

PRA RULEBOOK: SOLVENCY II FIRMS, NON SOLVENCY II FIRMS, NON AUTHORISED PERSONS: POLICYHOLDER PROTECTION INSTRUMENT 2017

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.
- 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: Solvency II Firms, Non Solvency II Firms, Non Authorised Persons: Policyholder Protection Instrument 2017

- D. The PRA makes the rules in the Annex.

Commencement

- E. Annex A of this instrument comes into force on 1 April 2018.
F. Annex B of this instrument comes into force on 18 December 2017.

Citation

- G. This instrument may be cited as the PRA Rulebook: Solvency II Firms, Non Solvency II Firms, Non Authorised Persons: Policyholder Protection Instrument 2017.

By order of the Prudential Regulation Committee

4 December 2017

Annex A

Amendments to the Policyholder Protection Part

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

1 APPLICATION AND DEFINITIONS

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1.2 In this Part, the following definitions shall apply:

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~~relevant not premium income~~

~~means in relation to business which is not occupational pension fund management business:~~

~~(1) either (at the election of the firm):~~

~~(a) the premium income in respect of protected contracts of insurance of a firm; or~~

~~(b) the premium income in respect of protected contracts of insurance with eligible claimants of a firm; or~~

~~(2) (in relation to occupational pension fund management business) the remuneration retained by a firm in relation to its carrying on occupational pension fund management business;~~

~~in the year preceding that in which the date for submission of the information in 21.42 falls, net of any relevant rebates or refunds.~~

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21 FSCS LEVIES

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21.42A (1) Unless exempt under 21.5, a participant firm must provide the FSCS by the end of May each year (or, if it has become a participant firm part way through the financial year, by the date requested by the PRA) with a statement of:

(a) the insurance class to which it belongs; and

(b) the total amount of business (measured in accordance with the appropriate tariff base or tariff bases) which it conducted, in respect of the most recent valuation period (as specified by Annex 2) ending before the relevant year in relation to each insurance class.

(2) In this rule and 21.44A the relevant year means the year in which the month of May referred to in (1) falls.

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21.44 If a participant firm does not submit a complete statement by the date on which it is due in accordance with 21.42A and any prescribed submission procedures:

- (1) the *firm* must pay an administrative fee of £250 (but not if it is already subject to an administrative fee for non-submission of data in the same financial year required under this Part, or any other *PRA* rule or rule in the FCA Handbook); and
- (2) the *compensation costs levy* and any *specific costs levy* will be calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by a factor of 1.10 (or if it has become a *participant firm* part way through the financial year, on the basis of information provided to the *PRA* for the purposes of Fees 3.6(4) or on any other reasonable basis, making such adjustments as seem appropriate in subsequent levies once the true figures are known).

21.44A In the event of a *compensation costs levy* and any *specific costs levy* being made in a financial year of the *compensation scheme* before a *participant firm* has submitted a complete statement in accordance with 21.42A, the *compensation costs levy* and any *specific costs levy* should be calculated using the statement of business submitted in respect of the previous valuation period.

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22 TRANSITIONAL ARRANGEMENTS

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22.8 ...

- (2) The whole of the levy is calculated by reference to relevant net premium income (calculated in accordance with Annex 2) ~~relevant net premium income~~ instead of being split 75:25 between relevant net premium income ~~relevant net premium income~~ and eligible gross technical liabilities (calculated in accordance with Annex 2) ~~or mathematical reserves~~.

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23 TRANSITIONAL ARRANGEMENTS FOR FSCS LEVY YEAR 2017/18

[deleted]

- 23.1—The rule 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; 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 purposes 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 2017/18 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 2017/18 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 2017/18~~

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 subsequently financial years, participant firms will comply with the request 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.

ANNEX 2: METHODOLOGY FOR CALCULATION OF A PARTICIPANT FIRM'S LEVY SHARE

Insurance Class B1	General Insurance Provision
Firms with permission for:	(1) <i>effecting contracts of insurance</i> ; and/or (2) <i>carrying out contracts of insurance</i> ; that are contracts of <i>general insurance</i> .
Tariff base	Insurance Class B1: Relevant net premium income <u>Relevant net premium income and eligible gross technical liabilities</u> . The levy is split into two in the ratio 75:25. The tariff base for the first portion (75%) is calculated by reference to relevant net premium income . <u>relevant net premium income</u> . The tariff base for the second portion (25%) is based on eligible gross technical liabilities . <u>Relevant net premium income is calculated in accordance with the method applicable to the firm for calculating 'gross written premium for fees purposes' in Fees 1.2 and Fees 3.4 (2) (c) with the following adjustments:</u> (1) <u>Relevant net premium income is calculated by reference to either (at the election of the firm):</u> (a) <u>the premium income in respect of protected contracts of insurance of a firm; or</u> (b) <u>the premium income in respect of protected contracts of insurance with eligible claimants of a firm;</u> <u>in the year preceding that in which the date for submission of the</u>

