

**PRA RULEBOOK: SOLVENCY II FIRMS NON-SOLVENCY II FIRMS: INSURANCE GENERAL
APPLICATION 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.

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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 Non-Solvency II Firms: Insurance General Application 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

INSURANCE GENERAL APPLICATION

Chapter content

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1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to all *firms* for the purposes of determining whether they are subject to any of the provisions of the Solvency II Firms Sector of the *PRA* Rulebook.

1.2 In this Part, the following definitions shall apply:

ancillary risk

- (1) subject to (2), means (in relation to an *insurer* with *Part 4A permission* to insure a principal risk belonging to one *class of general insurance business*) a risk included in another such *class* which is:
- (a) connected with the principal risk,
 - (b) concerned with the object which is covered against the principal risk, and
 - (c) the subject of the same contract insuring the principal risk.
- (2) the risks included in *classes* 14, 15 and 17 may not be treated as risks ancillary to other *classes*, except that the risk included in *class* 17 may be regarded as an ancillary risk of *class* 18 where:
- (a) the conditions laid down in (1)(a) to (1)(c) are fulfilled, and
 - (b) the principal risk relates solely to *assistance* provided for persons who fall into difficulties while travelling, while away from home or while away from their permanent residence or where it concerns disputes or risks arising out of, or in connection with, the use of sea going vessels.

[Note: Art. 16 of the Solvency II Directive]

assistance

means the *class of contract of general insurance*, specified in paragraph 18 of Part I of Schedule 1 to the *Regulated Activities Order*.

non-Solvency I firm

means a *firm* that immediately before the *Solvency II implementation date* fell outside the scope of the *Solvency I Directive*.

requirement

means a requirement or limitation included in a *firm's Part 4A permission* under section 55F(4) of *FSMA* (Giving permission: the PRA), section 55L(3) of *FSMA* (Imposition of requirements by the FCA), section 55M(3) of *FSMA* (Imposition of Requirements by the PRA) or section 55O of *FSMA* (Imposition of requirements on acquisition of control).

Second Non-Life Directive

means the Council Directive of 22 June 1988 (no 88/357/EEC) on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 73/239/EEC.

Solvency I Directive

means each of:

- (1) the *Consolidated Life Directive*;
- (2) the *First Non-Life Directive*;
- (3) the *Second Non-Life Directive*;
- (4) the *Third Non-Life Directive*; and
- (5) the *Reinsurance Directive*.

Solvency I firm

means a *firm* that immediately before the *Solvency II implementation date* was an *insurer* that fell within the scope of *Solvency I Directive*.

Solvency II excluded operations

means:

- (1) a *mutual* whose *insurance business* is restricted to the provision of benefits which vary according to the resources available and in which the contributions of the members are determined on a flat-rate basis; or
- (2) a *mutual* whose liabilities in respect of *contracts of general insurance* must be fully reinsured with or guaranteed by other *mutuals* (including *friendly societies*) and the *mutuals* providing the *reinsurance* or the guarantees are *Solvency II undertakings*.

syndicate liabilities

means liabilities managed by a *managing agent* in respect of *insurance business* carried on through a *syndicate*.

2 UK SOLVENCY II FIRM

2.1 A *UK Solvency II firm* means a *firm*:

- (1) that satisfies the conditions set out in 2.2, or
- (2) whose *Part 4A permission* includes a *requirement* that it comply with the Solvency II Firms Sector of the *PRA Rulebook*.

2.2 The conditions referred to in 2.1(1) are, subject to the exclusions in 2.3 to 2.6:

- (1) the *firm* is an *insurer*;
- (2) the *firm* has its head office in the *UK*;

- (3) the *firm's Part 4A permission* does not include a *requirement* that it must only carry on *Solvency II excluded operations*;
- (4) the *firm* is a *Solvency I firm* that is not excluded pursuant to 2.6;
- (5) the *firm* is a *non-Solvency I firm* that is not excluded pursuant to:
 - (a) 2.3 on the *Solvency II implementation date*; or
 - (b) 2.6;
- (6) if it obtained its *Part 4A permission* to *effect contracts of insurance* and/or *carry out contracts of insurance* on or after *Solvency II implementation date*, the *firm* is not excluded pursuant to:
 - (a) 2.3 on the date it obtains such *Part 4A permission*, unless 2.5 applies; or
 - (b) 2.6; and
- (7) the *firm* is not a *pure reinsurer* which ceased to conduct new *reinsurance contracts* before 10 December 2007.

