

**PRA RULEBOOK: NOTIFICATIONS (BANK RECOVERY AND RESOLUTION DIRECTIVE)
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);
 - (2) section 137T (General supplementary powers); and
 - (3) section 192J (rules requiring provision of information by parent undertakings).
- B. The PRA exercises the following powers in the Act to make those terms in the Glossary that are used in this instrument in rules applicable to qualifying parent undertakings:
- (1) section 192J (rules requiring provision of information by parent undertakings);
 - (2) section 192JB (rules requiring parent undertakings to facilitate resolution); and
 - (3) section 137T (general supplementary powers).
- C. 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

- D. 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 directions and had regard to representations made.

Amendments

- E. The Notifications Part of the PRA Rulebook is amended in accordance with the Annex to this instrument.

Commencement

- F. This instrument comes into force on 19 January 2015.

Citation

- G. This instrument may be cited as the PRA Rulebook: Notifications (Bank Recovery and Resolution Directive) Instrument 2015.

By order of the Board of the Prudential Regulation Authority
15 January 2015

Annex

Amendments to the Notifications Part of the PRA Rulebook

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

Insert the following new definitions in the appropriate alphabetical position in Notifications 1.2:

extraordinary public financial support

means State aid, or any other public financial support at supra-national level, which, if provided for at national level, would constitute State aid, that is provided in order to preserve or restore the viability, liquidity or solvency of a BRRD undertaking or of a group of which a BRRD undertaking forms part.

BRRD management body

means a BRRD undertaking's body or bodies, which are appointed in accordance with national law, which are empowered to set the BRRD undertaking's strategy, objectives and overall direction, and which oversee and monitor management decision-making, and include the persons who effectively direct the business of the BRRD undertaking.

financial holding company

has the meaning set out at point 20 of Article 4(1) of the CRR.

mixed financial holding company

has the meaning set out at point 21 of Article 4(1) of the CRR.

mixed-activity holding company

has the meaning set out at point 22 of Article 4(1) of the CRR.

own funds

has the meaning set out at point (118) of Article 4(1) of the CRR.

State aid

means any aid granted by an EEA State or through an EEA State's resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods and which affects trade between EEA States.

Make the following amendments to the Notifications Part of the PRA Rulebook:

1 APPLICATIONS AND DEFINITIONS

- 1.1 Unless otherwise stated, this Part applies to every *firm* and Chapter 8 applies only to a BRRD undertaking.

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1.3 This Part applies to *incoming firms* without a *top-up permission* as follows:

...

(9) ~~6-9~~ 6, 7 and 9 apply in full.

...

8 SPECIFIC NOTIFICATIONS

8.0 This Chapter applies to a *BRRD undertaking*.

8.1 A *CRR firm* must report to the *PRA* immediately any case in which its counterparty in a *repurchase transaction* or securities or commodities lending or borrowing transaction defaults on its obligations.

8.2 A *BRRD undertaking*, which is a *CRR firm*, a *financial holding company*, a *mixed financial holding company* or a *mixed activity holding company* must notify the *PRA* immediately if its *BRRD management body* considers that:

(1) the assets of the *BRRD undertaking* are or there are objective elements to support a determination that the assets of the *BRRD undertaking* will, in the near future, be less than its liabilities;

(2) the *BRRD undertaking* is or there are objective elements to support a determination that the *BRRD undertaking* will, in the near future, be unable to pay its debts or other liabilities as they fall due; or

(3) extraordinary public financial support is required for the *BRRD undertaking* or the group of which the *BRRD undertaking* forms part.

8.3 A *BRRD undertaking*, which is a *CRR firm*, must notify the *PRA* immediately if its *management body* considers that the *firm* is failing or there are objective elements to support a determination that the *firm* will, in the near future, fail to satisfy one or more of the *threshold conditions*, including as a result of the *firm* having incurred or being likely to incur losses that will deplete all or a significant amount of its *own funds*.

[Note: Art. 81(1) of the *BRRD*]

8.4 A notification required from a *BRRD undertaking* under 8.2 or 8.3 must be delivered to the *PRA* by the method of electronic mail to an address for the usual supervisory contact at the *PRA* for the *BRRD undertaking* or its *group*.

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