



Capital Buffers and Pillar 2 Model Requirements

Definitions

- 1.1 In these requirements the following definitions shall apply:
- firm* means [to be specified in individual requirement].
- MDA* means maximum distributable amount calculated in accordance with 2.3(4).
- Pillar 1* means the *own funds* requirement under Article 92 (1) (c) of the *CRR*.
- Pillar 2A* means *own funds* equal to [amount to be specified in individual requirement].
- 1.2 Unless otherwise defined, any italicised expression used in this notice has the same meaning as in Capital Buffer rules in the PRA Rulebook.

Combined buffer

- 2.1 For the purposes of these requirements, the *firm* does not meet the *combined buffer* if the *common equity tier 1 capital* maintained by the firm which is not used to meet *Pillar 1* and *Pillar 2A* does not meet the *combined buffer*.

Restrictions on distributions

- 2.2 If the *firm* meets the *combined buffer* it must not make a *distribution in connection with common equity tier 1 capital* to an extent that would decrease its *common equity tier 1 capital* to a level where the *combined buffer* is no longer met.
- 2.3(1) If the *firm* does not meet the *combined buffer* it must:
- calculate the *MDA* in accordance with (4); and
 - report the *MDA* to the *PRA* in writing no later than 5 working days after the *firm* identified that it did not meet the *combined buffer*.
- (2) If the *firm* does not meet the *combined buffer*, it must not undertake any of the following actions before it has calculated the *MDA*:
- make a *distribution in connection with common equity tier 1 capital*;
 - create an obligation to pay variable remuneration or *discretionary pension benefits* or pay variable remuneration or *discretionary pension benefits* if the obligation to pay was created at a time when the *firm* did not meet the *combined buffer*; and
 - make payments on *additional tier 1 instruments*.
- (3) If the *firm* does not meet the *combined buffer*, it must not distribute more than the *MDA* calculated in accordance with (4) through any action referred to in points (a) to (c) of (2).
- (4) The *firm* must calculate the *MDA* by multiplying the sum calculated in accordance with (5) by the factor determined in accordance with (6). The *MDA* shall be reduced by any of the actions referred to in point (a), (b) or (c) of (2).

- (5) The sum to be multiplied in accordance with (4) shall consist of:
- (a) interim profits not included in *common equity tier 1 capital* pursuant to Article 26(2) of the *CRR* that have been generated since the most recent decision on the distribution of profits or any of the actions referred to in points (a), (b) or (c) of (2);
plus
 - (b) year-end profits not included in *common equity tier 1 capital* pursuant to Article 26(2) of the *CRR* that have been generated since the most recent decision on the distribution of profits or any of the actions referred to in points (a), (b) or (c) of (2);
minus
 - (c) amounts which would be payable by tax if the items specified in points (a) and (b) were to be retained.
- (6) The factor referred to in (4) shall be determined as follows:
- (a) if the *common equity tier 1 capital* maintained by the *firm* which is not used to meet *Pillar 1* and *Pillar 2A* is within the first (that is, the lowest) quartile of the *combined buffer*, the factor shall be 0;
 - (b) if the *common equity tier 1 capital* maintained by the *firm* which is not used to meet *Pillar 1* and *Pillar 2A* is within the second quartile of the *combined buffer*, the factor shall be 0.2;
 - (c) if the *common equity tier 1 capital* maintained by the *firm* which is not used to meet *Pillar 1* and *Pillar 2A* is within the third quartile of the *combined buffer*, the factor shall be 0.4; and
 - (d) if the *common equity tier 1 capital* maintained by the *firm* which is not used to meet *Pillar 1* and *Pillar 2A* is within the fourth (that is, the highest) quartile of the *combined buffer*, the factor shall be 0.6.
- (7) The *firm* must calculate the lower and upper bounds of each quartile of the *combined buffer* as follows:

Lower bound of quartile

$$= \frac{\text{Combined buffer}}{4} \times Q_n$$

Upper bound of quartile

$$= \frac{\text{Combined buffer}}{4} \times (Q_n - 1)$$

"Qn" indicates the ordinal number of the quartile concerned.

