

## Chapter 2

# The threshold conditions

## 2.4 Appropriate resources

2.4.1 UK [deleted]

### Paragraph 2D of Schedule 6 to the Act

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- 2.4.1A UK
- (1) The resources of A must be appropriate in relation to the regulated activities that A carries on or seeks to carry on.
  - (2) The matters which are relevant in determining whether A has appropriate resources include-
    - (a) the nature and scale of the business carried on, or to be carried on, by A;
    - (b) the risks to the continuity of the services provided by, or to be provided by, A; and
    - (c) A's membership of a group and any effect which that membership may have.
  - (3) Except in a case within sub-paragraph (3A), the matters which are relevant in determining whether A has appropriate financial resources include-
    - (a) the provision A makes and, if A is a member of a group, which other members of the group make, in respect of liabilities; and
    - (b) the means by which A manages and, if A is a member of a group, by which other members of the group manage, the incidence of risk in connection with A's business.
- (3A) Where the only regulated activities that A carries on, or seeks to carry on, are-
- (a) relevant credit activities, and
  - (b) if any, activities to which, by virtue of section 39(1D), sections 20(1) and (1A) and 23(1A) do not apply when carried on by A, A has adequate financial resources if A is capable of meeting A's debts as they fall due.
- (4) The matters which are relevant in determining whether A has appropriate non-financial resources include-
    - (a) the skills and experience of those who manage A's affairs;

- (b) whether A's non-financial resources are sufficient to enable A to comply with -
  - (i) requirements imposed or likely to be imposed on A by the FCA in the course of the exercise of its functions;
  - (ii) any other requirement in relation to whose contravention the FCA would be the appropriate regulator for the purposes of any provision of Part 14 of this Act.

**2.4.1B** G Paragraph 2D of Schedule 6 to the Act sets out the appropriate resources *threshold condition* for firms carrying on, or seeking to carry on, regulated activities which do not include a PRA-regulated activity.

**2.4.1BA** G For the purposes of paragraph 2D (3A) of Schedule 6 to the Act, relevant credit activity is defined in paragraph 2G of Schedule 6 to the Act. Guidance on the meaning of relevant credit activity is given in ■ COND 1.1A.5A G.

**Paragraph 3C of Schedule 6 to the Act**

**2.4.1C** UK

- (1) The non-financial resources of B must be appropriate in relation to the regulated activities that B carries on or seeks to carry on, having regard to the operational objectives of the FCA.
- (2) The matters which are relevant in determining whether the condition in sub-paragraph (1) is met include-
  - (a) the nature and scale of the business carried on, or to be carried on, by B;
  - (b) the risks to the continuity of the services provided by, or to be provided by, B;
  - (c) B's a member of a group and any effect which that membership may have;
  - (d) the skills and experience of those who manage B's affairs;
  - (e) whether B's non-financial resources are sufficient to enable B to comply with-
    - (i) requirements imposed or likely to be imposed on B by the FCA in the exercise of its functions; or
    - (ii) any other requirement in relation to whose contravention the FCA would be the appropriate regulator for the purpose of any provision of Part 14 of this Act.

**2.4.1D** G Paragraph 3C of Schedule 6 to the Act sets out the appropriate non-financial resources *threshold condition* which is relevant to the discharge by the FCA of its functions under the Act in relation to firms carrying on, or seeking to carry on, regulated activities which include a PRA-regulated activity.

**2.4.1E** G The guidance in ■ COND 2.4 should be read as applying to both paragraph 2D of Schedule 6 of the Act and, as far as relevant to the discharge by the FCA of its functions in respect of firms carrying on, or seeking to carry on, a PRA-regulated activity under the Act, paragraph 3C of Schedule 6 of the Act.

