

PRA RULEBOOK: SOLVENCY II 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.

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- 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 Solvency II Firms: Whistleblowing Instrument 2015.

By order of the Board of the Prudential Regulation Authority

28 September 2015

Annex

In this Annex, the text is all new and is not underlined

Part

WHISTLEBLOWING

Chapter content

- 1. APPLICATION AND DEFINITIONS**
- 2. WHISTLEBLOWING**
- 3. LLOYDS**

Links

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to:

- (1) a *UK Solvency II firm*;
- (2) in accordance with Insurance General Application 3, the *Society*, as modified by 3; and
- (3) in accordance with Insurance General Application 3, *managing agents*, as modified by 3.

1.2 In this Part, the following definitions shall apply:

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

means 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 WHISTLEBLOWING

2.1 A *firm* must establish, maintain and implement 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.

2.2 The channel in 2.1 may be provided through arrangements with third parties, including social partners, subject to any applicable requirement in Conditions Governing Business 7.

- 2.3 A *firm* must inform all *workers* of the channel referred to in 2.1.
- 2.4 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 could constitute a *protected disclosure*;
 - (3) that the *PRA* and the *FCA* are prescribed persons under section 43F of the Employment 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*.
- 2.5 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 2.1
- 2.6 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:
- (1) making a *protected disclosure*, including to the *PRA*; and
 - (2) making a further *protected disclosure* connected to a *protected disclosure* already made under (1).

3 LLOYDS

- 3.1 This Part applies to the *Society* and *managing agents* separately.