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:

   (a) calculate the MDA in accordance with (4); and
   (b) 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:

   (a) make a distribution in connection with common equity tier 1 capital;
   (b) 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
   (c) 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 \textit{common equity tier 1 capital} pursuant to Article 26(2) of the \textit{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 \textit{common equity tier 1 capital} pursuant to Article 26(2) of the \textit{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 \textit{common equity tier 1 capital} maintained by the \textit{firm} which is not used to meet \textit{Pillar 1} and \textit{Pillar 2A} is within the first (that is, the lowest) quartile of the \textit{combined buffer}, the factor shall be 0;

(b) if the \textit{common equity tier 1 capital} maintained by the \textit{firm} which is not used to meet \textit{Pillar 1} and \textit{Pillar 2A} is within the second quartile of the \textit{combined buffer}, the factor shall be 0.2;

(c) if the \textit{common equity tier 1 capital} maintained by the \textit{firm} which is not used to meet \textit{Pillar 1} and \textit{Pillar 2A} is within the third quartile of the \textit{combined buffer}, the factor shall be 0.4; and

(d) if the \textit{common equity tier 1 capital} maintained by the \textit{firm} which is not used to meet \textit{Pillar 1} and \textit{Pillar 2A} is within the fourth (that is, the highest) quartile of the \textit{combined buffer}, the factor shall be 0.6.

(7) The \textit{firm} must calculate the lower and upper bounds of each quartile of the \textit{combined buffer} as follows:

Lower bound of quartile

\[
\text{Lower bound} = \frac{\text{Combined buffer}}{4} \times Q_n
\]

Upper bound of quartile

\[
\text{Upper bound} = \frac{\text{Combined buffer}}{4} \times (Q_n - 1)
\]

"On" 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 \textit{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 \textit{firm}.

(9) If the \textit{firm} does not meet the \textit{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 \textit{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 \textit{firm} must give as much notice as is practicable in those circumstances. When giving notice the \textit{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’.

18 September 2015