

PRA RULEBOOK: SOLVENCY II FIRMS, NON SOLVENCY II FIRMS, NON-AUTHORISED PERSONS: POLICYHOLDER PROTECTION INSTRUMENT 2016

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) of the Act;
 - (2) section 137T (General supplementary powers) of the Act;
 - (3) section 213 (The compensation scheme) of the Act;
 - (4) section 214 (General) of the Act;
 - (5) section 218A (Regulators power to require information) of the Act.
- B. The rule-making powers referred to above and related provisions are specified for the purpose of section 138G(2) (Rule-making instruments) 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: Solvency II Firms, Non-Solvency II Firms, Non-Authorised Persons: Policyholder Protection Instrument 2016

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

Commencement

- E. This instrument comes into force on 19 December 2016.

Citation

- F. This instrument may be cited as the PRA Rulebook: Solvency II Firms, Non-Solvency II Firms, Non-Authorised Persons: Policyholder Protection Instrument 2016.

By order of the Board of the Prudential Regulation Authority

6 December 2016

Annex

In this Annex, the new text is underlined.

Part

POLICYHOLDER PROTECTION

Chapter content

1. APPLICATION AND DEFINITIONS
2. FSCS
3. QUALIFYING CONDITIONS FOR PAYING COMPENSATION
4. SECURING CONTINUITY OF LONG-TERM INSURANCE COVER
5. RELEVANT PERSONS IN FINANCIAL DIFFICULTIES
6. LIMITS WHEN SECURING CONTINUITY AND TAKING MEASURES IN RELATION TO RELEVANT PERSONS IN FINANCIAL DIFFICULTIES
7. ELIGIBLE CLAIMANTS
8. EXCEPTIONS
9. PROTECTED CLAIMS
10. RELEVANT PERSONS IN DEFAULT
11. SUCCESSORS IN DEFAULT
12. ASSIGNMENT (AUTOMATIC, ELECTRONIC AND IN WRITING)
13. AUTOMATIC SUBROGATION
14. RECOVERIES
15. REJECTION OF APPLICATION FOR, AND WITHDRAWAL OF OFFER OF, COMPENSATION
16. TIME LIMITS ON PAYMENT AND POSTPONING PAYMENT
17. LIMITS ON COMPENSATION PAYABLE
18. PAYMENT OF COMPENSATION
19. CALCULATING COMPENSATION – GENERAL
20. THE COMPENSATION CALCULATION
21. FSCS LEVIES
22. TRANSITIONAL ARRANGEMENTS
23. TRANSITIONAL ARRANGEMENTS FOR FSCS LEVY YEAR 2017/18

Links

Annex

In this Annex, the new text is underlined:

23. TRANSITIONAL ARRANGEMENTS FOR FSCS LEVY YEAR 2017/18

23.1 The rules in this Chapter shall apply to the *FSCS, participant firms* (and, where applicable under 21.26, the *Society*), in respect of the *FSCS 2017/18 financial year* which commences on 1 April 2017 and ends on 31 March 2018, and unless otherwise provided, shall supplement all other Part rules relating to a *participant firm's* (and, where applicable under 21.26, the *Society's*) share of the *compensation costs levy* and *management expenses levy* for the *FSCS 2017/18 financial year*.

23.2 Subject to 23.3 and 23.4, and for the purpose of calculating a *participant firm's* share of the *compensation costs levy* and *management expenses levy* for the *FSCS 2017/18 financial year*:

