEAR].

**By order of the Board of the Prudential Regulation Authority**

[DATE]

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<sup>1</sup> Chapters 1, 4 and 5 are intended to come into force by no later than 1 January 2016. The PRA will set out its planned timetable later for the commencement of the remaining Chapters.

Annex A

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

Part

## **INSURANCE - ALLOCATION OF RESPONSIBILITIES**

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### Chapter content

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

## 1 APPLICATION AND DEFINITIONS

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1.1 Unless otherwise stated, this Part applies to:

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

1.2 In this Part, the following definitions shall apply:

*governance map*

has the meaning given in 5.1.

*prescribed responsibility*

- (1) for a *firm* (other than a *third country branch undertaking*) means the responsibilities in 3.1;
- (2) for a *third country branch undertaking* (other than a *UK-deposit insurer* or a *Swiss general insurer*), means the applicable responsibilities in 3.1 taking account only of the matters relevant to the operations effected by the *third country branch*, save in relation to the responsibility in 3.1(4), which shall also take account of the operations of the *third country branch undertaking* insofar as necessary to assess whether the *third country branch undertaking* has adequate worldwide financial resources for the purposes of Third Country Branches 13; and
- (3) for a *UK-deposit insurer*, means the applicable responsibilities in 3.1 taking account of the operations effected by the *third country branch* and all the *third country undertaking EEA branches*, save in relation to the responsibility in 3.1(4), which shall also take account of the operations of the *third country branch undertaking* insofar as necessary to assess whether the *third country branch undertaking* has adequate worldwide financial resources for the purposes of Third Country Branches 13.

## 2 ALLOCATION OF RESPONSIBILITIES<sup>3</sup>

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- 2.1 A *firm* (other than a *third country branch undertaking*) must allocate each element of the *prescribed responsibilities* set out in 3.1 (other than (9) and (10)), to one or more *persons* who are approved under section 59 of *FSMA* by the *PRA* or, in relation to *relevant senior management functions* only, the *FCA* or, if appropriate, are *non-executive directors*.
- 2.2 A *firm* (other than a *third country branch undertaking*) must allocate each element of the *prescribed responsibilities* set out in 3.1(9) and (10) to one or more *non-executive directors*.
- 2.3 A *third country branch undertaking* must allocate each of the *prescribed responsibilities* set out in 3.1(1), (4), (5), (6) and (7) to one or more *persons* who are approved under section 59 of *FSMA* by the *PRA* or, in relation to *relevant senior management functions* only, the *FCA*.

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<sup>2</sup> This Part is being consulted on in CP16/14 which can be found at <http://www.bankofengland.co.uk/prd/Documents/publications/cp/2014/cp1614.pdf>

<sup>3</sup> References to *non-executive directors* in this Chapter are subject to further consultation.

### 3 PRESCRIBED RESPONSIBILITIES

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- 3.1 Each of the responsibilities set out in this *rule* is a *prescribed responsibility*:
- (1) responsibility for ensuring that the *firm* has complied with its obligation in Insurance - Fitness and Propriety 2.1 to satisfy itself that every *person* who performs a *key function* (including those in respect of whom an application under s59 of *FSMA* is made) is a fit and proper *person*;
  - (2) responsibility for leading the development of the *firm's* culture and standards in relation to the carrying on of its business and the behaviours of its staff;
  - (3) responsibility for embedding the *firm's* culture and standards in relation to the carrying on of its business and the behaviours of its staff, in the day-to-day management of the *firm*;
  - (4) responsibility for the production and integrity of the *firm's* financial information and its regulatory reporting;
  - (5) responsibility for management of the allocation and maintenance of the *firm's*:
    - (a) capital; and
    - (b) liquidity;
  - (6) responsibility for the development and maintenance of the *firm's* business model;
  - (7) responsibility for performance of the *firm's* *ORSA*;
  - (8) responsibility for the induction, training and professional development of all of the *firm's* *key function holders* (including those in respect of whom an application under section 59 of *FSMA* is made);
  - (9) responsibility for maintenance of the independence, integrity and effectiveness of the *firm's* policies and procedures on whistleblowing and for ensuring staff who raise concerns are protected from detrimental treatment; and
  - (10) responsibility for oversight of the *firm's* remuneration policies and practices.

### 4 IDENTIFICATION OF KEY FUNCTIONS

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- 4.1 A *firm* must identify:
- (1) each of the *functions* that the *firm* considers to be a *key function*; and
  - (2) any such *key function* that amounts to effectively running the *firm* (or, for *third country branch undertakings*, effectively running the operations effected by the *third country branch*, or, for a *UK-deposit insurer*, the operations effected by the *third country branch* and all the *third country undertaking EEA branches*).
- 4.2 A *firm* must keep its identification of *key functions* pursuant to 4.1 up-to-date.
- 4.3 A *firm* must keep a record of its reasoning for the identification of *key functions* pursuant to 4.1.

## 5 RECORDS

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5.1 A *firm* must at all times have a comprehensive and up-to-date single document (a *governance map*) that includes the following details:

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

5.2 The *firm* must provide the *PRA* with a copy of the *governance map* upon request.

## 6. LLOYD'S

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

**PRA RULEBOOK: SOLVENCY II FIRMS: INSURANCE - CONDUCT STANDARDS INSTRUMENT  
[YEAR]**

**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 64A (rules of conduct);
  - (2) section 137G (the PRA’s general rules); and
  - (3) section 137T (general supplementary powers).
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instrument) of the Act.

**Pre-conditions to making**

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

**PRA Rulebook: Solvency II Firms: Insurance - Conduct Standards Instrument [YEAR]**

- D. The PRA makes the rules 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: Solvency II Firms: Insurance - Conduct Standards Instrument [YEAR].

