

Bank of England

Prudential Regulation Authority

Appendices to Remuneration: Enhancing proportionality for small firms

Consultation Paper | CP5/23

February 2023

Draft for consultation



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Draft for consultation

1: Draft small firms remuneration proportionality Instrument

PRA RULEBOOK: CRR FIRMS: REMUNERATION INSTRUMENT 2023

Powers exercised

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”):

- section 137G (The PRA’s general rules);
- section 137H (General rules about remuneration);
- section 137T (General supplementary powers); and
- section 192XA (Rules applying to holding companies)

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

In accordance with section 138J of the Act, the PRA consulted the Financial Conduct Authority. After consulting the Financial Conduct Authority, the PRA published a draft of proposed rules in accordance with section 138J(1)(b) of the Act, accompanied by the information listed in section 138J(2).

In so far as these rules are rules applying to holding companies under section 192XA, the PRA, when making these rules, had regard to and considered the matters specified in section 144C(1), (2) and (3) of the Act.

In accordance with sections 144C(3) of the Act, the PRA consulted the Treasury about the likely effect of the rules on relevant equivalence decisions within the meaning of section 144C (4) of the Act.

The PRA has published the explanation referred to in section 144D of the Act.

The PRA had regard to representations made.

PRA Rulebook: CRR Firms: Remuneration Instrument 2023

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

| Part | Annex |
|--------------|-------|
| Glossary | A |
| Remuneration | B |

Commencement

This instrument comes into force on [date].

Citation

This instrument may be cited as the PRA Rulebook: CRR Firms: Remuneration Instrument 2023.

By order of the Prudential Regulation Committee

[DATE]

Annex A

Amendments to the Glossary Part

In this Annex, new text is underlined and deleted text is struck through. [The defined terms in this Annex are also being consulted on in the draft “PRA Rulebook: CRR Firms: Simpler Regime (Transitional Capital Regime) Instrument 20xx” accompanying CP16/22 'Implementation of the Basel 3.1 standards' (see Annexes A and B of that draft instrument). If inserted into the Glossary by this instrument, these defined terms would be removed from any final version of the rules in the draft “PRA Rulebook: CRR Firms: Simpler Regime (Transitional Capital Regime) Instrument 20xx”.]

...

CSD

has the meaning given in Article 2(1)(1) of CSDR.

...

CSDR

means Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012.

...

non-UK credit institution

means a *credit institution* whose registered office or, if it does not have a registered office, whose head office, is outside the UK.

...

operator

in relation to a *payment system* has the meaning given in section 183 of the Banking Act 2009.

...

payment system

has the meaning given in section 182 of the Banking Act 2009.

...

SSS

has the meaning given in Article 2(1)(10A) of CSDR.

...

third-country CSD

has the meaning given in Article 2(1)(2) of CSDR.

...

Annex B

Amendments to the Remuneration Part

In this Annex, new text is underlined and deleted text is struck through.

1 APPLICATION AND DEFINITIONS

...

1.3 (1) In this Part, the following definitions shall apply:

~~Article 273a(3) method~~

~~means the method for calculating the size of a firm's on- and off-balance-sheet derivative business set out in Article 273(a)(3) of CRR amended by point (73) of CRR2.~~

...

~~average total assets~~

~~means the arithmetic mean of the firm's total assets over its last four accounting reference dates. the recent average of the firm's total assets calculated as follows:~~

~~(1) for a CRR firm:~~

~~(a) identify the occasions (due dates) in the preceding 36 months by which the firm was required to report its total assets; and~~

~~(b) calculate the arithmetic mean of the total assets that the firm was required to report on those occasions; or~~

~~(2) for a third country CRR firm, calculate the arithmetic mean of the firm's total assets over the last three accounting reference dates.~~

...