- 2.4.1F** G As the *threshold condition* set out in paragraph 3C of Schedule 6 to the Act does not relate to financial resources, the *guidance* in ■ COND 2.4 relating to appropriate financial resources only applies to the FCA's assessment of the *threshold condition* set out in paragraph 2D of Schedule 6 of the Act.
- 2.4.1G** G *Firms* carrying on, or seeking to carry on, a *PRA-regulated activity*, should note that the *PRA* is responsible for assessing their financial resources. Paragraphs 4D and 5D of Schedule 6 to the Act contain the *threshold conditions* relating to financial resources which are relevant to the discharge by the *PRA* of its functions under the Act in relation to *firms* carrying on, or seeking to carry on, a *PRA-regulated activity* (in addition to additional non-financial resources *threshold conditions* which are also relevant to the discharge by the *PRA* of its functions). For the avoidance of doubt, this *guidance* does not apply to *threshold conditions* set out in paragraphs 4D and 5D of Schedule 6 to the Act.
- 2.4.2** G
- (1) [deleted]
  - (2) In this context, the FCA will interpret the term 'appropriate' as meaning sufficient in terms of quantity, quality and availability, and 'resources' as including all financial resources (though only in the case of *firms* not carrying on, or seeking to carry on, a *PRA-regulated activity*), non-financial resources and means of managing its resources; for example, capital, provisions against liabilities, holdings of or access to cash and other liquid assets, human resources and effective means by which to manage risks.
  - (2A) Paragraph 1A(2) of Schedule 6 to the Act provides that "non-financial resources" of a *firm* for the purposes of the *threshold conditions* include any systems, controls, plans or policies that the *firm* maintains and the human resources that the *firm* has available.
  - (3) High level systems and control requirements are in SYSC. The FCA will consider whether the *firm* is ready, willing and organised to comply with these and other applicable systems and controls requirements when assessing if it has appropriate non-financial resources for the purpose of the *threshold conditions* set out in paragraphs 2D and 3C to Schedule 6 of the Act. For a *Solvency II firm*, the PRA Rulebook: *Solvency II firms: Conditions Governing Business and Solvency II Regulation (EU) 2015/35* of 10 October 2014 also contain systems and control requirements and the FCA will take these into account.
  - (4) Detailed financial resources requirements are in the relevant section of the Prudential Standards part of the *FCA Handbook*, including specific provisions for particular types of *regulated activity*. The FCA will consider whether *firms* (other than *firms* carrying on, or seeking to carry on, *PRA-regulated activities*) are ready, willing and organised to comply with these requirements when assessing if they have appropriate financial resources for the purposes of the *threshold condition* set out in paragraph 2D of Schedule 6 to the Act.
- 2.4.3** G
- (1) [deleted]
  - (2) Although it is the *firm* that is being assessed, the FCA may take into consideration the impact of other members of the *firm's group* on

the adequacy of its resources, where relevant to the discharge of the FCA's functions. For example, in relation to a *firm* other than a *firm* carrying on, or seeking to carry on, a *PRA-regulated activity*, the FCA may assess the consolidated solvency of the *group*. The FCA's approach to the consolidated supervision of such a *firm*, and its *group*, is in the relevant part of the Prudential Standards part of the *FCA Handbook*.

2.4.4

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- (1) [deleted]
- (2) Relevant matters to which the FCA may have regard when assessing whether a *firm* will satisfy, and continue to satisfy, this *threshold condition* may include but are not limited to:
  - (a) (in relation to a *firm* other than a *firm* carrying on, or seeking to carry on, a *PRA-regulated activity*), whether there are any indications that the *firm* may have difficulties if the application is granted, at the time of the grant or in the future, in complying with any of the FCA's prudential *rules* (see the relevant part of the Prudential Standards part of the *FCA Handbook*);
  - (b) (in relation to a *firm* other than a *firm* carrying on, or seeking to carry on, a *PRA-regulated activity*, whether there are any indications that the *firm* will not be able to meet its debts as they fall due;
  - (c) whether there are any implications for the adequacy of the *firm's* resources arising from the history of the *firm*; for example, whether the *firm* has:
    - (i) been adjudged bankrupt; or
    - (ii) entered into liquidation; or
    - (iii) been the subject of a receiving or administration order; or
    - (iv) had a bankruptcy or winding-up petition served on it; or
    - (v) had its estate sequestrated; or
    - (vi) entered into a deed of arrangement or an individual voluntary agreement (or in Scotland, a trust deed) or other composition in favour of its creditors, or is doing so; or
    - (vii) within the last ten years, failed to satisfy a judgment debt under a court order, whether in the *United Kingdom* or elsewhere;
  - (d) whether the *firm* has taken reasonable steps to identify and measure any risks of regulatory concern that it may encounter in conducting its business (see ■ COND 2.4.6 G) and has installed appropriate systems and controls and appointed appropriate human resources to measure them prudently at all times. For a *Solvency II firm*, the PRA Rulebook: Solvency II firms: Conditions Governing Business and *Solvency II Regulation (EU) 2015/35* of 10 October 2014 also contain systems and control requirements on these matters and the FCA will take these into account; and
  - (e) whether the *firm* has conducted enquiries into the financial services sector in which it intends to conduct business that are sufficient to satisfy itself that:

- (i) it has access to adequate capital, by reference to the *FCA's* prudential requirements, to support the business including any losses which may be expected during its start-up period (in relation to a *firm* other than a *firm* carrying on, or seeking to carry on, a *PRA-regulated activity*); and
- (ii) client money, *deposits, custody assets and policyholders'* rights will not be placed at risk if the business fails; and
- (f) whether the resources of the *firm* are commensurate with the likely risks it will face.

(3) [deleted]

(4) [deleted]

2.4.5 G [deleted]

2.4.6 G (1) [deleted]

(2) [deleted]

(3) [deleted]