**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

# **INSURANCE - CONDUCT STANDARDS**

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Chapter content

1. APPLICATION
2. SCOPE OF CONDUCT STANDARDS
3. CONDUCT STANDARDS
4. LLOYD'S

## 1 APPLICATION

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- 1.1 Unless otherwise stated, this Part applies to:
- (1) a *UK Solvency II firm*;
  - (2) in accordance with General Application<sup>1</sup> 3, the *Society*, as modified by 4;
  - (3) in accordance with General Application 3, *managing agents*, as modified by 4;
  - (4) a *third country branch undertaking* (other than a *Swiss general insurer*);
  - (5) an *ISPV*; and
  - (6) in relation to any of the foregoing *firms*, any *person* who is or should have been approved under section 59 of *FSMA* by either:
    - (a) the *PRA*; or
    - (b) the *FCA*, in respect of the performance by the *person* of a *relevant senior management function*,

and in either case in relation to the carrying on of a *regulated activity* by the relevant *firm*.

## 2 SCOPE OF CONDUCT STANDARDS

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- 2.1 If you are a natural *person* subject to this Part, you must comply at all times with all of the *conduct standards*.
- 2.2 A *firm* must require:
- (1) any *person* performing a *key function* to observe the *conduct standards* specified in 3.1 – 3.3; and
  - (2) any *key function holder* (other than *non-executive directors*<sup>2</sup> and the *authorised UK representative*) to observe the *conduct standards* specified in 3.4 – 3.8, in addition to complying with (1).

## 3 CONDUCT STANDARDS

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- 3.1 You must act with integrity.
- 3.2 You must act with due skill, care and diligence.
- 3.3 You must be open and co-operative with the *FCA*, the *PRA* and other regulators.
- 3.4 You must take reasonable steps to ensure that the business of the *firm* for which you are responsible is controlled effectively.
- 3.5 You must take reasonable steps to ensure that the business of the *firm* for which you are responsible complies with the relevant requirements and standards of the *regulatory system*.

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<sup>1</sup> This Part is being consulted on in CP16/14 which can be found at <http://www.bankofengland.co.uk/prd/Documents/publications/cp/2014/cp1614.pdf>

<sup>2</sup> References in this Chapter to *non-executive directors* are subject to further consultation.

- 3.6 You must take reasonable steps to ensure that any delegation of your responsibilities is to an appropriate *person* and that you oversee the discharge of the delegated responsibility effectively.
- 3.7 You must disclose appropriately any information of which the *FCA* or the *PRA* would reasonably expect to have notice.
- 3.8 When exercising your responsibilities, you must pay due regard to the interests of current and potential future *policyholders* in ensuring the provision by the *firm* of an appropriate degree of protection for their insured benefits.

**4 LLOYD'S**

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

**PRA RULEBOOK: SOLVENCY II FIRMS: INSURANCE – GROUP SUPERVISION AMENDMENTS  
INSTRUMENT [YEAR]**

**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 192J (rules requiring provision of information by parent undertakings).
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instrument) of the Act.

**Pre-conditions to making**

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

**PRA Rulebook Solvency II Firms: Insurance – Group Supervision Amendments Instrument  
[YEAR]**

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

**Commencement**

- E. This instrument comes into force on [Date]<sup>1</sup>.

**Citation**

- F. This instrument may be cited as the PRA Rulebook: Solvency II Firms: Insurance – Group Supervision Amendments Instrument [YEAR].

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

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<sup>1</sup> Annex A is intended to come into force by no later than 1 January 2016. The PRA will set out its planned timetable later for the commencement of Annex B.

## Annex A

[Note: Annex A contains proposed amendments to the Group Supervision Instrument as consulted on by the PRA in Transposition of Solvency II: Part 3 (CP16/14). These changes are intended to come into force by no later than 1 January 2016]

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

**17 RISK MANAGEMENT AND INTERNAL CONTROL**

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- 17.1 (1) Where 2.1(1) or 2.1(2) applies, the following requirements ~~in the Conditions Governing Business Part~~ apply with any necessary changes at the level of the *group*:
- (a) Conditions Governing Business 2.2 – 2.6;
  - (b) Conditions Governing Business 3
  - (c) Conditions Governing Business 4.1 – 4.2
  - (d) Conditions Governing Business 5
  - (e) Conditions Governing Business 6
  - (f) Conditions Governing Business 7.1 – 7.3; and
  - (g) Fitness and Propriety 2.1 – 2.3 (other than 2.3(2)); &
  - (h) Fitness and Propriety 4.1, 4.3 and - 4.4; and
  - (i) Allocation of Responsibilities 4.1 – 4.3.

## Annex B

[Note: Annex B contains proposed amendments to the Group Supervision Instrument as consulted on by the PRA in Annex A. The PRA will set out its planned timetable later for the commencement of this Annex B]

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

**17 RISK MANAGEMENT AND INTERNAL CONTROL**

---

- 17.1 (1) Where 2.1(1) or 2.1(2) applies, the following requirements apply with any necessary changes at the level of the *group*:
- (a) Conditions Governing Business 2.2 – 2.6;
  - (b) Conditions Governing Business 3
  - (c) Conditions Governing Business 4.1 – 4.2
  - (d) Conditions Governing Business 5
  - (e) Conditions Governing Business 6
  - (f) Conditions Governing Business 7.1 – 7.3;
  - (g) Fitness and Propriety 2.1 – 2.3 (~~other than 2.3(2)~~);
  - (h) Fitness and Propriety 4.1, 4.3 and - 4.4; ~~and~~
  - (i) Allocation of Responsibilities 4.1 – 4.3; and
  - (j) Conduct Standards 2.2.