~~small CRR firm~~

~~means a CRR firm that satisfies both Condition 1 and Condition 2, where:~~

~~(1) Condition 1 is that the firm is not a large institution and either:~~

~~(a) has average total assets not exceeding £4 billion; or~~

~~(b) the firm satisfies the conditions in 2A and has average total assets exceeding £4 billion but not exceeding £4320 billion;~~

~~and where (in the case of Condition 1(b)):~~

~~(i) it is appropriate for the firm not to be required to comply with the rules specified in 5.3, taking into account the nature, scope, and complexity of its activities, its internal organisation and, if applicable, the characteristics of the group to which it belongs;~~

~~(ii) the firm has a small trading book;~~

~~(iii) the total value of the firm's derivative positions held with trading intent does not exceed 2% of its total on- and off-balance-sheet assets and the total value of its overall derivative positions does not exceed 5%, both calculated in accordance with the Article 273a(3) method; and~~

~~(iv) the firm is not subject to any obligations, or is subject to simplified obligations, in relation to recovery and resolution planning;~~

and

(2) Condition 2 is that the firm is not part of a group containing another firm which:

(a) is subject to this Part on an individual basis; and

- (b) has *average total assets* exceeding £4320 billion either on an individual basis, *consolidated basis* or *sub-consolidated basis*;

provided that, if the firm has not yet been required to report its *total assets*, the calculations in respect of *average total assets* in Conditions 1 and 2 shall instead be done on the basis of the firm's reasonable forecast of its *total assets* as at the first occasion on which it will be required to report them.

[Note: Art. 94(3) and (4) of the CRD]

small third country CRR firm

means a *third country CRR firm* that satisfies both Condition 1 and Condition 2, where

- (1) Condition 1 is that the ~~firm~~ *average total assets* that relate to the activities of the *branch* operation of the *third country CRR firm* in the UK either:
- (a) ~~do not exceed~~ has *average total assets* that relate to the activities of the *branch* operation of the *firm* in the UK not exceeding £4 billion; or
 - (b) ~~exceeds~~ satisfies the conditions in 2B and has *average total assets* that relate to the activities of the *branch* operation of the *firm* in the UK exceeding £4 billion but do not exceeding £4320 billion;
- and where (in the case of Condition 1(b)):
- (i) ~~it is appropriate for the *third country CRR firm* not to be required to comply with the rules specified in 5.3, taking into account the nature, scope, and complexity of the activities and internal organisation of its *branch* operation in the UK and, if applicable, the characteristics of the *group* to which it belongs;~~
 - (ii) ~~the firm's *branch* operation in the UK has a *small trading book*; and~~
 - (iii) ~~the total value of the derivative positions held with trading intent relating to its *branch* operation in the UK does not exceed 2% of its total on- and off-balance sheet assets and the total value of its overall derivative positions does not exceed 5%, both calculated in accordance with the Article 273a(3) method.~~

and

- (2) Condition 2 is that the *third country CRR firm* is not part of a *group* containing another *firm* which:
- (a) is subject to this Part on an individual basis; and
 - (b) has *average total assets* exceeding £4320 billion either on an individual basis, *consolidated basis* or *sub-consolidated basis*;

provided that, if the firm has not yet been required to report its *total assets* in its balance sheet, the calculations in respect of *average total assets* in Conditions 1 and 2 shall instead be done on the basis of the firm's reasonable forecast of its *total assets* that cover only the activities of the *branch* operation in the UK as at the first occasion on which it will be required to report its *total assets* in its balance sheet.

...

total assets

means:

- (1) in relation to a *CRR firm*, its total assets as set out in its balance sheet on the relevant *accounting reference date*; and

- (2) in relation to a *third country CRR firm*, the total assets of the *third country CRR firm* as set out in its balance sheet on the relevant *accounting reference date* that cover the activities of the *branch operation in the UK*;

except that, for the purpose of identifying whether a *firm* is a *small CRR firm* and calculating the *average total assets* for that purpose, it means:

- (3) for a *firm* that is required to submit *data item* template 1.01 of Annex III of Reporting (CRR) Part, the sum of the *firm's* assets as required to be recorded at row 380 of that *data item*; or
- (4) for a *firm* that is required to submit *data item* template 1.01 of Annex IV of Reporting (CRR) Part, the sum of the *firm's* assets as required to be recorded at row 380 of that *data item*.

...

2 APPLICATION DATES AND TRANSITIONAL PROVISIONS

...

- 2.10 A *firm* must apply this Part as it applied on [the day before the date of commencement] to *remuneration* awarded in respect of a performance year starting before [date of commencement].