	<p><u>information under 21.42A falls, net of any relevant rebates or refunds.</u></p> <p><u>(2) If an <i>incoming EEA firm</i> does not report relevant net premium income in the way contemplated in this table, the <i>participant firm's</i> relevant net premium income is calculated in the same way as they would be for a <i>UK firm</i>.</u></p> <p>Eligible gross technical liabilities are calculated in accordance with the method applicable to the <i>firm</i> for calculating 'best estimate gross technical liabilities for fees purposes' in Fees 1.2 and Fees 3.4 (2) (c) 3.4 (2) (a) (i) – (iii) and (b), (c) and (d) with the following adjustments:</p> <p>(1) Eligible gross technical liabilities are calculated by reference to <i>protected contracts of insurance</i> with <i>eligible claimants</i>.</p> <p>(2) A <i>participant firm</i> may choose not to apply paragraph (1) and instead include all gross technical liabilities that it would be obliged to take into account for fee block A3 as long as the amount that it would include under (1) is lower.</p> <p>(3) If an <i>incoming EEA firm</i> does not report gross technical liabilities in the way contemplated by this table, the <i>participant firm's</i> gross technical liabilities are calculated in the same way as they would be for a <i>UK firm</i>.</p> <p>(4) the notes for the calculation of fees in fee block A3 in Fees 3.4 (2) (a) (i) – (iii) and (d) do not apply except for the purposes of (2). [deleted]</p> <p>(5) A <i>directive friendly society</i> must also calculate eligible gross technical liabilities in accordance with this table.</p> <p>(6) A <i>non-directive friendly society</i> must calculate gross technical liabilities as the amount that it is required to show in FSC 2 or FSC 4 - Form 9 line 11 in Appendix 10 of IPRU(FSOC) of the PRA Handbook as at 31 December 2015 <u>Friendly Society – Reporting 4.1 (Other than long term insurance business assets allocated towards the general insurance business required minimum margin) in relation to the most recent financial year of the <i>participant firm</i> (as at the applicable reporting date under 21.42A) for which the <i>participant firm</i> is required to have reported that information to the PRA under IPRU(FSOC) of the <i>PRA Handbook</i> as at 31 December 2015</u> <u>Friendly Society – Reporting</u>. A <i>non-directive friendly society</i> must disregard for this purpose such amounts as are not required to be included by reason of a <i>waiver</i> or a written concession carried forward as an amendment to the rule to which it relates under SUP TP of the PRA Handbook.</p>
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Insurance Class C1	Life and Pensions Provision
Firms with permission for:	<p>(1) <i>effecting contracts of insurance</i>; and/or</p> <p>(2) <i>carrying out contracts of insurance</i>;</p> <p>that are <i>contracts of long-term insurance</i> (including <i>pure protection contracts</i>).</p>