**PRA RULEBOOK: INSURANCE - SENIOR INSURANCE MANAGEMENT REGIME - GLOSSARY  
AMENDMENTS INSTRUMENT [YEAR]**

**Powers exercised**

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

**Pre-conditions to making**

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

**PRA Rulebook: Solvency II Firms: Insurance – Senior Insurance Management Regime -  
Glossary Amendments Instrument [YEAR]**

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

**Commencement**

- E. This instrument comes into force on [DATE]<sup>1</sup>.

**Citation**

- F. This instrument may be cited as the PRA Rulebook: Solvency II Firms: Insurance – Senior Insurance Management Regime - Glossary Amendments Instrument [YEAR].

**By order of the Board of the Prudential Regulation Authority**

[DATE]

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<sup>1</sup> Annex A is intended to come into force by no later than 1 January 2016. The PRA will set out its planned timetable later for the commencement of Annex B.

## Annex A

## Amendments to the PRA Rulebook - Glossary

Insert the following new definitions (in the appropriate alphabetical position) into the Glossary Part of the PRA Rulebook<sup>2</sup>:

*key function*

- (1) in relation to a *firm* (other than a *third country branch undertaking*), means each of the following in relation to the carrying on of a regulated activity by a *firm*:
- (a) the risk-management system *function*;
  - (b) the compliance *function*;
  - (c) the internal audit *function*;
  - (d) the actuarial *function*;
  - (e) the *function* of effectively running the *firm*; and/or
  - (f) any other *function* which is of specific importance to the sound and prudent management of the *firm*.
- (2) in relation to a *third country branch undertaking* (other than a *Swiss general insurer*) means, in relation to the carrying on of a regulated activity by the *third country branch undertaking*, each of the following *functions* performed in relation to the operations effected by the *third country branch* or, for a *UK-deposit insurer*, in relation to the operations effected by the *third country branch* and all the *third country undertaking EEA branches*:
- (a) the risk-management system *function*;
  - (b) the compliance *function*;
  - (c) the internal audit *function*;
  - (d) the actuarial *function*;
  - (e) the *function* of effectively running the operations effected by the *third country branch* or, for a *UK-deposit insurer*, the operations effected by the *third country branch* and all the *third country undertaking EEA branches*;
  - (f) the *function* of being the *authorised UK representative*; and/or
  - (g) any other *function* which is of specific importance to the sound and prudent management of the *third country branch* or, for a *UK-deposit insurer*, the operations effected by the *third country branch* and all the *third country undertaking EEA branches*.

*key function holder*


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<sup>2</sup> Defined terms embedded within definitions in this Annex (which are not defined in this Annex) are either in the PRA Rulebook Glossary or are being consulted on in the PRA's consultation paper CP16/14 "Transposition of Solvency II: Part 3" <http://www.bankofengland.co.uk/pradocuments/publications/cp/2014/cp1614.pdf>

means any *person* who is responsible for discharging a *key function*.

*non-executive director*

means a *director* who has no responsibility for implementing the decisions or the policies of the *governing body* of a *firm*.

The below amendment is in addition to the changes currently being consulted on pursuant to CP16/14. Underlining indicates new text.

*governing body*

means the board of *directors*, committee of management or other governing body of an unincorporated association or *body corporate* and includes, in relation to the *Society*, a committee to which the *Council* directly delegates authority to carry out the *Society's* regulatory functions.

## Annex B

## Amendments to the PRA Rulebook - Glossary

Insert the following new definitions (in the appropriate alphabetical position) into the Glossary Part of the PRA Rulebook<sup>3</sup>:

*conduct standards*

- (1) for a *firm* (except a *third country branch undertaking*), means the standards of expected conduct specified in Insurance - Conduct Standards 3;
- (2) for a *third country branch undertaking* (other than a *UK-deposit insurer* or a *Swiss general insurer*), means the standards of expected conduct specified in Insurance - Conduct Standards 3.1-3.3 and, taking account only of matters relevant to the operations of the *third country branch*, Insurance – Conduct Standards 3.4 – 3.8; and
- (3) for a *UK-deposit insurer*, means the standards of expected conduct specified in Insurance - Conduct Standards 3.1-3.3 and, taking account only of matters relevant to the operations of the *third country branch* and all the *third country undertaking EEA branches*, Insurance – Conduct Standards 3.4 – 3.8.

*relevant senior management function*<sup>4</sup>

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

*senior insurance management function holder*

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

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<sup>3</sup> Defined terms embedded within definitions in this Annex (which are not defined in this Annex) are either in the PRA Rulebook Glossary or are being consulted on in the PRA's consultation paper CP16/14 "Transposition of Solvency II: Part 3" <http://www.bankofengland.co.uk/pradocuments/publications/cp/2014/cp1614.pdf>

<sup>4</sup> Subject to further consultation. See Supervisory statement — Application of the PRA's conduct standards and associated notifications 2.31.

## Supervisory statement — Scope of SIMR for insurers, identification of key functions, and allocation of responsibilities to individuals

### 1 Introduction

1.1 This draft supervisory statement applies to all UK Solvency II insurance (and reinsurance) firms and groups, and to third country insurance branches, within the scope of the Solvency II Directive, and to the Society of Lloyd's and managing agents.

1.2 The statement sets out the Prudential Regulation Authority's (PRA's) expectations of how these firms should comply with the rules in the Insurance — Senior Insurance Management Functions Part of the Rulebook dealing with Controlled Functions (CFs), the rules in the Insurance — Allocation of Responsibilities Part of the Rulebook dealing with the identification of key functions, and the allocation of responsibilities to relevant individuals.