2A SMALL CRR FIRM CONDITIONS

2A.1 The conditions referred to in (1)(b) of the definition of *small CRR firm* are the following:

- (1) Subject to 2A.2, the size of the *firm's* on- and off- balance-sheet trading book business was less than or equal to both 5% of the *firm's* total assets and £44 million, on the basis of the assessment set out in Article 94(3) of Chapter 3 of Trading Book (CRR) Part:
- (a) on the last day of at least one of the preceding three *months*, and
- (b) on the last day of at least six of the preceding twelve *months*;
- (2) The *firm's* overall net foreign-exchange position, calculated using the method set out in Article 352 of CRR, does not exceed 3.5% of its *own funds* and, subject to 2A.2, did not on average exceed 2% of its *own funds*:
- (a) in at least one of the preceding three *months*, and
- (b) in at least six of the preceding twelve *months*,
- as determined in accordance with 2A.3;
- (3) The *firm* does not hold positions in commodities or commodity derivatives;
- (4) The *firm* does not provide clearing, transaction settlement, custody or correspondent banking services to a *UK bank*, a *building society*, or a *non-UK credit institution*, including by acting as an intermediary for a *UK bank*, a *building society*, or a *non-UK credit institution* to access the facilities or services of:
- (a) a *payment system*, *CSD*, *third-country CSD*, *SSS* or *central counterparty* in which the *firm* is a direct or indirect participant or member, or
- (b) an exchange, other trading facility, clearing house or any other financial market utility or infrastructure, either directly or indirectly,
- except that the *firm* may provide clearing, transaction settlement, custody or correspondent banking services in sterling to a *UK bank*, *building society* or *non-UK credit institution* that is a member of the *firm's immediate group*; and
- (5) The *firm* is not an operator of a *payment system*.

2A.2 The criteria in 2A.1(1)(a) and 2A.1(2)(a) do not apply in respect of a *CRR firm* that was not a *firm* on the last day of the preceding *month* and the criteria in 2A.1(1)(b) and 2A.1(2)(b) do not apply in respect of a *UK bank or building society* that was not a *firm* on the last day of each of the preceding six *months*.

2A.3 For the purpose of 2A.1(2), a *firm's* overall net foreign-exchange position does not on average exceed 2% of its *own funds* in a given *month* if the arithmetic mean of the *firm's* daily overall net foreign-exchange positions over the course of the *month* is less than or equal to 2% of the *firm's own funds* on the last day of the *month*.

2B SMALL THIRD COUNTRY CRR FIRM CONDITIONS

2B.1 The conditions referred to in (1)(b) of the definition of *small third country CRR firm* are the following:

(1) Subject to 2B.2, the size of the on- and off- balance-sheet trading book business of the *firm's branch* operation in the *UK* was less than or equal to both 5% of the total assets of the *firm* and £44 million, on the basis of the assessment set out in Article 94(3) of Chapter 3 of Trading Book (CRR) Part:

(a) on the last day of at least one of the preceding three *months*, and

(b) on the last day of at least six of the preceding twelve *months*;

(2) The overall net foreign-exchange position of the *firm's branch* operation in the *UK*, calculated using the method set out in Article 352 of *CRR*, does not exceed 3.5% of the *firm's own funds* and, subject to 2B.2, did not on average exceed 2% of the *firm's own funds*:

(a) in at least one of the preceding three *months*, and

(b) in at least six of the preceding twelve *months*,

as determined in accordance with 2B.3;

(3) The *firm's branch* operation in the *UK* does not hold positions in commodities or commodity derivatives;

(4) The *firm's branch* operation in the *UK* does not provide clearing, transaction settlement, custody or correspondent banking services to a *UK bank*, a *building society*, or a *non-UK credit institution*, including by acting as an intermediary for a *UK bank*, a *building society*, or a *non-UK credit institution* to access the facilities or services of:

(a) a *payment system*, *CSD*, *third-country CSD*, *SSS* or *central counterparty* in which the *firm* is a direct or indirect participant or member, or

(b) an *exchange*, other trading facility, clearing house or any other financial market utility or infrastructure, either directly or indirectly,

except that the *firm's branch* operation in the *UK* may provide clearing, transaction settlement, custody or correspondent banking services in sterling to a *UK bank*, *building society* or *non-UK credit institution* that is a member of the *firm's immediate group*; and

(5) The *firm's branch* operation in the *UK* is not an *operator* of a *payment system*.

