

Policy Statement | PS26/18

Strengthening accountability: Implementing the extension of the SM&CR to insurers

October 2018



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY



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1 Introduction

1.1 This Prudential Regulation Authority (PRA) Policy Statement (PS) provides feedback to responses to Consultation Paper (CP) 18/18 ‘Strengthening accountability: implementing the extension of the SM&CR to insurers’.¹ It also provides a rule instrument with amendments to the final rules for the implementation of the extension of the Senior Managers and Certification Regime (SM&CR, ‘the regime’) to insurers; along with a technical correction to the Insurance General Application Part of the PRA Rulebook.

1.2 This PS is relevant to all Solvency II insurance firms (UK Solvency II firms, the Society of Lloyd’s and managing agents, and third country (re)insurance branches), and to insurance special purpose vehicles (ISPVs),² large non-Directive firms (NDFs),³ small NDFs⁴ and Swiss general insurers (collectively referred to as ‘insurers’). Some of the final amendments to rules are relevant to other PRA-regulated firms (Annex A, B and X in the Appendix).

1.3 This PS should be read in conjunction with PRA PS15/18 ‘Strengthening individual accountability in insurance: Extension of the SM&CR to insurers’,⁵ and Financial Conduct Authority (FCA) PS18/15 ‘Extending the Senior Managers and Certification Regime to insurers – Feedback to CP17/26 and CP17/41 and near final rules’,⁶ along with the proposals in PRA CP20/18 ‘Strengthening accountability: implementing the extension of the SM&CR to insurers (Part 2)’.⁷

1.4 The extension of the regime to insurers is being introduced by amendments to the Financial Services and Markets Act 2000 (FSMA) through the Bank of England and Financial Services Act 2016 (‘the 2016 Act’). The extended SM&CR for insurers will come into effect on Monday 10 December 2018, through the application of the Commencement regulations that have been published by HM Treasury for the relevant amendments to FSMA in the 2016 Act.⁸

Background

1.5 In PS15/18 the PRA published final rules and policy for the extension of SM&CR to insurers. In CP18/18 the PRA set out its proposals for some technical changes to its rules for the implementation of this extension.

Summary of responses to CP18/18

1.6 In CP18/18 the PRA proposed to extend to Solvency II firms and large NDFs the rule relating to individuals with FCA responsibilities (the ‘responsibilities overlap rule’) that currently applies to deposit-takers. This rule provides continuing approval in respect of FCA responsibilities, where a PRA senior manager has stopped performing a PRA Senior Management Function (SMF) and does not hold separate FCA approval to perform a Controlled Function (CF) in respect of these responsibilities. This continuing approval lasts for the shorter of the time that the person receives FCA approval to perform a controlled function

1 See page 2 of 2 at <https://www.bankofengland.co.uk/prudential-regulation/publication/2018/strengthening-accountability-implementing-the-extension-of-the-smcr-to-insurers>.

2 An ISPV is an undertaking with a Part 4A permission to carry on the regulated activity of insurance risk transformation.

3 These are insurers out of scope of Solvency II for which the value of assets in respect of regulated activities, as included in their two most recent annual reports, is more than £25 million. Large non-Directive insurer is defined in the PRA Rulebook Glossary at <http://www.prarulebook.co.uk/rulebook/Glossary/FullDefinition/77326/22-03-2017>.

4 These are insurers out of scope of Solvency II that are not large NDFs.

5 July 2018: <https://www.bankofengland.co.uk/prudential-regulation/publication/2018/strengthening-individual-accountability-in-insurance-extension-of-the-smcr-to-insurers>.

6 July 2018: <https://www.fca.org.uk/publications/policy-statements/ps18-15-extending-senior-managers-certification-regime-to-insurers>.

7 September 2018: <https://www.bankofengland.co.uk/prudential-regulation/publication/2018/strengthening-accountability-implementing-smcr-insurers-part-2>.

8 <http://www.legislation.gov.uk/ukxi/2018/990/made>.

or three months. The PRA proposed to extend this rule because the FCA is extending the scope of these FCA responsibilities to Solvency II and large NDFs.

1.7 There was one response to CP18/18. The respondent noted that, while the intention of the overlap rule is to reduce the administrative burden on insurers, they believed that the impact on firms is more onerous than if they were required to obtain two separate approvals from the FCA and PRA at the initial application stage. This response pertained to the general overlap rule, which already applies to insurers and deposit-takers and aims to minimise overlap of the PRA and FCA senior managers and approved person regimes. Amendments to this rule were not consulted on by the PRA in CP18/18.

1.8 The policy intent behind the extension of SM&CR to insurers has been to align the rules for all dual-regulated firms wherever possible. Therefore, the PRA proposes to make the responsibilities overlap rule for individuals as consulted.

1.9 The PRA will, in conjunction with the FCA, continue to monitor the effectiveness of the policy for the application of the overlap rule to the approval process, when an individual will be performing both a PRA senior management function and an FCA governing function.

Changes to draft policy

1.10 In a change to the draft policy as consulted on in CP18/18, the PRA has proceeded with the inclusion of the Individual Conduct Standards applicable to small NDFs in the definition of 'individual conduct requirements'; this is consistent with the published policy in PS15/18, to extend the full set of regulatory reference requirements to small NDFs. The PRA has decided not to proceed with the proposal to delete from this definition references to parts of the PRA Rulebook and FCA Handbook that are no longer in force. This is consistent with, and clarifies, the requirement that breaches of individual conduct requirements must be disclosed for the past six years.

Timeline and next steps

1.11 The final rules in this PS will apply with effect from Monday 10 December 2018.

1.12 Following the publication of the Commencement regulations by HM Treasury, the PRA published CP20/18 with some further proposed consequential technical amendments to its rules to take effect on Monday 10 December 2018. These further consequential changes are not intended to make any substantive change to the final policy and rules in this PS. A further PS containing the final rules following the consultation in CP20/18 will be published before the commencement of the regime.

Appendix

PRA RULEBOOK: CRR FIRMS, NON CRR FIRMS, SOLVENCY II FIRMS AND NON SOLVENCY II FIRMS: SENIOR MANAGERS REGIME AND SENIOR INSURANCE MANAGERS REGIME (AMENDMENT) (NO 2) INSTRUMENT 2018, available at:

<https://www.bankofengland.co.uk/prudential-regulation/publication/2018/strengthening-accountability-implementing-the-extension-of-the-smcr-to-insurers>.