1.3 This statement seeks to advance the PRA's statutory objectives to ensure the safety and soundness of the firms it regulates and to provide the appropriate protection for policyholders by promoting good corporate governance.

### 2 Controlled Functions

2.1 This section sets out the PRA's expectations of how firms should comply with, and interpret, the rules on CFs in the Insurance — Senior Insurance Management Functions Part of the Rulebook, which govern the scope of the PRA's Senior Insurance Managers Regime (SIMR) for insurers.

#### Link to the firm's regulated activities

2.2 The PRA expects firms to put forward individuals performing a CF for approval even if they are physically located outside the United Kingdom.

#### Criteria for a 'Controlled Function' in FSMA

2.3 Consistent with the criteria set out in section 59 [and 59ZA] of the Financial Services and Markets Act 2000 (FSMA), the PRA expects a firm, where appropriate, to put individuals employed by parent or group entities forward for approval as group entity senior managers if they are involved in decisions affecting its business and meet these criteria. This involvement may be evidenced by an arrangement (as defined in section 59(10) of FSMA) between the firm and the parent or group entity. Arrangements in this context could include, but are not limited to, the existence of matters reserved to the board of the parent or group entity or reporting lines from CFs in the firm to individuals in the parent or group entity.

2.4 The PRA does not expect individuals performing a CF to have ultimate authority over any areas they manage; ultimate authority and responsibility will continue to rest with the board. In the PRA's view, 'responsible for managing' (or 'having a significant influence on the management') includes, but is not limited to:

- managing or overseeing an area or function under the delegated authority of the board;
- direct responsibility for briefing, reporting and putting matters for decision to the board in respect of an area; and/or
- being an executive director on the board or a board committee and taking part in its collective decision-making.

2.5 The PRA expects that the allocation of responsibilities should be made in such a way that it does not undermine the collective fiduciary, legal and regulatory responsibilities of the board, but rather complements and informs the operation of collective decision-making mechanisms.

#### Independence requirements

2.6 Certain rules or Delegated Acts prevent individuals from performing specific combinations of CFs at the same firm, or require certain CFs to be performed independently of any other functions or activities of the firm.

2.7 Where rules or Delegated Acts do not prevent an individual from performing a combination of CFs, the PRA may still decide not to approve the individual to perform the desired combined functions in some circumstances, including but not limited to, where the PRA considers that:

- there could be a significant conflict of interest from combining the functions that would be difficult to manage satisfactorily, such as Chairman and CEO; or
- the individual's qualifications, training, competencies and/or personal characteristics render them fit and proper to perform one function but not the other(s).

#### Sharing a PRA CF

2.8 In certain circumstances, including but not limited to job-share arrangements, a firm may be allowed to have more than one individual responsible for a single CF.

2.9 The PRA would expect to see a clear explanation and justification of how the relevant responsibilities are allocated or shared between the individuals responsible for the CF, along with the reporting lines and lines of responsibility for each individual.

2.10 However, the PRA expects CFs to be shared between individuals only where appropriate and justified. The norm should be for every firm to have a single individual performing

each of the PRA CFs which the firm is required to have. This individual should be the most senior employee or officer responsible for managing that area.

### Principle of proportionality

2.11 In accordance with the principle of proportionality, and depending on the nature, scale and complexity of the business activities and risks, the PRA expects that smaller firms may be able to combine responsibilities for different functions with a single individual. This will depend on the entity meeting the need for transparency and accountability, the need for appropriate management of any conflicts of interest, and the need for at least two persons to be effectively running the firm.

2.12 A third country branch undertaking must have at least one individual approved to perform the *Third Country Branch Manager* senior insurance management function as set out in Chapter 6 of the Insurance — Senior Insurance Management Functions Part of the Rulebook (and where relevant a With Profits Actuary). It is not required to have individual(s) approved in advance to perform any of the other key functions, but will need to notify the PRA of the identity of key function holders, and provide relevant information about them. However, a third country branch undertaking is expected to apply in advance for the approval of individuals to perform any other function that would be of particular importance for the branch, in the light of the particular nature of its business and the organisation and management of its affairs, including the allocation of prescribed responsibilities.

## 3 Key functions

3.1 In accordance with the rules in the Conditions Governing Business Part of the Rulebook and the Delegated Acts, the system of governance of each insurance firm or group needs to cover at least the following key functions: risk-management, compliance, internal audit, and actuarial. The system of governance may also include additional key functions subject to the decision of the firm or group concerned.

3.2 When assessing whether an additional key function exists within a particular firm, firms and groups are expected to take into consideration whether:

- the function is essential for the proper functioning of the firm or group considering its risk profile and business;
- the function assumes material or complex financial market risks as part of its activities, or assumes material credit risk through the activity of providing loans;
- the function needs a competence that is specific and difficult to replace; or

- any failure in the operation or effectiveness of the function may threaten seriously the interests of the insurance firm or group or its policyholders.

3.3 A firm or group can freely decide how to organise each function in practice, taking into account the nature, scale and complexity of the risks inherent in its business, and the need for an effective system of governance with a clear allocation of responsibilities.

3.4 The PRA expects that firms and groups should have clear structures of accountability and delegation of individual and collective responsibilities, including checks and balances to prevent dominance by an individual. Senior individuals should remain accountable for the actions of those to whom they delegate responsibilities, including where firms use third parties in respect of outsourced functions.