2B.2 The criteria in 2B.1(1)(a) and 2B.1(2)(a) do not apply in respect of a *third country CRR firm* that was not a *firm* on the last day of the preceding *month* and the criteria in 2B.1(1)(b) and 2B.1(2)(b) do not apply in respect of a *third country CRR firm* that was not a *firm* on the last day of each of the preceding six *months*.

2B.3 For the purpose of 2B.1(2), the overall net foreign-exchange position of a *firm's branch* operation in the *UK* does not on average exceed 2% of the *firm's own funds* in a given *month* if the arithmetic mean of the daily overall net foreign-exchange positions of the *firm's branch* operation in the *UK* over the course of the *month* is less than or equal to 2% of the *firm's own funds* on the last day of the *month*.

...

5 PROPORTIONALITY

...

5.3 ~~12.2 and~~ 15.15 to 15.19, 15.20(2) and (3A), 15.20A to 15.23 and 15A do not apply to *firm* that is a *small CRR firm* or a *small third country CRR firm*.

[Note: Art 94(3) and (4) of the CRD.]

...

15 REMUNERATION STRUCTURES

...

15.A1 In this Chapter:

- (1) All the requirements of this Chapter apply to a *firm* that is neither a *small CRR firm* nor a *small third country CRR firm*.
- (2) 15.1 to 15.14, and 15.20(1) and (1A), ~~(2) and 15.21 to 15.23~~ apply to a *small CRR firm* or a *small third country CRR firm*.

...

15.20 A *firm* must ensure that:

- (1) any variable *remuneration*, including a deferred portion, is paid or vests only if it is sustainable according to the financial situation of the *firm* as a whole, and justified on the basis of the performance of the *firm*, the business unit and the individual concerned;

(1A) In the case of a *small CRR firm* or a *small third country CRR firm*, paragraph (1) does not require a *firm* to impose malus or clawback;

...

| Term | Definition source |
|-----------------|-------------------------|
| immediate group | Section 421ZA FSMA |
| own funds | Article (4)(1)(118) CRR |

2: Draft amendments to Supervisory Statement 2/17 – ‘Remuneration’

In this appendix, new text is underlined and deleted text is struck through.

...

2 Proportionality

2.1 This chapter provides guidance on how firms should apply proportionality for the matters set out in paragraph 2.3. Firms should apply the expectations set out in this version of the SS to remuneration awarded in relation to a performance year starting on or after 29 December 2020.¹ ~~In respect of disclosure, more specific guidance is provided in paragraph 2.25A.~~

...

Table A: Glossary of terms defined in this statement

| Defined expression | Definition |
|-----------------------------|--|
| Conditions 1, 2 | The conditions set out in the definitions of ‘small CRR firm’ or ‘small third country CRR firm’ in Remuneration 1.3 |
| Group | The meaning given in section 421 of FSMA. |
| Proportionality level | The division of firms into three categories based on relevant total assets as set out in Table B under paragraph 2.4: proportionality level one; proportionality level two; and proportionality level three. |
| Average total assets | The meaning given in Remuneration 1.3. For the purpose of identifying whether a firm is a proportionality level three firm, the meaning given in Remuneration 1.3 (under which it is calculated on a three-year average), for the purpose of identifying whether a firm is a proportionality level one or two firm, the arithmetic mean of the firm’s total assets over the last four accounting reference dates. |
| Relevant date | For CRR firms: an accounting reference date; and For third country CRR firms: 31 December. |
| Remuneration Part solo firm | A CRR firm which is not part of a group containing one or more further firms subject to the Remuneration Part. |

Dividing firms into proportionality levels

2.3 Remuneration 1.1 provides that the Remuneration Part applies to a CRR firm and a third country CRR firm (in the case of a third country CRR firm, in relation to the activities carried on from an establishment in the United Kingdom). The guidance set out below applies to those Remuneration Part solo firms in relation to:

- (i) ~~Remuneration disclosure under Article 450 of Chapter 4 of the Disclosure (CRR) Part of the PRA Rulebook;~~

¹ As explained in paragraph 1.2 above, the April 2017 version of this SS continues to apply to remuneration awarded in respect of a performance year starting before Tuesday 29 December 2020.

