

PRA RULEBOOK: CRR FIRMS: WHISTLEBLOWING 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); 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: CRR Firms: Whistleblowing Instrument 2015

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

Commencement

- E. This instrument comes into force on 7 September 2016.

Citation

- F. This instrument may be cited as the PRA Rulebook: CRR Firms: Whistleblowing Instrument 2015.

By order of the Board of the Prudential Regulation Authority

28 September 2015

Annex

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

Part

GENERAL ORGANISATIONAL REQUIREMENTS

Chapter content

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1 APPLICATIONS AND DEFINITIONS

1.1 ...

1.2 In this Part, the following definitions apply:

chief executive function

...

protected disclosure

means a qualifying disclosure as defined in section 43B of the Employment Rights Act 1996 made by a *worker* in accordance with sections 43C to 43H of the Employment Rights Act 1996.

reportable concern

means a concern held by any *person* in relation to the activities of a *firm*, including:

- (a) any matter that, if disclosed, would be the subject-matter of a *protected disclosure*, including a breach of any *rule*;
- (b) a failure to comply with the *firm's* policy and procedures; and
- (c) behaviour that has or is likely to have an adverse effect on the *firm's* reputation or financial well-being.

...

worker

has the meaning as defined by section 230(3) of the Employment Rights Act 1996 and as extended under section 43K of the Employment Rights Act 1996.

1.3 In this Part, a reference to a provision of the Employment Rights Act 1996 includes a reference to the corresponding provision of the Employment Rights (Northern Ireland) Order 1996.

2 GENERAL REQUIREMENTS

...

2.8 ...

2.9 (1) ~~A *firm* must have in place appropriate procedures for its employees to report breaches internally through a specific, independent and autonomous channel.~~

~~(2) The channel in (1) may be provided through arrangements provided for by social partners.~~

[Note: Art. 71(3) of the CRD]

2A WHISTLEBLOWING

2A.1 (1) 2A.2 applies to every CRR firm.

(2) 2A.3 – 2A.6 apply to any CRR firm that has average total gross assets exceeding £250 million, determined on the basis of the annual average amount of gross assets calculated across a rolling period of five years or, if it has been in existence for less than five years, across the period during which it has existed (in each case, calculated with reference to the CRR firm's annual accounting reference date).

2A.2 (1) A firm must establish, implement and maintain appropriate and effective arrangements for the disclosure of reportable concerns by a person, including a firm's employee, internally through a specific, independent and autonomous channel.

(2) The channel in (1) may be provided through arrangements with third parties, including social partners, subject to any applicable requirement under the Outsourcing Part.

[Note: Art. 71(3) of the CRD]

2A.3 A firm must inform all workers of the channel in 2A.2.

2A.4 A firm must inform all workers:

(1) that they may disclose directly to the PRA or to the FCA anything that would be the subject-matter of a protected disclosure;

(2) of what would constitute a protected disclosure;

(3) that the PRA or the FCA are prescribed persons under section 43F of the Employments Rights Act 1996 and the effect of making a protected disclosure to the PRA or to the FCA; and

(4) of the means available to make a protected disclosure to the PRA or the FCA.

2A.5 A firm must ensure that nothing in its arrangements prevents or discourages any worker from making any disclosure to the PRA or the FCA before making the disclosure through the channel referred to in 2A.2.

2A.6 A firm must ensure that nothing in any employment contract or settlement agreement, including any other related or ancillary documentation, between the firm and a worker relating to the worker's employment with the firm, entered into after the date on which these rules come into effect, prevents or discourages the worker from:

(a) making a protected disclosure, including to the PRA; and

(b) making a further protected disclosure connected to a protected disclosure already made under (a).

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