## 4 Allocation of responsibilities to senior managers

### Prescribed Responsibilities (which are additional to the responsibilities inherent in the definition of each PRA Controlled Function)

4.1 There are a number of responsibilities inherent in the definition of each CF in the Insurance — Senior Insurance Management Functions Part of the Rulebook which should be read in conjunction with the Conditions Governing Business Part of the Rulebook, along with the Delegated Acts. In addition, Chapter 3 of the Insurance — Allocation of Responsibilities Part of the Rulebook sets out a number of 'Prescribed Responsibilities', which cover:

- the firm's implementation and operation of the new SIMR;
- the culture and standards within the firm; and
- a number of areas which the PRA has specific interest in as a prudential regulator.

4.2 The PRA requires firms to allocate PRA Prescribed Responsibilities to any senior insurance manager performing a CF specified by the PRA or by the Financial Conduct Authority (FCA) [in SUP 10C of the FCA Handbook] or to a NED. In practice, the PRA expects firms will generally allocate Prescribed Responsibilities to the function to which they are most closely linked.

4.3 Certain Prescribed Responsibilities can only be assigned to individuals on the governing body.

## Supervisory statement — Assessing fitness and propriety and providing references

### 1 Introduction

1.1 This draft supervisory statement is aimed at UK Solvency II insurance (and reinsurance) firms and groups, and to third country insurance branches, within the scope of the Solvency II, and to the Society of Lloyd's and managing agents. The purpose of this supervisory statement is to set out the factors that the Prudential Regulation Authority (PRA):

- will take into account when assessing whether an individual is fit and proper to:
  - (i) perform a Controlled Function (CF);
  - (ii) effectively run a firm; or
  - (iii) be responsible for some other key function; and
- expects firms and groups to take into account when assessing whether an individual is fit and proper to:
  - (i) effectively run a firm; or
  - (ii) perform some other key function.

1.2 This statement seeks to advance the PRA's statutory objectives by ensuring the safety and soundness of the firms it regulates and in providing protection for policyholders by seeking to ensure that key individuals working for firms and groups within the scope of this statement are fit and proper.

1.3 This statement is intended to be read together with the rules contained in the Insurance — Fitness and Propriety Part of the Rulebook.

### 2 Assessing fitness and propriety

2.1 In assessing whether an individual is fit and proper to be effectively running a firm or to be performing another key function, firms and groups should apply the rules in Chapter 2 of the Insurance — Fitness and Propriety Part of the Rulebook, along with the Delegated Acts; and also have regard to the European Insurance and Occupational Pensions Authority's (EIOPA's) Guidelines on Systems of Governance.<sup>(1)</sup>

2.2 The PRA will also expect firms and groups to have regard in their assessments of fitness and propriety to the person's:

- honesty, integrity and reputation;
- competence and capability; and
- financial soundness.

2.3 The PRA will likewise consider each of the factors in paragraphs 2.1 and 2.2 when assessing whether an individual is fit and proper to be effectively running a firm or to be responsible for another key function.

2.4 In determining a person's honesty, integrity and reputation, the PRA will have regard to all matters which may have arisen either in the United Kingdom or elsewhere and which the PRA considers relevant to the requirements and standards of the regulatory system.

2.5 For example, conviction for a criminal offence will not automatically mean an application will be rejected. The PRA proposes to treat each candidate's application on a case-by-case basis, having regard to a range of factors which may include, but are not limited to the:

- seriousness of, and circumstances surrounding, the offence;
- explanation offered by the convicted person;
- relevance of the offence to the proposed role;
- passage of time since the offence was committed; and
- evidence of the individual's rehabilitation.

2.6 When determining a person's financial soundness, the PRA will not normally require a person notified to them as being responsible for a key function to supply a statement of assets or liabilities. The PRA would not expect a person being of limited financial means, in itself, to affect his or her suitability to effectively run a firm or perform a key function.

2.7 The PRA expects a firm or group to take a similar approach to that set out in paragraphs 2.4 to 2.6 above when assessing whether a person is fit and proper to effectively run a firm or perform a key function.

### 3 Taking up and providing employer references

3.1 Rules 2.5 and 2.6 of the Insurance — Fitness and Propriety Part of the Rulebook require firms to request references from previous employers as part of their assessment of a person's fitness and propriety to perform a CF. In addition, the PRA expects firms to consider whether it is appropriate to request references in respect of other persons who will be a performing a key function.

3.2 Where a firm needs to fill a vacancy which is a CF and which could not have reasonably been foreseen, the PRA recognises that it may not be reasonable to expect the firm to obtain references prior to making an appointment. In such cases, firms should take up the references as soon as reasonably possible, and if the references obtained raise concerns about the person's fitness and propriety, the firm should revisit its decision to appoint the person to perform a CF.

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(1) Link to be provided for EIOPA guidelines when published.

3.3 Rule 3.1 of the Insurance — Fitness and Propriety Part of the Rulebook requires a firm ('B') to provide all relevant information about a person ('P') who has previously performed a role for that firm, in cases where the reference is requested by another firm ('C') who is considering appointing P to perform a role at 'C'. In such cases, B should have regard to its existing legal duties to both P and C, including to:

- provide a reference which is true, accurate and fair;
- be objective; and
- take reasonable care in preparing the reference.

3.4 In particular, in circumstances where firm B has concluded in the past five years that P:

- was in breach of a conduct rule or standard; or
- was not fit and proper to perform any function.

the PRA expects B, when giving information to C under rule 3.1 of the Insurance — Fitness and Propriety Part of the Rulebook, to disclose the following information:

- the facts which led B to the above conclusion; and
- details of any disciplinary action taken, including:
  - the basis for and the outcome of such action;
  - the issue of a formal written warning;
  - the suspension or dismissal of P; or
  - the reduction or recovery of any of P's remuneration.