(ii) Expectations regarding regulatory reporting as set out in paragraph 3.5;

(iii) Expectations regarding remuneration committees as set out in paragraphs 2.22 and 2.23.

...

2.4 For the purposes of this SS, and for the purposes set out in paragraph 2.3, firms to which the Remuneration Part applies are divided into three categories based on their average total assets and on whether Conditions 1 and 2 (as set out in Remuneration 1.3 definitions of ‘small CRR firm’ and ‘small third country CRR firm’) are satisfied:

(i) proportionality level one;

(ii) proportionality level two; and

(iii) proportionality level three.

As set out in table B below, proportionality level one is the highest level and proportionality level three is the lowest. In order to determine the proportionality level into which a firm falls, a firm should first determine whether or not it meets the proportionality level three test.

Table B: Proportionality levels – Remuneration Part solo firms

| Proportionality level | [deleted] | Average total assets on relevant date of firm (where applicable) and other criteria |
|-----------------------------|-----------|---|
| Proportionality level one | | Either: (a) Average total assets on relevant date of firm exceeding £50 billion; or (b) Firm is part of a group and its proportionality level is raised in accordance with paragraphs 2.8–2.10 of this SS. |
| Proportionality level two | | Either: (a) Average total assets on relevant date of firm exceeding £13.20 billion but not exceeding £50 billion; or (b) Average total assets on relevant date of firm exceeding £4 billion but not exceeding £13.20 billion and firm does not meet Condition 1 or 2. |
| Proportionality level three | | Either: (a) Average total assets on relevant date of firm not exceeding £13.20 billion and satisfies Conditions 1 and 2; or (b) Average total assets on relevant date of firm not exceeding £4bn. |

...

Remuneration disclosures (under Article 450 of Chapter 4 of the Disclosure (CRR) Part)**Requirement to make remuneration disclosures**

2.24 Article 450 of Chapter 4 of the Disclosure (CRR) Part requires certain firms that are subject to the Remuneration Part to disclose a series of qualitative and quantitative information relating to remuneration. Table D on the following page sets out these requirements.

2.25. Article 450 of Chapter 4 of the Disclosure (CRR) Part only applies to CRR firms directly.

Remuneration disclosures and proportionality

2.25A In respect of disclosure, firms should apply the expectations on proportionality in this SS to the remuneration disclosure produced following the end of the first performance year starting on or after 29 December 2020. For earlier disclosures, firms should continue to follow the guidance in the version of this SS as published on Wednesday 12 April 2017.

2.26 Two proportionality tests apply in relation to the requirement to make disclosures under Article 450 of Chapter 4 of the Disclosure (CRR) Part in relation to remuneration:

- (i) Under Article 450 of Chapter 4 of the Disclosure (CRR) Part, CRR firms subject to the Remuneration Part that are significant in terms of their size, internal organisation and the nature, scope and the complexity of their activities must also disclose the quantitative information referred to in Article 450 of Chapter 4 of the Disclosure (CRR) Part at the level of their management body.
- (ii) Under Article 450 of Chapter 4 of the Disclosure (CRR) Part, CRR firms subject to the Remuneration Part must comply with the requirements set out in Article 450 of Chapter 4 of the Disclosure (CRR) Part in a manner that is appropriate to their size, internal organisation and the nature, scope and complexity of their activities.

2.27 The PRA considers it appropriate to give guidance on these proportionality tests by reference to the proportionality levels determined in accordance with paragraph 2.4, and 2.8–2.10 of this chapter.

...

2.29 In relation to the proportionality test referred to in paragraph 2.26(i), the PRA considers that a firm should be regarded as ‘significant’ if it falls into proportionality level one.

2.30 In relation to the proportionality test referred to in paragraph 2.26(ii), the following table sets out the categories of information that the PRA considers firms in different proportionality levels should disclose.