Tariff base	<p>Insurance Class C1: Relevant net premium income Relevant net premium income and eligible liabilities mathematical reserves. The levy is split into two in the ratio 75:25. The tariff base for the first portion (75%) is calculated by reference to relevant net premium income relevant net premium income. The tariff base for the second portion (25%) is based on eligible liabilities mathematical reserves.</p> <p><u>Relevant net premium income is calculated in accordance with the method applicable to the firm for calculating 'gross written premium for fees purposes' in Fees 1.2 and Fees 3.4 (3) (c) with the following adjustments:</u></p> <p>(1) <u>in relation to business which is not occupational pension fund management business, relevant premium income is calculated by reference to either (at the election of the firm):</u></p> <p>(a) <u>the premium income in respect of protected contracts of insurance of a firm; or</u></p> <p>(b) <u>the premium income in respect of protected contracts of insurance with eligible claimants of a firm; or</u></p> <p>(2) <u>in relation to occupational pension fund management business the remuneration retained by a firm in relation to its carrying on occupational pension fund management business;</u></p> <p><u>in the year preceding that in which the date for submission of the information under 21.42A falls, net of any relevant rebates or refunds.</u></p> <p>(3) <u>A participant firm which is a non-directive insurer, excluding a non-directive friendly society must calculate relevant net premium income as the amount it is required to show in Form 41, line 19, column 4 in Insurance Company – Reporting 13.1 in relation to the most recent financial year of the firm (as at the applicable reporting date under 21.42A) for which the firm is required to have reported that information to the PRA under Insurance Company – Reporting 5.7.</u></p> <p>(4) <u>A participant firm which is a non-directive friendly society must calculate relevant net premium income as the income and expenditure account entry for gross premium written or contributions as income receivable, as appropriate under the Friendly Society (Accounts and Related Provisions) Regulation 1994.</u></p> <p>(5) <u>If an incoming EEA firm does not report relevant net premium income in the way contemplated in this table, the participant firm's relevant premium income is calculated in the same way as they would be for a UK firm.</u></p> <p><u>Eligible liabilities</u> mathematical reserves are calculated in accordance with the method <u>applicable to the firm</u> for calculating 'best estimate liabilities mathematical reserves for fee purposes' as defined in Fees 1.2 and Fees 3.4 (3) (c) with the following adjustments:</p> <p>(1) <u>Eligible liabilities</u> mathematical reserves are calculated by reference to <u>protected contracts of insurance with eligible claimants.</u></p> <p>(2) <u>A participant firm may choose not to apply paragraph (1) and instead include all liabilities</u> mathematical reserves that it would be obliged to take into account for fee block A4 as long as the amount that it would include under (1) is lower.</p> <p>(3) <u>If an incoming EEA firm does not report liabilities</u> mathematical reserves</p>
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	<p>in the way contemplated by this table, the <i>participant firm's</i> <u>liabilities mathematical reserves</u> are calculated in the same way as they would be for a <i>UK firm</i>.</p> <p>(4) The notes for the calculation of fees in the A4 fee block in Fees 3.4 (3) (a) and (b) do not apply except for the purposes of (2). [deleted]</p> <p>(5) A <i>directive friendly society</i> must also calculate eligible <u>liabilities mathematical reserves</u> in accordance with this table.</p> <p><u>(5A) A <i>participant firm</i> which is a non-directive insurer, excluding a <i>non-directive friendly society</i> must calculate liabilities as the amount it is required to show in Form 14, line 11, column 1 (mathematical reserves after distribution of surplus) in Insurance Company – Reporting 13.1 in relation to the most recent financial year of the <i>firm</i> (as at the applicable reporting date under 21.42A) for which the <i>firm</i> is required to have reported that information to the <i>PRA</i> under Insurance Company – Reporting 5.5.</u></p> <p>(6) A <i>non-directive friendly society</i> must calculate <u>liabilities mathematical reserves</u> as the amount that it is required to show in FSC 2 or FSC 4 - Form 9 line 23 in Appendix 10 of IPRU(FSOC) of the <i>PRA Handbook</i> as at 31 December 2015-Friendly Society – Reporting 4.1 (total mathematical reserves after distribution of surplus) in relation to the most recent financial year of the <i>firm</i> (as at the applicable reporting date under 21.42A) for which the firm is required to have reported that information to the <i>PRA</i> under Friendly Society – Reporting IPRU(FSOC) of the <i>PRA Handbook</i> as at 31 December 2015. A <i>non-directive friendly society</i> must disregard for this purpose such amounts as are not required to be included by reason of a <i>waiver</i> or a <i>written concession</i> carried forward as an amendment to the rule to which it relates under [SUP TP of the <i>PRA Handbook</i>].</p> <p>(7) The references to <u>corporate pension business pension fund management business in business</u> in the definition of '<u>mathematical reserves best estimate liabilities</u> for fees purposes' in Fees 1.2 do not apply. The split in the levy between relevant net premium income and eligible liabilities does not apply to a <i>participant firm</i> undertaking <i>occupational pension fund management business</i> that does not carry out any other activities within <i>insurance class C1</i> (ignoring any activities that would have a wholly insignificant effect on the calculation of its tariff base for <i>insurance class C1</i>). Instead the levy is only calculated by reference to relevant net premium income. A <i>participant firm</i> undertaking such business that does not carry out any other activities within <i>insurance class C1</i> (ignoring any activities that would have a wholly insignificant effect on the calculation of its tariff base for <i>insurance class C1</i>) must use its long-term insurance capital requirement instead of gross technical liabilities. The Long-term insurance capital requirement means the amount that it is required to show as its long-term insurance capital requirement in Form 2-Line 31 (Statement of solvency – long term insurance business) in relation to the most recent financial year of the <i>participant firm</i> (as at the applicable reporting date under 21.42) for which the <i>participant firm</i> is required to have reported that information to the <i>PRA</i>.</p> <p>(8) The split in the levy between relevant net premium income relevant net premium income and eligible liabilities <u>mathematical reserves</u> does not apply to a <i>flat rate benefits business friendly society</i> or a partnership pension society (as defined in Friendly Society – Reporting) chapter 7 of IPRU(FSOC) (Definitions) of the <i>PRA Handbook</i> as at 31 December 2015. Instead the levy is only calculated by reference to relevant net</p>
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	<p><u>premium income</u> relevant not premium income.</p>
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Annex B

Amendments to the Policyholder Protection Part

In this Annex deleted text is struck through.

21 FSCS LEVIES

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21.42 [deleted]

- ~~(1) Unless exempt under 21.5, a *participant firm* must provide the *FSCS* by the end of February each year (or, if it has become a *participant firm* part way through the financial year, by the date requested by the *PRA*) with a statement of:~~
- ~~(a) the *insurance class* to which it belongs; and~~
 - ~~(b) the total amount of business (measured in accordance with the appropriate tariff base or tariff bases) which it conducted, in respect of the most recent valuation period (as specified by Annex 2) ending before the relevant year in relation to each *insurance class*.~~
- ~~(2) In this rule the relevant year means the year in which the *month* of February referred to in (1) falls.~~

...