- (8) The restrictions imposed by these requirements only apply to payments that result in a reduction of *common equity tier 1 capital* or in a reduction of profits, and where a suspension of payment or failure to pay does not constitute an event of default or a condition for the commencement of proceedings for an order for the appointment of a liquidator or administrator of the *firm*.
- (9) If the *firm* does not meet the *combined buffer* and intends to distribute any of its distributable profits or undertake an action referred to in points (a), (b) and (c) of (2) it must give the *PRA* notice of its intention at least one month before the intended date of distribution or action unless there are exceptional circumstances which make it impracticable to give such a period of notice in which event the *firm* must give as much notice as is practicable in those circumstances. When giving notice the *firm* must provide the following information:

- (a) the amount of *own funds* maintained by the *firm*, subdivided as follows:
 - (i) *common equity tier 1 capital*;
 - (ii) *additional tier 1 capital*; and
 - (iii) *tier 2 capital*.
- (b) the amount of its interim and year-end profits;
- (c) the *MDA* calculated in accordance with (4);
- (d) the amount of distributable profits it intends to allocate between the following:
 - (i) dividend payments;
 - (ii) share buybacks;
 - (iii) payments on *additional tier 1 instruments*; and
 - (iv) the payment of variable remuneration or *discretionary pension benefits*, whether by creation of a new obligation to pay, or payment pursuant to an obligation to pay created at a time when the *firm* did not meet its *combined buffer*.

(10) The *firm* must maintain arrangements to ensure that the amount of distributable profits and the *MDA* are calculated accurately and must be able to demonstrate that accuracy to the *PRA* on request.

Capital conservation plan

- 2.4 When a *firm* does not meet the *combined buffer*, it must prepare a capital conservation plan and submit it to the *PRA* no later than 5 working days after the *firm* identified that it did not meet the *combined buffer*.
- 2.5 The capital conservation plan must include the following:
- (1) the *MDA*;
 - (2) estimates of income and expenditure and a forecast balance sheet;
 - (3) measures to increase the capital ratios of the *firm*; and
 - (4) a plan and timeframe for the increase of *own funds* with the objective of meeting the *combined buffer*.

Level of application

[Individual requirement to specify 3A, 3B, 3C or some other level of application]

3A: consolidated basis

The paragraphs below set out the level of application of these requirements where the *PRA* has set Pillar 2A individual capital guidance for the *firm* on a consolidated basis and not on an individual basis.

- 3.1 If the *firm* is a *parent institution in a Member State* it must comply with these requirements on the basis of its *consolidated situation*.
- 3.2 If the *firm* is controlled by a *parent financial holding company in a Member State* or a *parent mixed financial holding company in a Member State* it must comply with these requirements on the basis of the *consolidated situation* of that holding company.
- 3.3 If the *firm* is a *subsidiary* it must apply these requirements on a *sub-consolidated basis* if the *firm*, or the *parent undertaking* where it is a *financial holding company* or *mixed financial holding company*, have an *institution* or *financial institution* as a *subsidiary* in a *third country* or hold a *participation* in such an *institution* or *financial institution*.
- 3.4 For the purposes of these requirements the *firm* must carry out consolidation to the extent and in the manner prescribed in Article 18(1), 18(8), 19(1), 19(3), 23 and 24(1) of the CRR and Groups 2.1-2.3 of the *PRA* Rulebook.

3B: individual and consolidated basis

The paragraphs below set out the level of application of these requirements where the PRA has set Pillar 2A individual capital guidance for the firm on an individual and consolidated basis

- 3.1 These requirements apply to the *firm* on an individual and *consolidated basis*.
- 3.2 If the *firm* is a *parent institution in a Member State* it must comply with these requirements on the basis of its *consolidated situation*.
- 3.3 If the *firm* is controlled by a *parent financial holding company in a Member State* or a *parent mixed financial holding company in a Member State* it must comply with these requirements on the basis of the *consolidated situation* of that holding company.
- 3.4 If the *firm* is a *subsidiary* it must apply these requirements on a *sub-consolidated basis* if the *firm*, or the *parent undertaking* where it is a *financial holding company* or *mixed financial holding company*, have an *institution* or *financial institution* as a *subsidiary* in a *third country* or hold a *participation* in such an *institution* or *financial institution*.
- 3.5 For the purposes of these requirements the *firm* must carry out consolidation to the extent and in the manner prescribed in Articles 18(1), 18(8), 19(1), 19(3), 23 and 24(1) of the CRR and Groups 2.1-2.3 of the PRA Rulebook.

3C: individual basis

The paragraph below set out the level of application of these requirements where the PRA has set Pillar 2A individual capital guidance for the firm on an individual and not on a consolidated basis

- 3.1 The *firm* must comply with these requirements on an individual basis.

Effective Date

- 4.1 These requirements take effect on 1 January 2016.

General

- 5.1 These requirements apply in addition to the PRA's capital buffer rules in [PRA Policy Statement 17/15 'Assessing capital adequacy under Pillar 2'](#) and the PRA's expectations on capital conservation measures set out in [PRA Supervisory Statement 6/14 'Implementing CRD IV: capital buffers'](#).

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