



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Consultation Paper | CP12/15

Senior Insurance Managers Regime: a streamlined approach for non-Solvency II firms

March 2015

Prudential Regulation Authority
20 Moorgate
London EC2R 6DA

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



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Consultation Paper | CP12/15

Senior Insurance Managers Regime: a streamlined approach for non-Solvency II firms

March 2015

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

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

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

Responses are requested by Friday 15 May 2015.

Please address any comments or enquiries to:

CP12/15 Responses
Jack Middleton
Prudential Regulation Authority
20 Moorgate
London
EC2R 6DA

Email: CP12_15@bankofengland.co.uk

Contents

1	Background	5
2	Proposals	5
3	Transitional arrangements and timing	6
4	Statutory obligations	7
5	Responses and next steps	8
	Appendices	9

1 Background

1.1 The Prudential Regulation Authority (PRA) published proposals in CP26/14 for a new Senior Insurance Managers Regime (SIMR) for insurance firms that are within the scope of Solvency II.⁽¹⁾⁽²⁾ The SIMR will replace the PRA's current Approved Persons Regime (APR) for Solvency II firms, and will cover the assessment of fitness and propriety of senior insurance managers and directors, the allocation of certain responsibilities to senior individuals, and the application of relevant conduct rules to senior individuals.⁽³⁾

1.2 In CP26/14, the PRA said that it would also be developing proposals to revise the PRA's current APR for those insurance firms that are out of the scope of Solvency II.

1.3 The PRA expects around 100 UK insurance firms will be out of the scope of Solvency II. Almost all of these firms have assets of less than £25 million, and annual premium income of less than £5 million, and most of these firms are therefore excluded from the scope of the Solvency II Directive (the Directive) through the provisions in Article 4. Most of these firms are mutuals, and many of them are registered as friendly societies.

1.4 The PRA intends to streamline its rules for those firms that are out of scope of Solvency II, and to restructure its Rulebook, to provide a more manageable number of provisions in a coherent structure.

1.5 As a part of this project, the PRA is addressing in this CP a proposed revision to its APR rules for firms that are out of the scope of Solvency II. These changes are being consulted on now because certain legislative changes for all insurance firms are being made through the Financial Services (Banking Reform) Act 2013 (BRA), which are to be commenced on 7 March 2016 through an Order made by HM Treasury. These changes relate to the scope of the regime, the criteria for assessment of fitness and propriety, and to the conduct of individuals working for insurance firms. In particular, the PRA rules will need to reflect the new concept and definition within Section 59ZA of the Financial Services and Markets Act 2000 (FSMA) of a 'senior management function'.

1.6 The proposals in this CP will cover those insurance firms that are out of the scope of Solvency II. In addition, it is proposed that these rules will cover run-off firms, on a transitional basis, so long as these firms are not subject to the Solvency II rules in accordance with Transitional Measure 2 in the Solvency II Firms section of the PRA Rulebook. All of these firms are described collectively as non-Directive firms (NDFs) in this CP.

2 Proposals

2.1 The PRA believes that all those who run regulated firms should have clearly defined responsibilities and behave with integrity, honesty, and skill. It is acknowledged though that there are differences in the risks posed to the PRA objectives by different classes of firm. The PRA also recognises that any new proposals for smaller firms should be proportionate.

2.2 The proposals in this CP for a streamlined SIMR for NDFs, to replace the PRA's APR rules, are intended to facilitate the achievement of these objectives within the above legislative framework and cover the following topics:

- revision to the list of controlled functions;
- assessment of fitness and propriety;
- allocation of certain responsibilities; and
- application of conduct standards.

2.3 A comparison of the key features of the proposed new streamlined SIMR for NDFs with (i) the current APR, and (ii) the fuller new intended SIMR for Solvency II firms, is shown in Appendices 1 and 2 respectively.

Controlled functions

2.4 The current list of possible controlled functions (CFs) for NDFs, that defines the roles of individuals who need to be approved by the PRA, would be simplified to a single small insurer senior management function (SISMF). The SISMF may include any individuals responsible for the conduct of all or part of the regulated activities of a firm, and/or chairing a board of directors or management committee.

2.5 NDFs would be required to seek approval for at least one person for that SISMF role, including one person who has overall responsibility for the conduct of the regulated activities of the firm.

