

PRA RULEBOOK: FUNDAMENTAL RULES INSTRUMENT 2014

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 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.

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- D. The PRA makes the rules in Annexes A and B to this instrument.

Commencement

- E. This instrument comes into force on 19 June 2014.

Citation

- F. This instrument may be cited as the PRA Rulebook: Fundamental Rules Instrument 2014.

By order of the Board of the Prudential Regulation Authority

13 June 2014

Annex A

PRA RULEBOOK – GLOSSARY

Insert the following new definitions into the Glossary Part of the PRA Rulebook:

ancillary activity

means an activity which is not a *regulated activity* but which is:

- (1) carried on in connection with a *regulated activity*; or
- (2) held out as being for the purposes of a *regulated activity*.

dealing in investments as principal

means the *regulated activity* specified in Article 14 of the *Regulated Activities Order* (Dealing in investments as principal).

EU instrument

has the meaning given in Part II of Schedule 1 to the European Communities Act 1972.

Fundamental Rules

means the *rules* set out in Fundamental Rules 2.

incoming EEA firm

means an *EEA firm* which is exercising, or has exercised, its right to carry on a *regulated activity* in the *UK* in accordance with Schedule 3 of *FSMA*.

incoming Treaty firm

means a *Treaty firm* which is exercising, or has exercised, its right to carry on a *regulated activity* in the *UK* in accordance with Schedule 4 of *FSMA*.

permission

means permission to carry on *regulated activities*.

regulatory system

means the arrangements for regulating a *firm* or other *person* in or under *FSMA*, including the *threshold conditions*, the *Fundamental Rules* and other *rules*, the *Statements of Principle*, codes and *guidance* given by the *PRA* and including any relevant directly applicable provisions of a *EU Directive* or *Regulation*.

top-up permission

means a *Part 4A permission* given to an *incoming EEA firm* or an *incoming Treaty firm*.

UK firm

has the meaning given in paragraph 10 of Schedule 3 to *FSMA* (EEA Passport Rights).

Annex B

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

Part

FUNDAMENTAL RULES

Chapter content

- 1. APPLICATION AND DEFINITIONS**
- 2. FUNDAMENTAL RULES**
- 3. RESTRICTIONS**
- 4. TRANSITIONAL PROVISIONS**

Links

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to all *firms*.

1.2 In this Part, the following definitions shall apply:

branch

has the meaning specified in Article 4(1)(17) of the *CRR*.

cross border services

means:

- (1) (in relation to a *UK firm*) services provided within an *EEA State* other than the *UK* under the freedom to provide services; and
- (2) (in relation to an *incoming EEA firm* or an *incoming Treaty firm*) services provided within the *UK* under the freedom to provide services.

prudential context

means, in relation to activities carried on by a *firm*, the context in which the activities have, or might reasonably be regarded as likely to have, a negative effect on:

- (1) the safety and soundness of *firms*; or
- (2) the ability of the *firm* to meet either:
 - (a) the "fit and proper" test in *threshold conditions* 4E and 5E (Suitability); or
 - (b) the applicable requirements and standards under the *regulatory system* relating to the *firm's* financial resources.

2 FUNDAMENTAL RULES

2.1 *Fundamental Rule 1: A firm must conduct its business with integrity.*

2.2 *Fundamental Rule 2: A firm must conduct its business with due skill, care and diligence.*

2.3 *Fundamental Rule 3: A firm must act in a prudent manner.*

2.4 *Fundamental Rule 4: A firm must at all times maintain adequate financial resources.*

2.5 *Fundamental Rule 5: A firm must have effective risk strategies and risk management systems.*

2.6 *Fundamental Rule 6: A firm must organise and control its affairs responsibly and effectively.*

2.7 *Fundamental Rule 7: A firm must deal with its regulators in an open and cooperative way and must disclose to the PRA appropriately anything relating to the firm of which the PRA would reasonably expect notice.*

2.8 *Fundamental Rule 8: A firm must prepare for resolution so, if the need arises, it can be resolved in an orderly manner with a minimum disruption of critical services.*

3 RESTRICTIONS

- 3.1 The *Fundamental Rules* apply to every *firm*, except that:
- (1) for an *incoming firm*, the *Fundamental Rules* apply only in so far as responsibility for the matter in question is not reserved by an *EU instrument* to the *firm's home state regulator*;
 - (2) for an *incoming EEA firm* that is a *credit institution* without a *top-up permission*, *Fundamental Rule 4* applies only in relation to the liquidity of a *branch* established in the *UK*; and
 - (3) for an *incoming EEA firm* that has *permission* only for *cross border services* and does not carry on *regulated activities* in the *UK*, the *Fundamental Rules* do not apply.
- 3.2 A *firm* will not be subject to a *Fundamental Rule* to the extent that it would be contrary to the *UK's* obligations under *EU* legislation.
- 3.3 The *Fundamental Rules* apply with respect to the carrying on of:
- (1) *regulated activities*;
 - (2) activities that constitute *dealing in investments as principal*, disregarding the exclusion in Article 15 of the *Regulated Activities Order* (Absence of holding out etc); and
 - (3) *ancillary activities* in relation to *PRA-regulated activities*.
- 3.4 *Fundamental Rules* 3, 4, 5, 6, 8 and (in so far as it relates to disclosing to the *PRA*) 7 (and this chapter) also:
- (1) apply with respect to the carrying on of *unregulated activities* (for *Fundamental Rules* 5, 6 and 8 this is only in a *prudential context*); and
 - (2) take into account any activity of other members of a *group* of which the *firm* is a member.
- 3.5 The *Fundamental Rules* apply with respect to activities wherever they are carried on.
- 3.6 Where *Fundamental Rule 7* refers to regulators, this means, in addition to the *PRA*, other regulators with recognised jurisdiction in relation to *regulated activities*, whether in the *UK* or abroad.

4 TRANSITIONAL PROVISIONS

- 4.1 Each *rule* in the Principles for Businesses module of the *PRA Handbook* continues to apply in relation to any act or omission before the date on which this Part came into force.
- 4.2 Anything done, or having effect as done, under or for the purposes of any *rule* in the Principles for Businesses module of the *PRA Handbook* has effect after the date on which this Part came into force as if done under or for the purposes of any substantially similar *rule* in this Part.