

**PRA RULEBOOK: SOLVENCY II FIRMS: UNDERTAKINGS IN DIFFICULTY 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 with the Financial Conduct Authority), 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: Undertakings in Difficulty Instrument 2015**

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

**Commencement**

- E. This instrument comes into force on 1 January 2016.

**Citation**

- F. This instrument may be cited as the PRA Rulebook: Solvency II Firms: Undertakings in Difficulty Instrument 2015.

**By order of the Board of the Prudential Regulation Authority**

17 March 2015

## Annex

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

### Part

# UNDERTAKINGS IN DIFFICULTY

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### Chapter content

1. APPLICATION
2. IDENTIFICATION AND NOTIFICATION OF DETERIORATING FINANCIAL CONDITIONS
3. NON-COMPLIANCE WITH THE SCR
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5. RECOVERY PLAN AND FINANCE SCHEME
6. LLOYD'S

### Links

## 1 APPLICATION

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1.1 Unless otherwise stated, this Part applies to:

- (1) a *UK Solvency II firm*; and
- (2) in accordance with Insurance General Application 3, the *Society*, as modified by 6.

## 2 IDENTIFICATION AND NOTIFICATION OF DETERIORATING FINANCIAL CONDITIONS

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2.1 A *firm* must have procedures in place to identify deteriorating financial conditions and must immediately notify the *PRA* when such deterioration occurs.

**[Note: Art. 136 of the *Solvency II Directive*]**

## 3 NON-COMPLIANCE WITH THE SCR

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3.1 A *firm* must:

- (1) immediately inform the *PRA* as soon as it observes that the *SCR* is no longer complied with, or where there is a risk of non-compliance within the next three *months*;
- (2) within two *months* from the observation of non-compliance with the *SCR*, submit a realistic *recovery plan* for approval by the *PRA*; and
- (3) take the measures necessary to achieve, within six *months* (or such longer period as the *PRA* may determine) from the observation of non-compliance with the *SCR*, the re-establishment of the level of *eligible own funds* covering the *SCR* or the reduction of its risk profile to ensure compliance with the *SCR*.

**[Note: Art. 138(1)–(3) of the *Solvency II Directive*]**

3.2 If the *PRA* has extended the period referred to in 3.1(3), by reason of the declaration by *EIOPA* of *exceptional adverse situations* affecting the *firm*, the *firm* must submit a progress report to the *PRA* every three *months* setting out the measures taken and the progress made to re-establish the level of *eligible own funds* covering the *SCR* or to reduce its risk profile to ensure compliance with the *SCR*.

**[Note: Art. 138(4) of the *Solvency II Directive*]**

## 4 NON-COMPLIANCE WITH THE MCR

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4.1 A *firm* must:

- (1) inform the *PRA* immediately where it observes that the *MCR* is no longer complied with or where there is a risk of non-compliance within the next three *months*; and
- (2) within one *month* from the observation of non-compliance with the *MCR*, submit, for approval by the *PRA*, a short-term realistic *finance scheme* to restore, within three *months* of that observation, the reestablishment of *eligible own funds* at least to the level of the *MCR* or to reduce its risk profile to ensure compliance with the *MCR*.

**[Note: Art. 139(1), (2) of the *Solvency II Directive*]**

## 5 RECOVERY PLAN AND FINANCE SCHEME

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- 5.1 Any *recovery plan* or *finance scheme* must at least include particulars or evidence concerning the following:
- (1) estimates of management expenses, in particular current general expenses and commissions;
  - (2) estimates of income and expenditure in respect of direct business, *reinsurance* acceptances and *reinsurance* cessations;
  - (3) a forecast balance sheet;
  - (4) estimates of the financial resources intended to cover the *technical provisions* and the *SCR* and the *MCR*; and
  - (5) the *firm's* overall *reinsurance* policy.

**[Note: Art. 142(1) of the Solvency II Directive]**

## 6 LLOYD'S

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- 6.1 For the purposes of this Part, 3 and 5 shall apply to the *Society* such that a breach of the *central requirement* shall also be treated as a breach of the *SCR*.