2.6 This would be a proportionate approach, which is similar to that proposed for credit unions under the Senior Managers Regime. It is likely to mean that there will be fewer persons that need to be approved by the PRA, since not all of the members of the board of directors (or management committee) would need to be designated as being a SISMF and the PRA would not require approval for persons in any other

(1) *PRA Consultation Paper CP26/14*, 'Senior insurance managers regime: a new regulatory framework for individuals', November 2014; www.bankofengland.co.uk/pradocuments/publications/cp/2014/cp2614.pdf.
 (2) Following consultation, final rules to implement the new SIMR were contained in *PRA Policy Statement PS3/15*, 'Strengthening individual accountability in banking and insurance — responses to CP14/14 and 26/14', March 2015; www.bankofengland.co.uk/pradocuments/publications/ps/2015/ps315.pdf.
 (3) Directive 2009/138/EU, as amended by Directive 2014/51/EU, of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II); <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0138&from=EN>.

function. This will enable attention to be focused on these one (or more) senior individuals who have responsibility for the sound and prudent management of the firm.

2.7 The PRA has not included any proposals in this CP in relation to either the current actuarial function CF12 or the current with-profits actuary function CF12A. These functions currently exist for only a small minority of NDFs. Further proposals in relation to these two functions for NDFs will be brought forward in a further CP covering the PRA's proposed restructuring of the rulebook for NDFs.

2.8 The Financial Conduct Authority (FCA) is publishing a separate CP with proposals for amendments to its own APR, which should be read in conjunction with the proposals in this CP.⁽¹⁾

Assessment of fitness and propriety

2.9 Under the proposed rules, the same fitness and propriety criteria would be applied as for individuals at Solvency II firms (and as in the banking Senior Managers Regime). NDFs would also be required to conduct criminal record checks for new individuals they propose to appoint to the SISMF. In addition, NDFs would be expected to consider whether individuals in a CF discharge their roles in accordance with the PRA's conduct standards, as part of an ongoing fit and proper assessment of these individuals.

2.10 The information to be provided in respect of a proposed new appointee to a CF would include the scope of responsibilities for that individual and the PRA should then be notified of any significant change to these responsibilities.

2.11 This would enable a consistent and coherent supervisory approach to be applied to the assessment of the fit and proper status of individuals at these firms.

Allocation of responsibilities

2.12 A simple list of four responsibilities, covering the areas outlined below, would be allocated to one or more persons in the SISMF, or in an FCA CF that is a 'relevant senior management function':⁽²⁾

- business plan and management information;
- financial resources;
- legal and regulatory obligations; and
- oversight of proportionate systems and controls, and risk management.

2.13 This would be a proportionate approach which would ensure that those individuals who run NDFs have clearly defined responsibilities, and that these key responsibilities are all properly addressed by firms.

Application of conduct standards

2.14 The same conduct standards would be applied for senior managers at NDFs as for Solvency II insurance firms. This would include the proposed two new standards for insurance firms, namely those relating to (i) the oversight of any delegated activities, and (ii) the application of the PRA's insurance objective. The full set of standards are set out in Appendix 3.

2.15 These conduct standards would be applied as rules for all those individuals in the SISMF, or in a FCA CF that is a 'relevant senior management function'.

2.16 There would be an ongoing requirement for firms to notify the PRA of any information that would be reasonably material to the fit and proper assessment of the current or former holder of a CF.

Exception for certain larger firms

2.17 As an exception to the above, the PRA intends to propose that any NDF insurance firm with assets of more than £25 million in respect of regulated activities (as shown in the most recent reported accounts), would apply a similar SIMR regime as for Solvency II firms, rather than the above streamlined regime. There are expected to be very few such firms, but the PRA believes this would be a proportionate response to the greater risks that any such firms may present to its objectives.

3 Transitional arrangements and timing

3.1 The PRA intends that the relevant individuals in current CFs at NDFs will be grandfathered across to the proposed new senior (insurance) management functions, without any reassessment of these individuals being required. The PRA proposes to consult later this year on the details for the relevant transitional arrangements.

3.2 The proposed new list of PRA CFs will have to be introduced from the commencement date for the relevant sections of the BRA on 7 March 2016.⁽³⁾ This will be necessary to ensure that the grandfathering arrangements can operate smoothly, including the potential transfer, subject to agreement with HM Treasury, of some individuals from being currently PRA-approved to become FCA-approved persons.