3.5 The expectation in paragraph 3.4 above — that where a firm has concluded that a person ('P') has breached a PRA

conduct rule or standard, the firm should include the facts that led it to come to that conclusion when providing a reference about P — does not apply in cases where the firm has subsequently reached a new determination that the person had not breached a conduct rule or standard.

3.6 The expectation in paragraph 3.4 above for a firm ('B') to give information to a firm ('C') also applies where firm C has outsourced the collection of that information to another (unregulated) third party, where B has been made aware that the unregulated third party is acting on behalf of C.

3.7 The PRA expects firms to have in place procedures for the retention of records to enable them to respond promptly and fully to any requests for references.

## 4 Criminal background checks

4.1 In order to meet the requirement in rule 2.4 of the Insurance — Fitness and Propriety Part of the Rulebook to make a criminal record check, the PRA expects a firm to get an application form from the Disclosure and Barring Service (DBS)<sup>(1)</sup> or an umbrella body (a registered body that gives access to DBS checks) in England and Wales. There is an equivalent procedure in Scotland (involving Disclosure Scotland) and Northern Ireland (involving AccessNI). If the candidate is employed by a contractor, the PRA expects that the firm may ask the contractor to obtain the certificate. The PRA does not expect firms to send any DBS certificates or copies of such certificates to the PRA.

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(1) [www.gov.uk/government/organisations/disclosure-and-barring-service](http://www.gov.uk/government/organisations/disclosure-and-barring-service).

## Supervisory statement — Application of the PRA’s conduct standards and associated notifications

### 1 Introduction

1.1 This draft supervisory statement applies to all UK Solvency II insurance (and reinsurance) firms and groups, and to third country insurance branches, within the scope of the Solvency II Directive, and to the Society of Lloyd’s and managing agents.

1.2 This supervisory statement sets out the expectations of the Prudential Regulation Authority (PRA) on how individuals and firms should comply with the rules in the Insurance — Conduct Standards Part of the Rulebook. However, this statement does not provide an exhaustive description of the standards of conduct to which individuals are expected to adhere.

1.3 This statement also sets out the PRA’s expectations of when it should be notified of information concerning the conduct of individuals working for a firm or group within the scope of this statement.

1.4 This statement will help persons who can affect a firm’s safety and soundness, and the protection of its policyholders, to understand better the standards of conduct the PRA expects of them. This advances the PRA’s general and insurance objectives by reducing the risk that an individual’s conduct will make the firm less safe or sound or undermine an appropriate degree of protection for current and future policyholders.

### 2 Persons and activities to which the Insurance — Conduct Standards Part apply

2.1 The Insurance — Conduct Standards Part of the Rulebook applies directly to persons performing either a Controlled Function (CF) specified by the PRA, or a CF specified by the FCA that is deemed to be a *relevant senior management function*<sup>(1)</sup> by the PRA. These persons will be required by this part of the Rulebook to comply with these standards.

2.2 In accordance with rule 2.3 in the Insurance — Fitness and Propriety Part of the Rulebook, the conduct standards in the Insurance — Conduct Standards Part of the Rulebook should also be taken into account by firms and groups when assessing on an ongoing basis the fit and proper status of all those persons who are effectively running the firm or group, or are performing another key function for the firm or group. However, Standards 4–8 would only be relevant to persons (other than NEDs) who are effectively running the firm or group or are responsible for another key function.

### 3 Application of the conduct standards

3.1 In assessing whether an individual’s conduct was either consistent with, or complied with, a conduct standard, the PRA expects the context in which a course of conduct was undertaken to be taken into account, including the:

- precise circumstances of the individual case;
- characteristics of the particular function performed by individual in question; and
- behaviour to be expected in that function.

3.2 A person will only be in breach of any of the conduct standards where they are personally culpable. Personal culpability arises where:

- a person’s conduct was deliberate; or
- the person’s standard of conduct was below that which would be reasonable in all the circumstances.

3.3 In accordance with rule 2.3 of the Insurance — Fitness and Propriety Part of the Rulebook, the PRA expects firms and groups to have suitable procedures for monitoring the conduct of individuals who are performing a key function, and to take relevant action, as part of their ongoing assessment of the fit and proper status of such individuals, if they do not observe these conduct standards. For this purpose, the PRA expects firms and groups to take all reasonable steps to gather and consider information which may indicate the extent to which individuals are in compliance with these conduct standards.

3.4 Where a firm or group identifies any matter which might be relevant to an assessment of whether an individual who is performing a key function is fit and proper, including a potential failure to observe a conduct standard, it should promptly and fully investigate the position and take appropriate action, including complying with any obligation to notify the PRA (see Section 4).

3.5 The PRA expects that the conduct standards apply only to an individual’s conduct in relation to the activities of the firm or group for which they are working. These standards do not relate to a person’s actions in their private life if those actions are unrelated to the firm’s activities and the PRA would not generally expect to assess such actions against these standards. However, the PRA notes that an individual’s wider behaviour could affect his or her ability to follow these standards more generally. The way in which a person behaves in their private life may then be relevant to any assessment, by the PRA or by the firm itself, of whether that person is, or remains, fit and proper.

(1) The current expectation is that all members of the *governing body* who are approved by the FCA, along with persons approved by the FCA for CFs 10 or 29 would be deemed to be holders of a *relevant senior management function*.

## Individual conduct standards

**[Individual] conduct standard 1:** *'You must act with integrity'*.

3.6 The PRA does not expect to have to describe what is meant by acting with integrity.

**[Individual] conduct standard 2:** *'You must act with due skill, care and diligence'*.

3.7 The PRA expects all individuals who are performing a key function to exercise their business skills with appropriate levels of attention and care; and to provide proper and adequate explanations about the activities they are undertaking, when requested by a senior manager or director.