Table D: Disclosure requirements² by proportionality level³ [this table has been deleted in its entirety]

...

4 Application of malus and clawback to variable remuneration

4.1 The purpose of this chapter is to clarify the PRA’s expectations of the way in which firms should comply with the rules on performance adjustment in Remuneration 15.20–15.23. Rules setting out malus and

² As written in Article 450 of Chapter 4 of the Disclosure (CRR) Part.

³ All references to Article 450 CRR are now Article 450 of Chapter 4 of the Disclosure (CRR) Part.

clawback requirements do not apply to small CRR firms or small third country CRR firms in relation to performance years starting on or after [date of commencement]: these are rules 15.20(2) and (3A), and 15.20A to 15.23 including if these firms choose to apply malus and clawback voluntarily. Rule 15.20(1) does not require a small CRR firm or small third country CRR firm to impose malus or clawback. The PRA's expectations on malus and clawback in relation to those rules do not apply to small firms in respect of remuneration awarded after [date of commencement].

...

Table G: Minimum deferral and clawback rules applicable to MRTs

| Firm category | MRT category | Higher paid MRT (Total rem >£500,000 or variable rem >33% of total rem, Rule 1.3) | | Non-higher paid MRT (Total rem ≤£500,000 and variable rem ≤33% of total rem, Rule 1.3) | | MRT below proportionality threshold (Variable rem ≤£44,000 and variable rem ≤one third of total rem, Rule 15.A1(3)) | |
|--|--|--|--------------------------|---|--------------------------|--|--------------------------|
| | | Minimum Deferral (years) | Minimum Clawback (years) | Minimum Deferral (years) | Minimum Clawback (years) | Minimum Deferral (years) | Minimum Clawback (years) |
| Significant firms (as defined in Rule 1.3) | MRT who performs a PRA senior management function (SMF) | 7 | 7 ¹ | 5 | 1, 6 ² | 0 | 1, 6 ² |
| | Non-SMF members of the management body and senior management | 5 | 7 | 5 | 1, 6 ² | 0 | 1, 6 ² |
| | MRTs: (i) who meets the criteria in Remuneration Rule 3.1(1)(b); or (ii) whose professional activities meet the qualitative criteria set out in 3.2A (1), 3.2A (2) or 3.2A (5) | 5 | 7 | 4 | 1, 5 ² | 0 | 1, 5 ² |
| | Other MRTs | 4 | 7 | 4 | 1, 5 ² | 0 | 1, 5 ² |
| Other firms subject to <u>malus and clawback</u> | MRT who performs a PRA SMF | 7 | 7 ¹ | 4 | 1, 5 ² | 0 | 1, 5 ² |
| | Non-SMF members of the management body and senior management | 5 | 7 | 4 | 1, 5 ² | 0 | 1, 5 ² |
| | MRTs: (i) who meets the criteria in Remuneration Rule 3.1(1) (b); or (ii) whose professional activities meet the qualitative criteria set out in 3.2A (1), | 5 | 7 | 4 | 1, 5 ² | 0 | 1, 5 ² |

| Firm category | MRT category | Higher paid MRT (Total rem >£500,000 or variable rem >33% of total rem, Rule 1.3) | | Non-higher paid MRT (Total rem ≤£500,000 and variable rem ≤33% of total rem, Rule 1.3) | | MRT below proportionality threshold (Variable rem ≤£44,000 and variable rem ≤one third of total rem, Rule 15.A1(3)) | |
|---|----------------------|--|--------------------------|---|--------------------------|--|--------------------------|
| | | Minimum Deferral (years) | Minimum Clawback (years) | Minimum Deferral (years) | Minimum Clawback (years) | Minimum Deferral (years) | Minimum Clawback (years) |
| | 3.2A (2) or 3.2A (5) | | | | | | |
| | Other MRTs | 4 | 7 | 4 | 1, 5 ² | 0 | 1, 5 ² |
| ¹ Extendable to 10 years in line with Rule 15.20A (2). | | | | | | | |
| ² Minimum clawback of 1 year if the variable remuneration is not deferred. | | | | | | | |

5 Other elements of remuneration

...