3.3 The rules for the assessment of fitness and propriety, along with the rules for the application of conduct standards,

(1) *FCA Consultation Paper CP15/15*, 'Changes to the Approved Persons Regime for insurers not subject to Solvency II', April 2015; www.fca.org.uk/news/cp15-15-changes-to-the-approved-persons-regime-for-insurers-not-subject-to-solvency-ii.

(2) As defined in section 64A of FSMA and explained further in *PRA Consultation Paper 13/15*, 'Changes to the Approved Persons Regime for Solvency II firms', April 2015; www.bankofengland.co.uk/pradocuments/publications/cp/2015/cp1315.pdf.

(3) www.legislation.gov.uk/uksi/2015/490/pdfs/uksi_20150490_en.pdf.

will commence from the same date. These provisions are broadly similar to the PRA's existing Handbook provisions, along with the corresponding conduct rules that the FCA proposes to introduce for all insurers from this same commencement date.

3.4 However, the PRA proposes that the new rules in this CP for the allocation of four specific responsibilities will be commenced twelve months after the commencement date for the relevant changes to FSMA. This is to allow NDFs more time to prepare for these new provisions.

4 Statutory obligations

4.1 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 the firms it regulates; 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.

4.2 The main intention of the proposals in this CP is to ensure the fitness and propriety of all those individuals who are running or managing an insurance firm that is out of the scope of the Solvency II Directive. The PRA believes that the proposals in this CP would therefore help to promote sound governance of these firms.

4.3 In developing the rules covered in this CP and determining its general policy and principles, the PRA has had regard to the relevant Regulatory Principles.⁽¹⁾ 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.

4.4 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 for a streamlined SIMR, and has indicated 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 and application of the regime.

Cost benefit analysis

4.5 Overall, the PRA believes that the proposals in this CP would facilitate the sound and prudent management of insurance firms, which is central to the PRA's general and insurance objectives. The proportionate nature of the tailored design and application of this streamlined SIMR for NDFs would facilitate the PRA's competition objective, and

recognises the particular governance features for small mutuals. This proportionality, along with the similarities with the SIMR for other insurers, would enable an efficient use of the PRA's resources.

4.6 There would be little increase in ongoing costs as a direct result of these proposals, as the scope of the PRA's pre-approval regime would be narrowed; and the allocation of defined responsibilities, along with the application of two new conduct standards, would each codify existing good practice.

4.7 While there may be some costs associated with the transition, the PRA considers these to be minimal, especially since firms are being allowed a longer period to prepare for some of those new rules where the PRA has discretion over the timing of their implementation.

Impact on mutuals

4.8 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 would affect mutuals, but the effect on mutuals would not be significantly different to the effect on other insurance firms. In particular, the principle of proportionality has been applied for mutuals, as well as for other firms.

Impact on competition

4.9 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.

4.10 The approach the PRA is proposing aligns regulatory requirements with the level of risk smaller insurers pose to the financial system. The PRA thinks this is proportionate, and potentially beneficial to new entrants to the market, thereby helping to facilitate effective competition.

Equality and diversity

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

- The proposals would allow more than one individual to perform a senior management 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 would consider their fitness and propriety

(1) Section 3B of FSMA.

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.

4.12 Accordingly, the proposals in this consultation would 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.

5 Responses and next steps

5.1 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, while still being able to give firms a reasonable amount of lead time to prepare themselves before the relevant sections of the BRA are commenced in March 2016.

5.2 This consultation therefore closes on Friday 15 May 2015. Views are welcomed on the issues raised in the CP.

5.3 A further consultation will take place later in 2015 to cover forms, consequential changes, and the detailed rules on the transitional arrangements from the current APR to the proposed new SIMR for NDFs.

Appendices

-
- 1 **Comparison of the proposed streamlined SIMR for NDFs with the current Approved Persons Regime**

 - 2 **Comparison of the proposed streamlined SIMR for NDFs with the fuller SIMR for Solvency II firms**

 - 3 **Set of proposed conduct standards for Senior Insurance Managers**

 - 4 **PRA Rulebook: Non-Solvency II Firms**
 - 4.1 Insurance — Senior Insurance Management Functions
 - 4.2 Insurance — Fitness and Propriety
 - 4.3 Insurance — Allocation of Responsibilities
 - 4.4 Insurance — Conduct Standards
 - 4.5 Insurance — Transitional Application to Run-Off Firms

Appendix 1

Comparison of the proposed streamlined SIMR for NDFs with the current Approved Persons Regime

