

**PRA RULEBOOK: CRR FIRMS, NON CRR FIRMS AND NON AUTHORISED PERSONS:
DEPOSITOR PROTECTION AND DORMANT ACCOUNT SCHEME (AMENDMENT No. 6)
INSTRUMENT 2015**

Powers exercised

- A. The Prudential Regulation Authority ("PRA") makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 ("the Act"):
- (1) section 137G (The PRA's general rules);
 - (2) section 137T (General supplementary powers);
 - (3) section 138D(1), (4) and (6) (Actions for damages);
 - (4) section 213 (The Compensation scheme); and
 - (5) section 214 (General).
- 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: CRR Firms, Non CRR Firms and Non Authorised Persons: Depositor Protection and Dormant Account Scheme (Amendment No. 6) Instrument 2015

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

Commencement

- E. This instrument comes into force on 1 August 2015.

Citation

- F. This instrument may be cited as the PRA Rulebook: CRR Firms, Non CRR Firms and Non Authorised Persons: Depositor Protection and Dormant Account Scheme (Amendment No.6) Instrument 2015

By order of the Board of the Prudential Regulation Authority

31 July 2015

Annex A

Amendments to the Depositor Protection Part

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

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17 FIRMS' DISCLOSURE OBLIGATIONS – STATEMENTS OF ACCOUNT

17.1 A *firm* must:

- (1) confirm that *deposits* are *eligible deposits* (if that is the case) on a *depositor's* statement of account;
- (2) include a reference to the *information sheet* and a reference to the *exclusions list* on ~~in~~ a *depositor's* statement of account;
- (3) at least annually:
 - (a) provide to the *depositor*:
 - (i) the *information sheet*; and
 - (ii) the *exclusions list*; and
 - (b) if applicable, inform the *depositor* of the exclusions from *deposit guarantee scheme* protection that fall within 2.2(4)(b) and 2.2(4)(k); and
- (4) include the following information ~~in~~ on a *depositor's* statement of account:

For further information about the compensation provided by the FSCS, refer to the FSCS website at www.FSCS.org.uk .
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17.2 If the *depositor* receives statements of account, the ~~The~~ information set out in 17.1(3) must be provided in or with such a *depositor's* statement of account.

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57 TRANSITIONAL PROVISIONS – WITHDRAWALS

57.1 ~~This Chapter does not apply to the FSCS.~~

57.2 A *firm* must, as soon as reasonably practicable and in any event no later than 1 October 2015, notify any *affected person* identified in accordance with 57.4 about the change to the *coverage level*.

57.3 A notification under 57.2 must include:

- (1) a statement explaining that on 1 January 2016, the *affected person's eligible deposits* will be covered by the FSCS up to the *coverage level*; and
- (2) an explanation of how the *affected person* may request to reduce their aggregate *eligible deposits* in accordance with 57.6.

57.4 A *firm*:

- (1) must identify its *affected persons* for the purposes of 57.2 by reference to a date that is as close as reasonably practicable to the date on which it starts sending those notifications; and
- (2) may exclude *restricted persons* from the notification in 57.2.

57.5 57.6 applies where the following conditions are met:

- (1) a *person* (or a *person* who has authority to act on behalf of that *person*) makes a request to a *firm* that has the effect of being a request to reduce that *person's* aggregate *eligible deposits*;
- (2) the request is made on or before 31 December 2015;
- (3) that *person* is an *affected person* on the date on which the request is made; and
- (4) the request is not made subsequent to a previous payment made under 57.6.

57.6 If a *firm* receives a request that meets the conditions in 57.5, it must, by the earlier of:

- (1) two months of receipt of that request; and
- (2) 31 January 2016,

enable the *affected person* to reduce their aggregate *eligible deposits* by only an amount determined in accordance with 57.7 and 57.8 without charge, penalty or loss of interest.

57.7 The amount referred to in 57.6 in relation to an *affected person* is the lesser of:

- (1) the amount requested in accordance with 57.5(1);
- (2) the larger of:
 - (a) the excess above the *coverage level* held by that *person* at the date of that request; or
 - (b) the excess above the *coverage level* that is reasonably likely, taking account of the accrual of interest or additional credits required by that *person's* contract with the *firm*, to be held by that *person*, on:
 - (i) 1 January 2016; or
 - (ii) the maturity of an account or product held by that *person* at the date of that request; and
- (3) £10,000.