3.8 A person who is effectively running a firm, or is responsible for another key function is referred to below as a 'key function holder'. A key function holder may, but will not necessarily, perform a CF. The PRA expects a key function holder to understand the business for which they are responsible. Key function holders are unlikely to be experts in all aspects of a complex financial services business. However, the PRA expects that they should understand and inform themselves about the business sufficiently to understand the key risks relating to a firm's insurance, investment or other business activities.

3.9 The PRA expects a key function holder to require explanations from those who report to them, whenever they have material concerns about the identification, measurement, or control, of risks borne by the firm. Such concerns could for example arise in the following circumstances:

- business is undertaken (or an investment made) that is expected to be unusually profitable (relative to the risks expected by the firm);
- the profits are particularly volatile; or
- the business involves risks for the firm that are either beyond those reasonably anticipated in the business plan, or beyond the firm's normal risk tolerance limits.

Where those explanations are implausible or unsatisfactory, the PRA would expect the key function holder to take steps to test the veracity of those explanations. The key function holder should also consider carefully the need to provide a report on these concerns to the CRO and/or other senior managers and members of the governing body.

**[Individual] conduct standard 3:** *'You must be open and co-operative with the FCA, the PRA and other regulators'*.

3.10 The PRA expects a person to report information to the regulators through the firm's mechanisms for reporting information to the regulators. Relevant factors in assessing

whether a person has followed [Individual] conduct standard 3 include:

- whether a person has provided information into such mechanisms in an appropriate manner;
- whether the person has taken steps to influence a decision so as not to report to the regulator concerned;
- whether the person has acted in a way intended to obstruct the reporting of information to the regulator concerned;
- where relevant to the person's role, the way in which the person has operated, managed or overseen those mechanisms; and
- the way in which a person has responded to requests from a relevant regulator.

## Conduct standards for key function holders

3.11 The factors the PRA expects to be taken into account when assessing whether a key function holder has followed conduct standards 4–8 include:

- whether the person exercised reasonable care when considering the information available;
- whether the person reached a reasonable conclusion upon which to act;
- the nature, scale and complexity of the firm's business;
- the person's role and responsibility; and
- the knowledge the person had, or should have had, of regulatory concerns, if any.

**[Key function holder] conduct standard 4:** *'You must take reasonable steps to ensure that the business of the firm for which you are responsible is controlled effectively'*.

3.12 If the strategy of the business is to enter high-risk areas, then the degree of control and strength of monitoring reasonably required within the business will be higher. In organising the business for which they are responsible, a key function holder should bear this in mind.

3.13 The PRA expects the organisation of the business, and the responsibilities of those within it, to be clearly defined. Reporting lines should be clear to staff. Where staff have dual reporting lines there is a greater need to ensure that the responsibility and accountability of each line manager is clearly set out and understood.

3.14 If an individual's performance is unsatisfactory, the PRA expects their relevant manager to review carefully whether to allow that individual to continue in his or her position. In particular, if a key function holder is aware of concerns relating to the compliance with requirements and standards of the regulatory system (or internal controls) by the individual concerned, or by staff reporting to that individual, they should take care not to give any weight to the contribution of the individual or group of individuals concerned to the financial

performance of the firm when considering whether any action should be taken.

3.15 The PRA expects a key function holder to pay attention to any temporary vacancies which exist in the businesses, and to take reasonable steps to ensure that suitable cover for responsibilities is arranged. This could include taking on temporary staff or external consultants. The key function holder should assess the risk that is posed to compliance with the requirements and standards of the regulatory system as a result of the vacancy, and the higher the risk the greater the steps which should be taken by the key function holder to fill the vacancy. It may be appropriate to limit or suspend the activity if appropriate cover for responsibilities cannot be arranged. To the extent that those vacancies are in respect of CFs, they may only be filled by persons approved for that function.

**[Key function holder] conduct standard 5:** *'You must take reasonable steps to ensure that the business of the firm for which you are responsible complies with the relevant requirements and standards of the regulatory system'*.

3.16 The PRA expects a key function holder to take reasonable steps both to ensure the firm's compliance with the relevant requirements and standards of the regulatory system, and to ensure that all staff are aware of the need for compliance. For this purpose, the PRA expects key function holders not merely to ensure that firms meet the letter of the requirements, but also not to attempt to game them by engaging in 'creative' compliance or regulatory arbitrage designed to mask the riskiness of activities or business models. Rather, key function holders should maintain sight of the overriding principles of safety and soundness and the protection of policyholders, and act accordingly.

3.17 A key function holder need not personally put in place the systems of control in the business; whether they do this will depend on their role and responsibilities. However, the PRA expects the key function holder to take reasonable steps to ensure that the business has operating procedures and systems which include well-defined steps for complying with the detail of relevant requirements and standards of the regulatory system and for ensuring that the business is run prudently. The nature and extent of the systems of control that are required will depend upon the relevant requirements and standards of the regulatory system, and the nature, scale and complexity of the business.

**[Key function holder] conduct standard 6:** *'You must take reasonable steps to ensure that any delegation of your responsibilities is to an appropriate person and that you oversee the discharge of the delegated responsibility effectively'*.

3.18 The PRA does not expect a key function holder always personally to manage the business on a day-to-day basis. The extent to which this is done by the key function holder will depend on a number of factors, including the nature, scale and complexity of the business and their position within it. The larger and more complex the business, the greater the need for clear and effective delegation and reporting lines, which may involve documenting the scope of that delegation and the reporting lines in writing. The PRA expects a key function holder to take reasonable steps to ensure that systems are in place which result in issues being addressed at the appropriate level. When issues come to the key function holder's attention, they should deal with them in an appropriate way.