(1) Table of controlled functions

Current PRA controlled function	New PRA SIMF/CF	Notes
Director (CF1)	Small insurer senior management function (SIMF 25)	One or more individuals in this current function may be carried across to the new PRA SIMF/CF
NED (CF2)	Small insurer senior management function (SIMF 25)	The only current NED function that may be carried across to the new PRA SIMF/CF is that of chairing the governing body
CEO (CF3)	Small insurer senior management function (SIMF 25)	An individual in this current CEO function may be carried across to the new PRA SIMF/CF
Director of unincorporated association (CF5)	Small insurer senior management function (SIMF 25)	One or more individuals in this current function may be carried across to the new PRA SIMF/CF
Small friendly society function (CF6)	Small insurer senior management function (SIMF 25)	One or more individuals in this current function may be carried across to the new PRA SIMF/CF
Chief Actuary (CF12)	Subject to consultation in a further CP later this year	This function only exists for a small minority of NDFs at present (ie life companies and some incorporated friendly societies)
With-profits Actuary (CF12A)	Subject to consultation in a further CP later this year	This function only exists for a small minority of NDFs at present (ie some life companies and incorporated friendly societies)
Systems and Controls (CF28)	n.a.	These individuals could be allocated to the new SISMF to cover some of the relevant new prescribed responsibilities

- (2) Fit and proper criteria — these would remain the same, but a requirement would be added for criminal record checks to be applied by firms, and the scope of an individual's responsibilities would need to be included with each application for a new controlled function.
- (3) Conduct standards — the generic conduct standards would remain unchanged. The PRA's current specific conduct standards would remain in place, and two new specific conduct standards would be added to cover: (i) any delegation of responsibilities; and (ii) the PRA's insurance objective.
- (4) Notifications — firms would have to notify the PRA about any significant change of responsibilities for a senior manager, and would still be required to notify the PRA of any information that would be reasonably material to the fit and proper assessment of the current or former holder of a controlled function.
- (5) Allocation of four prescribed responsibilities — this would be a new requirement.

Appendix 2

Comparison of the proposed streamlined SIMR for NDFs with the fuller SIMR for Solvency II firms

- (1) Controlled functions — there would be only one PRA Controlled function for NDFs.
- (2) Fit and proper criteria — these criteria would be the same for NDFs as for other insurers, but NDFs would not be required to seek regulatory references for individuals.
- (3) Conduct standards — the content and scope of application of the PRA's conduct standards would be the same for both NDFs and other insurers.
- (4) Allocation of responsibilities — there would be only four particular responsibilities to be allocated for NDFs, as compared to eleven for most other insurers. Information on the scope of responsibilities of each individual in a CF would be required, but there would not be a requirement for the production or maintenance by NDFs of a governance map.
- (5) Key function holders — the PRA would not be applying to NDFs the Solvency II requirements, which require Solvency II firms to identify key functions, ensure that staff performing these functions are fit and proper, and notify the PRA with details of all key functions holders (including NEDs) so that the PRA can make a fit and proper assessment of these individuals in Solvency II insurance firms.
- (6) Groups — there would be no group related requirements applied to NDFs.

Appendix 3

Set of proposed conduct standards for Senior Insurance Managers

- 1.1 You must act with integrity.
- 1.2 You must act with due skill, care and diligence.
- 1.3 You must be open and co-operative with the FCA, the PRA and other regulators.
- 1.4 You must take reasonable steps to ensure that the business of the firm for which you are responsible is controlled effectively.
- 1.5 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.
- 1.6 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.
- 1.7 You must disclose appropriately any information of which the FCA or the PRA would reasonably expect to have notice.
- 1.8 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.

**PRA RULEBOOK: NON-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: Non-Solvency II Firms: Insurance - Senior Insurance Management Functions
Instrument [Year]**

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

Commencement

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

Citation

- F. This instrument may be cited as the PRA Rulebook: Non-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

Chapter content

- 1. APPLICATION AND DEFINITIONS**
- 2. SMALL INSURER SENIOR INSURANCE MANAGEMENT FUNCTION**

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to a *small non-directive insurer*.

1.2 In this Part, the following definitions shall apply:

Small Insurer Senior Insurance Management function

has the meaning given in 2.2.