[Note: Art. 2(1), Art. 4(1), (3), (4), Art. 5(2), Art. 7, Art. 9(1), (2), Art. 12(1) of the *Solvency II Directive*]

2.3 Subject to 2.5, a *firm* of the kind mentioned in 2.2(5) or 2.2(6) is excluded if it fulfils all of the following conditions:

- (1) the *firm's* annual gross written premium income does not exceed 5,000,000 euro;
- (2) the total of the *firm's technical provisions*, gross of the amounts recoverable from *reinsurance contracts* and *ISPVs*, as referred to in Technical Provisions 2.1 to 2.3 does not exceed 25,000,000 euro;
- (3) where the *firm* belongs to a *group*, the total of the *technical provisions* of the *group* defined as gross of the amounts recoverable from *reinsurance contracts* and *ISPVs* does not exceed 25,000,000 euro;
- (4) the business of the *firm* does not include insurance or *reinsurance* activities covering liability, credit and suretyship insurance risks, unless they constitute *ancillary risks*; and
- (5) the business of the *firm* does not include *reinsurance* operations:
 - (a) exceeding:
 - (i) 500,000 euro of its gross written premium income; or
 - (ii) 2,500,000 euro of its *technical provisions* gross of the amounts recoverable from *reinsurance contracts* and *ISPVs*; or
 - (b) with more than 10% of its gross written premium income or more than 10% of its *technical provisions* gross of the amounts recoverable from *reinsurance contracts* and *ISPVs*.

[Note: Art. 4(1) of the *Solvency II Directive*]

2.4 A *firm* excluded under 2.3 shall cease to be excluded under that rule:

- (1) from the fourth year if any of the amounts set out in 2.3(1), 2.3(2), 2.3(3) or 2.3(5) are exceeded in each of the three preceding consecutive years after the *Solvency II implementation date*; and
- (2) immediately and for as long as:
 - (a) it exercises *EEA rights* under the *Solvency II Directive*;
 - (b) its business includes insurance or *reinsurance* activities covering liability, credit or suretyship insurance risks, unless they constitute *ancillary risks*.

[Note: Art. 4(2), Art. 4(4)(2nd sub-paragraph) of the *Solvency II Directive*]

- 2.5 Subject to 2.6, a *firm* of the kind mentioned in 2.2(6) is not excluded under 2.3 if;
- (1) any of the amounts set out in 2.3(1), 2.3(2), 2.3(3) or 2.3(5) are expected to be exceeded within five years of the date the *firm* obtained its *Part 4A permission to effect contracts of insurance and/or carry out contracts of insurance*;
 - (2) it exercises *EEA rights* under the *Solvency II Directive*.

[Note: Art. 4(3), Art. 4(4)(2nd sub-paragraph) of the *Solvency II Directive*]

- 2.6 A *firm* of the kind mentioned in 2.2(4), 2.2(5) or 2.2(6) is excluded provided
- (1) it is not exercising *EEA rights* under the *Solvency II Directive*; and
 - (2) none of the thresholds set out in 2.3:
 - (a) has been exceeded for three consecutive years; and
 - (b) is expected to be exceeded during the following five years.

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

3 LLOYD'S

- 3.1 Where a provision in the Solvency II Firms Sector of the *PRA Rulebook* is expressed to apply to the *Society* "in accordance with" this Chapter, the *Society* must:
- (1) manage each *member's funds at Lloyd's*;
 - (2) carry out any applicable calculations in respect of each *member's funds at Lloyd's*;
 - (3) manage its *central assets* and *central liabilities*;
 - (4) where the context requires, supervise the *insurance business* carried on by each *member* at Lloyd's; and
 - (5) take such further steps as may be required,

in order to achieve, in relation to those assets and liabilities and that *insurance business*, the same effect as the relevant provision of the Solvency II Firms Sector of the *PRA Rulebook* would have (that is, conforming with the requirements of any rule) when applied to a *UK Solvency II firm*.

3.2 Where a provision in the Solvency II Firms Sector of the *PRA* Rulebook is expressed to apply to a *managing agent* “in accordance with” this Chapter, the *managing agent* must, in relation to each *syndicate* managed by it and for each *syndicate* year:

- (1) manage the *syndicate assets* and *syndicate liabilities*;
- (2) manage the *insurance business* carried on by the *members* of the *syndicate* through that *syndicate*; and
- (3) take such further steps as may be required,

in order to achieve, in relation to those *syndicate assets* and *syndicate liabilities* and that *insurance business*, the same effect as the relevant provision of the Solvency II Firms Sector of the *PRA* Rulebook would have (that is, conforming with the requirements of any rule) when applied to a *UK Solvency II firm*.

4 EURO INTERPRETATION

4.1 Where a provision in the Solvency II Firms Sector of the *PRA* Rulebook makes reference to amounts in euro, the exchange rate from the euro to the pound sterling for each year with effect from 31 December is the rate applicable on the last day of the preceding October for which the exchange rates for the currencies of all of the EU member states were published in the Official Journal of the European Union.

[Note: Art. 299 of the *Solvency II Directive*]

4.2 Where a provision in the Solvency II Firms Sector of the *PRA* Rulebook makes reference to amounts in euro a *firm* must interpret those amounts as being succeeded by any such amounts published in the Official Journal of the European Union reflecting the percentage change in the Harmonised Indices of Consumer Prices (comprising all EU member states, as published by Eurostat) starting from 31 December 2015 until the date of revision and rounded up to a multiple of 100,000 euro, provided that where the percentage change since the previous revision is less than 5% the amounts will not be revised.

[Note: Art. 300 of the *Solvency II Directive*]