- (1) subject to 23.2(2), the FSCS shall use the total amount of business (measured in accordance with the appropriate tariff base or tariff bases as specified in Annex 2) of a participant firm which it conducted and provided to the FSCS in its statement in respect of the valuation period which ended in the calendar year to 31 December 2015, and not the calendar year to 31 December prior to commencement of the FSCS 2017/18 financial year and 21.42, 21.43 and 21.44 shall not apply;
- (2) where 21.34 applied in respect of the calculation of a participant firm's specific costs levy and compensation costs levy for the FSCS 2016/17 financial year, which commenced on 1 April 2016 and ends on 31 March 2017, the FSCS shall use the information and tariff base that was used for the purposes of the calculation of the participant firm's specific costs levy and compensation costs levy for the FSCS 2016/17 financial year and accordingly, 21.34 shall not apply to a participant firm which had its permission extended in the FSCS 2016/17 financial year and 21.42, 21.43 and 21.44 shall also not apply; and
- (3) references in 21.32 and 21.38 to "the statement of business most recently supplied under 21.42" shall be replaced by a reference to the tariff data applicable under 23.2(1) or 23.2(2) (as the case may be) and 21.32 and 21.38 shall be construed so as to give effect to the rules in this Chapter.

23.3 For the purpose of calculating a *participant firm's* share of the *compensation costs levy* and *management expenses levy* for the *FSCS 2017/18 financial year*:

- (1) 21.24 shall not apply to the calculation of the levies of a firm (A) for the FSCS 2017/2018 financial year, where A falls within 21.24(1)(a)(i);
- (2) for participant firms who have acquired or disposed of insurance business by way of an insurance business transfer scheme under Part VII of FSMA (or other such transfers under Part VIII of the Friendly Societies Act 1992), during the period referred to in 23.5:
 - (a) on or before 28 February 2017, participant firms must:
 - i. notify the FSCS if they have acquired or disposed of any insurance business by way of an insurance business transfer scheme under Part

VII of FSMA (or other such transfers under Part VIII of the Friendly Societies Act 1992); and

- ii. provide to the FSCS such information as the FSCS may require to establish the extent to which the tariff data referred to in 23.2(1) or 23.2(2) (as the case may be) shall be adjusted in order to reflect any increase or decrease as a result of the acquisition or disposal. The amount of any adjustment shall be based on the tariff data referred to in 23.2(1) or 23.2(2) (as the case may be); and

(b) the tariff data so adjusted under 23.3(2) shall form the basis for the calculation of the *participant firm's* share of the *compensation costs levy* and *management expenses levy* for the FSCS 2017/2018 financial year;

- (3) 21.24 shall continue to apply to the calculation of the levies of a *firm* (A), where A falls within 21.24(1)(a)(ii) and references to the “most recent statement of business under 21.42”, the “most recent information supplied by B under 21.42” and the “statement of business under 21.42” shall be read as references to the relevant *firm's* tariff data referred to in 23.2(1) or 23.2(2) (as the case may be) and 21.24 shall be construed so as to give effect to the rules in this Chapter.

23.4 For *participant firms* that have gone into run-off (referred to in 22.8(3)) during the period stated at 23.5:

- (1) 22.8 applies for the purpose of calculating the *participant firm's* share of the *compensation costs levy* and *management expenses levy* for the FSCS 2017/2018 financial year; and
- (2) the tariff data referred to in 23.2(1) or 23.2(2) (as the case may be) shall be used for the purposes of 22.8; unless, on or before 28 February 2017 a *participant firm* voluntarily submits updated tariff data to reflect the changes to its tariff data referred to in 23.2(1) or 23.2(2) (as the case may be) as a result of run-off.

23.5 The period referred to in this Chapter runs from:

- (1) such date in the 2015 calendar year, that was the last day of the *participant firm's* valuation period for the tariff data that formed the basis for the calculation of a the *participant firm's* share of the *compensation costs levy* and *management expenses levy* for the FSCS financial year commencing on 1 April 2016;
- (2) until 31 December 2016.

23.6 To assist with the formulation of FSCS levies policy for the FSCS financial year commencing on 1 April 2018 and subsequent financial years, *participant firms* will comply with the requests of the PRA or the FSCS for data in respect of their financial years ending in the calendar years to 31 December 2016 and 31 December 2017.