2 SMALL INSURER SENIOR INSURANCE MANAGEMENT FUNCTION

2.1 The function in 2.2 is a *controlled function*.

2.2 The *Small Insurer Senior Insurance Management function* (SIMF 25) is the function of having responsibility for the conduct of all or part of the *regulated activities*, or chairing the *governing body*, of a *small non-directive insurer*.

2.3 (1) A *firm* must ensure that one or more *persons* performs the *Small Insurer Senior Insurance Management function* on its behalf.

(2) A *firm* must ensure that there is a *person* appointed to the *Small Insurer Senior Insurance Management function* who has responsibility for the conduct of its *regulated activities*.

(3) If a vacancy arises in respect of the *Small Insurer Senior Insurance Management function* at (2) above, 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 function which, but for this *rule*, would be the *Small Insurer Senior Insurance Management function*;

(2) the appointment is solely to provide cover for a holder of the *Small Insurer Senior Insurance Management function* 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 *Small Insurer Senior Insurance Management function* does not relate to those activities of that *person*.

Annex B

Insert the following new definitions (in the appropriate alphabetical position) into the Glossary Part of the *PRA* Rulebook:

non-directive insurer

means a *firm* with a *Part 4A permission to effect contracts of insurance or carry out contracts of insurance*, other than:

- (1) a *UK Solvency II firm*;
- (2) a *UK ISPV*; and
- (3) a *third country branch undertaking*.

small non-directive insurer

means a *non-directive insurer* in respect of which the value of assets relating to all *regulated activities* carried on by the *firm* as shown in its most recent reported annual accounts was £25,000,000 or less.

**PRA RULEBOOK: NON-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 Non-Solvency II Firms: Insurance - Fitness and Propriety Instrument [YEAR]

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

Commencement

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

Citation

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

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

Annex

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

Part

INSURANCE - FITNESS AND PROPRIETY

Chapter content

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

1 APPLICATION

1.1 Unless otherwise stated, this Part applies to a *small non-directive insurer*.

2 FITNESS AND PROPRIETY ASSESSMENTS BY FIRMS

2.1 A *firm* must ensure that all *persons* who perform a *controlled function* are 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 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 take account of all relevant available information, including whether the *person* discharges his or her functions in accordance with the relevant conduct standards specified in Non-Solvency II Firms: Insurance - Conduct Standards Instrument 2.

2.4 Before deciding whether a *person* (P) is fit and proper to perform a *controlled function*, 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.

3 OBLIGATION TO PROVIDE REFERENCES

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 or because P is, or was, a member of B's *governing body*; 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

- 4.1 A *firm* must ensure that any application it makes for the approval of a *person* to perform a *controlled function* provides the *PRA* with:
- (1) all the information needed to assess whether such *person* is fit and proper; and
 - (2) a summary of the significant responsibilities allocated to that *person*.
- 4.2 If a *firm* becomes aware of information which would reasonably be expected to be material to the assessment of a current or former *PRA-approved person's* fitness and propriety under this Part, it must inform the *PRA* as soon as practicable.
- 4.3 If a *firm* becomes aware of a significant change to a *PRA-approved person's* responsibilities, it must inform the *PRA* as soon as practicable.
- 4.4 Where a *firm* replaces a *PRA-approved person* 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.

PRA RULEBOOK: NON-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: Non-Solvency II Firms: Insurance - Allocation of Responsibilities Instrument [YEAR]

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

Commencement

- E. This instrument comes into force on **[Date]**¹.

Citation

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

By order of the Board of the Prudential Regulation Authority

[DATE]

¹ Proposed to commence 1 year after the other instruments consulted on in this CP

Annex

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

Part

INSURANCE - ALLOCATION OF RESPONSIBILITIES

Chapter content

- 1. APPLICATION AND DEFINITIONS**
- 2. ALLOCATION OF RESPONSIBILITIES**
- 3. PRESCRIBED RESPONSIBILITIES**

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to a *small non-directive insurer*.

1.2 In this Part, the following definitions shall apply:

small non-directive insurer prescribed responsibility

means the responsibilities in 3.1.

2 ALLOCATION OF RESPONSIBILITIES

2.1 A *firm* must allocate each element of the *small non-directive insurer prescribed responsibilities* to one or more *persons* who are approved under section 59 of FSMA by either:

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

2.2 A *firm* must have and maintain an up-to-date document which summarises the significant responsibilities allocated to each of those *persons*, including those allocated in accordance with 2.1.