57.8 In the case of a *joint account*, the amount in 57.7 shall be calculated for each *affected person* on the basis set out in 5.4 and 5.5.

57.9 Where a request is made before 1 October 2015 that has not been actioned by the *firm* at that date, but which meets the conditions in 57.5, the time period in 57.6(1) is deemed to commence on 1 October 2015.

57.10 A *firm* may determine the account or product from which the *eligible deposits* are withdrawn under 57.6, except it may not determine the *eligible deposits* are withdrawn from a transactional account without the consent of the *affected person* (or a *person* who has authority to act on behalf of the *affected person*).

57.11 57.6 does not:

- (1) prevent the *firm*:
 - (a) calculating interest in respect of the period after the reduction under that rule to reflect the reduced amount of the deposit; or
 - (b) adjusting the rate of interest in respect of the period after the reduction under that rule in accordance with a pre-existing link in the deposit contract between the rate of interest and the size of the deposit;
- (2) prevent a *credit union* or a *Northern Ireland credit union* calculating a discretionary dividend on a share account by reference to the *affected person's* balance on a single reference date if this is its usual practice; or
- (3) require a *firm* to enable a *restricted person* to reduce their aggregate *eligible deposits*.

57.12 A contravention of 57.6 by a *firm* is actionable at the suit of a *private person* who suffers loss as a result of the contravention, subject to the defences and other incidents applying to actions for breach of statutory duty.

57.13 A person who is not a *private person* may exercise the right afforded by 57.12, if a case prescribed by regulation 6(2) of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 for the purposes of section 138D(4) Financial Services and Markets Act 2000 applies,

57.14 57.6 comes into force on 1 October 2015.

57.15 In this Chapter the following definitions shall apply:

affected person

means a "relevant person", within the meaning given in regulation 7A(4) of the *deposit guarantee scheme regulations*, whose aggregate *eligible deposits*:

- (1) are greater than the *coverage level* (unless the *firm* is required to make payments to or to the order of that *person* before 1 January 2016 that are likely to result in that *person* ceasing to have aggregate *eligible deposits* over the *coverage level* on that date); or
- (2) are reasonably likely, on:
 - (a) 1 January 2016; or
 - (b) the maturity of an account or product held by that *person*,

to be greater than the *coverage level*, taking account of the accrual of interest or additional credits required by that *person's* contract with the *firm*; and

coverage level

means the coverage level set out in 4.2, as that provision is applied on 1 January 2016;

restricted person

means an *affected person* in relation to whom a *firm* will only be able to comply with 57.6:

- (a) in contravention of a legal requirement on the *firm*;
- (b) in contravention on the *firm's* policy on managing the risk of "money laundering", within the meaning given in the *FCA Handbook*; or
- (c) by allowing the withdrawal of a deposit that is held as collateral by the *firm* for an amount owed to it (provided that the *firm* has given the *affected person* or a person for whom the *affected person* is providing surety the option of repaying the indebtedness and reducing the collateral deposit under 57.6 by equivalent amounts).

private person

has the meaning given by regulation 3 of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001.

ANNEX 1

INFORMATION SHEET (CHAPTER 16)

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⁴Reimbursement

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Where the FSCS cannot make the repayable amount available within 7 working days, it will, from 1 June 2016 until 31 December 2023, ensure that you have access to an appropriate amount of your covered deposits to cover the cost of living (in the case of a depositor which is an individual) or to cover necessary business expenses or operating costs (in the case of a depositor which is not an individual or a large company) within 5 working days of a request. Again, there are specific exceptions to this obligation.

In the case of a depositor which is a large company, where the FSCS cannot make the repayable amount available within 7 working days, it will, from 3 July 2015 until 1 December 2016, ensure that you have access to your covered deposits within fifteen working days of a request containing sufficient information to enable it to make a payment, save where specific exceptions apply.

In the case of a depositor which is a small local authority, where the FSCS cannot make the repayable amount available within 7 working days, it will, from 3 July 2015 until 1 June 2016, ensure that you have access to your covered deposits within fifteen working days of a request containing sufficient information to enable it to make a payment, save where specific exceptions apply.

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Annex B

Amendments to the Dormant Account Scheme Part

In this Annex, new text is underlined.

1 APPLICATION AND DEFINITIONS

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1.2 In this Part, the following definitions shall apply:

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class J tariff base

means protected dormant accounts multiplied by 0.2 as at 31 December.

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