Buy-out awards

5.35 Buy-out awards differ from guaranteed variable remuneration and represent a practice whereby firms buy-out outstanding deferred bonus awards for staff that have been cancelled by their previous employer. The PRA expects firms to structure buy-outs so that they vest no faster than the awards they replace. The rules on buyouts do not apply to small CRR firms and small third country CRR firms in respect of performance years starting on or after [date of commencement], and therefore, the PRA's expectations on these rules do not apply to these firms in respect of remuneration awarded after [date of commencement].

...

Changes to remuneration structures by proportionality level three firms

5.48 As per Fundamental Rule 7, a firm must deal with its regulators in an open and cooperative way and must disclose to the PRA appropriately anything relating to the firm of which the PRA would reasonably expect notice. The PRA expects that small CRR firms and small third country CRR firms should report to their supervisors any material changes to their remuneration structures, especially on:

- the ratio of the maximum payout of bonus and executive incentive schemes when compared to fixed remuneration; and
- the performance measures and the risk adjustment used to determine whether and how much their bonus schemes and executive incentive schemes will pay out.

3: PRA statutory obligations

The statutory obligations applicable to the PRA's policy development process are set out below. This CP explains the policy assessment of relevant considerations.

- **For rules instruments and UK Technical Standards Instruments:** Purpose of the policy proposals (FSMA s138J(2)(b)).
- **For rules instruments and UK Technical Standards Instruments:** Cost benefit analysis (FSMA s138J(2)(a) and (7)(a)); and an estimate of those costs and benefits (if reasonable) (FSMA s138J(8)).
- **For rules instruments and UK Technical Standards Instruments:** Analysis of whether the impact on mutuals is significantly different to the impact on other authorised firms (FSMA s138J(2)(c) and 138K).
- Compatibility with the PRA's primary objectives (FSMA s138J(2)(d)(i), 2B and 2C).
- Compatibility with the PRA's secondary competition objective (FSMA s138J(2)(d)(ii) and 2H(1)).
- Compatibility with the regulatory principles (FSMA s138J(2)(d)(ii), 2H(2) and 3B).
- Have regard to the HMT recommendation letters (BoE Act s30B).
- Have due regard to the public sector equality duty (Equality Act s149).
- Have regard, subject to any other requirement affecting the exercise of the regulatory function, to the principles of good regulation and when determining general policy or principles to the Regulators Code (Legislative and Regulatory Reform Act 2006 s21 & 22)
- Have regard, so far as consistent with the proper exercise of those functions, to the purpose of conserving biodiversity. Conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat (Natural Environment and Rural Communities Act 2006, s40).
- **For rules instruments and UK Technical Standards Instruments:** Consultation of the FCA (FSMA s138J(1)(a)).
- **For UK Technical Standards Instruments only:** FSMA s138J(1)(a) is replaced with: consultation of the FCA and/or Bank, where that Regulator has an interest in the technical standards (FSMA s138P(4) and (5)).
- **For UK Technical Standards Instruments only:** notice given to HMT of the consultation on the UKTS ('best efforts' basis).
- For CRR rules only: subject to certain exceptions, have regard to:
 - relevant standards recommended by the Basel Committee on Banking Supervision from time to time
 - the likely effect of the rules on the relative standing of the United Kingdom as a place for internationally active credit institutions and investment firms to be

based or to carry on activities. For these purposes, the PRA must consider the United Kingdom's standing in relation to the other countries and territories in which, in its opinion, internationally active credit institutions and investment firms are most likely to choose to be based or carry on activities

- the likely effect of the rules on the ability of CRR firms to continue to provide finance to businesses and consumers in the United Kingdom on a sustainable basis in the medium and long term
 - the target in section 1 of the Climate Change Act 2008 (carbon target for 2050)
 - (s144C (1) & (2) FSMA – exceptions in s144E FSMA).
 - **For CRR rules only** – explanation of the ways in which having regard to the matters specified above has affected the proposed rules (s144D FSMA).
 - **For CRR rules only** – publication of a summary of the proposed CRR rules.
 - **For CRR rules only** – consideration and consultation with the Treasury about the likely effect of the rules on relevant equivalence decisions (s144C (3) & (4) FSMA).
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Draft for consultation