3.19 In accordance with this standard, the PRA believes that the authority for dealing with an issue or a part of the business should only be delegated to an individual or individuals (whether in-house or outside contractors) by a key function holder when they have reasonable grounds for believing that the delegate has the necessary capacity, competence, knowledge, seniority or skill to deal with the issue or to take authority for dealing with that part of the business.

3.20 Although a key function holder may delegate the resolution of an issue, or authority for dealing with a part of the business, they cannot delegate responsibility for it. The PRA expects that person to ensure that they receive reports on these delegated matters and question those reports where appropriate. For instance, if progress appears to be slow, or if an issue is not being resolved satisfactorily, then the key function holder may need to challenge the explanations received and possibly take action personally to resolve the problem. This may include increasing the resource allocated to the issue, reassigning the resolution internally or obtaining external advice or assistance. Where an issue raises significant concerns, a key function holder should act clearly and decisively. If appropriate, this may be by suspending members of staff or relieving them of all or part of their responsibilities.

**[Key function holder] conduct standard 7:** *'You must disclose appropriately any information of which the FCA or PRA would reasonably expect notice'*.

3.21 [Key function holder] conduct standard 7 applies, in addition to [Individual] conduct standard 3, to a key function holder. [Individual] conduct standard 3 relates primarily to responses from individuals to requests from a relevant regulator and to an individual's involvement in a firm's mechanisms for reporting to a regulator. However, [Key function holder] conduct standard 7 imposes a greater duty on key function holders to disclose any information the relevant regulator would reasonably expect. This includes making a disclosure in the absence of any request or enquiry from the relevant regulator. By virtue of their position, the PRA expects that a key function holder is likely both to have access to

greater amounts of information of potential regulatory importance and to have the expertise to recognise when this may be something of which the PRA or Financial Conduct Authority (FCA) would reasonably expect notice.

3.22 The PRA does not expect a key function holder to disclose information which the person knows that the firm or another senior manager has already disclosed to the PRA.

3.23 The PRA expects that in disclosing appropriately, the person will need to disclose:

- sufficient information for the regulators to be able to understand the full implications of the matter being disclosed;
- in a timely manner; and
- to an appropriate contact at the PRA or FCA (or both), which may include the firm's usual supervisory contact(s).

**[Key function holder] conduct standard 8:** *'When exercising your responsibilities, you must pay due regard to the interests of current and potential future policyholders in ensuring the provision by the firm of an appropriate degree of protection for their insured benefits'*.

3.24 The PRA expects a key function holder to ensure that appropriate attention is given to the need to ensure that the firm will continue to be able to provide the benefits that it has committed to provide for its policyholders. This is likely to be achieved primarily through taking relevant actions, in line with the PRA's conduct standards, to ensure that the firm meets all the PRA's Fundamental Rules<sup>(1)</sup> and continues to meet the Threshold Conditions.<sup>(2)</sup>

3.25 In particular, the PRA expects key function holders to exercise sound and prudent management over the areas of the business for which they are responsible. This would be exemplified through ensuring the application of suitable due diligence over any major transactions that are contemplated by the firm or group, and for which a key function holder has a responsibility. Key function holders should also apply due care and attention in the appropriate management of any conflicts of interest within a firm or group, and especially in any application of the prudent person investment principle.

3.26 The continuity of services and insurance cover will be of considerable importance for many groups of policyholder, and especially those in receipt of annuities or with compulsory insurance cover. Key function holders should therefore exercise particular care to ensure that such interests of policyholders are adequately taken into account, especially when they participate in drawing up any recovery or resolution plans, or when a firm or group is being restructured.

## 4 Notifications by firms to the PRA in relation to the application of conduct standards by individuals

4.1 In accordance with rule 4.3 in the Fitness and Propriety Part of the Rulebook, and Fundamental Rule 7 in the Rulebook, the PRA expects insurance firms and groups to notify the PRA if they know or suspect that a key function holder has not complied with all those standards. The PRA expects that firms will only conclude that it is necessary to report a 'suspected breach' where it has reasonable grounds for such a suspicion. The PRA does not expect firms to report every instance where there is some possibility that a breach has been committed if there are no reasonable grounds on which to believe that a breach has occurred.

4.2 Where a firm has reported a suspected or actual breach of (ie non-compliance with) a conduct standard, the PRA expects a firm to notify the PRA of any different determination it subsequently makes in relation to that matter. For example, if the firm reports a suspected breach and, as a result of subsequent investigation determines that the person had not breached the rules, it should notify the PRA of that determination.

4.3 Where a firm has reported a breach of a conduct standard, and subsequently takes disciplinary action against the person for matters relating to the breach, the firm should make a separate notification to the PRA of the disciplinary action.

4.4 The PRA expects that firms will report to the PRA and the FCA details of known or suspected breaches, including those which do not come to the firm's attention until after the person concerned has left the firm. Firms should consider whether the person was a key function holder for the firm at the time the breach is thought to have occurred (rather than at the point at which it came to the firm's attention).

(1) *The Financial Services and Markets Act 2000 (Threshold Conditions) Order 2013*; [www.legislation.gov.uk/uksi/2013/555/contents/made](http://www.legislation.gov.uk/uksi/2013/555/contents/made).

(2) Solvency II Firms Fundamental Rules (FR3) in the PRA Rulebook; <http://fshandbook.info/FS/html/PRA/FR3>.