2.3 The *firm* must provide the *PRA* with a copy of the document in 2.2 upon request.

3 PRESCRIBED RESPONSIBILITIES

3.1 Each of the responsibilities set out in this rule is a *small non-directive insurer prescribed responsibility*:

- (1) responsibility for providing the *governing body* with an up-to-date business plan and all relevant management information;
- (2) responsibility for management of the *firm's* financial resources;
- (3) responsibility for ensuring the *governing body* is kept informed of its legal and regulatory obligations; and
- (4) responsibility for the oversight of systems and controls, along with risk management policies and procedures, that are proportionate to the nature, scale, and complexity of the risks inherent in the *firm's* business model.

² See section 64A FSMA. The *PRA* is consulting on which *FCA* functions it is satisfied are senior management functions in *PRA CP 13/15 "Changes to the Approved Persons Regime for Solvency II firms: forms, consequential changes and transitional arrangements"*.

**PRA RULEBOOK: NON-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: Non-Solvency II Firms: Insurance - Conduct Standards Instrument [YEAR]

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

Commencement

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

Citation

- F. This instrument may be cited as the PRA Rulebook: Non-Solvency II Firms: Insurance - Conduct Standards Instrument [YEAR].

By order of the Board of the Prudential Regulation Authority

[DATE]

Annex

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

Part

INSURANCE - CONDUCT STANDARDS

Chapter content

- 1. APPLICATION**
- 2. CONDUCT STANDARDS**

1 APPLICATION

- 1.1 This Part applies, in relation to a *small non-directive insurer*, to 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*.

2 CONDUCT STANDARDS

- 2.1 You must act with integrity.
- 2.2 You must act with due skill, care and diligence.
- 2.3 You must be open and co-operative with the *FCA*, the *PRA* and other regulators.
- 2.4 You must take reasonable steps to ensure that the business of the *firm* for which you are responsible is controlled effectively.
- 2.5 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*.
- 2.6 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.
- 2.7 You must disclose appropriately any information of which the *FCA* or the *PRA* would reasonably expect to have notice.
- 2.8 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.

PRA RULEBOOK: NON-SOLVENCY II FIRMS: INSURANCE - TRANSITIONAL APPLICATION TO RUN-OFF FIRMS [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 60 (applications for approval);
 - (3) section 64A (rules of conduct);
 - (4) section 137G (the PRA’s general rules); and
 - (5) section 137T (general supplementary powers).
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instrument) of the Act.

Pre-conditions to making

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

PRA Rulebook: Non-Solvency II Firms: Insurance – Transitional Application to Run-off Firms Instrument [YEAR]

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

Commencement

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

Citation

- F. This instrument may be cited as the PRA Rulebook: Non-Solvency II Firms: Insurance - Transitional Application to Run-off Firms Instrument [YEAR].

By order of the Board of the Prudential Regulation Authority

[DATE]

Annex

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

Part

INSURANCE - TRANSITIONAL APPLICATION TO RUN-OFF FIRMS

Chapter content

- 1. APPLICATION AND DEFINITIONS**
- 2. TRANSITIONAL APPLICATION OF RULES IN RELATION TO RUN-OFF FIRMS**

APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to:

(1) a *run-off firm*; and

(2) in relation to a *run-off firm*, 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*.

1.2 In this Part, the following definitions shall apply:

application rules

means:

(1) Non-Solvency II Firms: Insurance - Senior Insurance Management Functions 1.1;

(2) Non-Solvency II Firms: Insurance - Fitness and Propriety 1.1; and

(3) Non-Solvency II Firms: Insurance - Allocation of Responsibilities 1.1.

run-off firm

means a *firm* to which, but for the application of Solvency II Firms: Transitional Measures 2.1 – 2.3, the *Solvency II rules* would apply.

2 TRANSITIONAL APPLICATION OF RULES IN RELATION TO RUN-OFF FIRMS

2.1 Notwithstanding the *application rules*, the following rules apply to a *run-off firm* for so long as it remains a *run-off firm*:

(1) Non-Solvency II Firms: Insurance - Senior Insurance Management Functions;

(2) Non-Solvency II Firms: Insurance - Fitness and Propriety; and

(3) Non-Solvency II Firms: Insurance - Allocation of Responsibilities.

2.2 Notwithstanding Non-Solvency II Firms: Insurance - Conduct Standards 1.1, the rules in Non-Solvency II Firms: Insurance - Conduct Standards apply to any *person* subject to this Part.