# Appendix 2 Insurers: Regulatory intervention points and run-off plans

### 2.1 Application

- App2.1.1 R Subject to SUP App 2.1.6R, SUP App 2.1 to 2.15 apply to an *insurer*, unless it is a *Swiss general insurer*.
- **App2.1.2 G** SUP App 2.1 to 2.15 apply to every *friendly society* that is an insurer.
- App 2.1.4 G SUP App 2.14A and SUP App 2.15 apply to an *insurer* carrying on *with-profits* business, but SUP App 2.15 only applies if COBS 20.2.53 R (Ceasing to effect new contracts of insurance in a with-profits fund) also applies.
- **App2.1.5 G** SUP App 2.7.1 G is made by the *FCA* for the purpose of its application to *dormant* asset fund operators.
- App2.1.6 R [deleted]
- App 2.1.7 G The *rules* for *Solvency II firms* in difficulty or in an irregular situation are in the PRA Rulebook: Solvency II Firms: Undertakings in Difficulty.

## 2.2 Interpretation

#### **App 2.2.1** R For the purpose of $\blacksquare$ SUP App 2.1 to $\blacksquare$ 2.14:

- (1) "capital resources":
  - (a) in relation to a non-directive friendly society, has the meaning given to "margin of solvency" in rule 2.1 of the Friendly Society – Overall Resources and Guarantee Fund part of the PRA Rulebook;
  - (b) [deleted]
  - (c) in relation to any other firm which is not a Solvency II firm, means the firm's capital resources as calculated in accordance with:
    - (i) in the case of a dormant asset fund operator, the version of ■ GENPRU 2.2.17R that applied as at 31 December 2015 (the effect of which has been preserved for the purposes of ■ INSPRU 7); and
    - (ii) in the case of a non-directive insurer (other than a non-directive friendly society), the PRA Rulebook: Non-Solvency II Firms: Insurance Company - Capital Resources; and
  - (d) in relation to a Solvency II firm means the firm's "eligible own funds" as defined in the PRA Rulebook: Glossary;
- (2) [deleted]
  - (b) [deleted]
- (3) "material transaction" means a transaction (when aggregated with any similar transactions) in which:
  - (a) the price actually paid or received for the transfer of assets or liabilities or the performance of services; or
  - (b) the price which would have been paid or received had that transaction been negotiated at arm's length between unconnected parties;

#### exceeds:

- (c) in the case of a firm which carries on long-term insurance business, but not general insurance business, the sum of €20,000 and 5% of the firm's liabilities arising from its long-term insurance business, excluding property-linked liabilities and net of reinsurance ceded; or
- (d) in the case of a firm which carries on general insurance business, but not long-term insurance business, the sum of €20,000 and 5% of the firm's liabilities arising from its general insurance business, net of reinsurance ceded: or
- (e) in the case of a firm which carries on both long-term insurance business and general insurance business:
  - (i) where the transaction is in connection with the firm's long-term insurance business, the sum of €20,000 and 5% of the firm's liabilities arising from its long-term insurance business, excluding property-linked liabilities and net of reinsurance ceded; and
  - (ii) in all other cases, the sum of €20,000 and 5% of the firm's liabilities arising from its general insurance business, net of reinsurance ceded; and

- (4) "required margin of solvency":
  - (a) in relation to a *non-directive friendly society*, has the meaning given to that term in *IPRU(FSOC)*;
  - (b) in relation to a participating insurance undertaking, means R-S-U, where R, S and U have the meanings given by INSPRU 6.1.45R (3)(c),
     (d) and (f) respectively;
  - (c) in relation to a *firm* which is not covered by (a) or (b), carrying on general insurance business, means the general insurance capital requirement applicable to that *firm*; and
  - (d) in relation to a *firm* which is not covered by (a) or (b), carrying on *long-term insurance business*, means the *long-term insurance capital requirement* applicable to that *firm*.

#### 2.3 Purpose

App 2.3.8 G

### 2.7 Capital resources below the level of individual capital guidance

- App 2.7.1 G

  For a dormant asset fund operator, unless any of ■SUP App 2.4.1 R, ■SUP App 2.5.1 R,
  ■SUP App 2.5.3 R or ■SUP App 2.6.1 R applies, if a firm's circumstances change, such that its capital resources have fallen, or are expected to fall, below the level advised in individual capital guidance given to the firm by the FCA, then, consistent with ■PRIN 2.1.1 R Principle 11 (Relations with regulators), a firm should inform the appropriate regulator of this fact as soon as practicable, explaining why capital resources have fallen, or are expected to fall, below the level advised in individual capital guidance, and:
  - (1) what action the firm intends to take to increase its capital resources; or
  - (2) what modification the *firm* considers should be made to the *individual* capital guidance which it has been given.
- App2.7.2 G Terms in ■SUP App 2.7.1G have the meaning in ■INSPRU 7 and GENPRU in force as at 31 December 2015. References to SUP App 2 provisions are to the provisions in force in the PRA Rulebook on 31 December 2015.

App 2.7.3 G

#### 2.8 Ceasing to effect contracts of insurance

- App 2.8.1 R If a firm (whether within or outside the scope of the Solvency II Directive) decides to cease to effect new contracts of insurance, it must, within 28 days of that decision, submit a run-off plan to the FCA including:
  - (1) a scheme of operations; and
  - (2) an explanation of how, or to what extent, all liabilities to policyholders (including, where relevant, liabilities which arise from the regulatory duty to treat customers fairly in setting discretionary benefits) will be met in full as they fall due.
- App 2.8.4 G Under Principle 11, the FCA normally expects to be notified by a firm when it decides to cease effecting new contracts of insurance in respect of one or more classes of contract of insurance (see ■ SUP 15.3.8 G). At the same time, the FCA would normally expect the firm to discuss with it the need for the firm to apply to vary its permission (see ■ SUP 6.2.6 G and ■ SUP 6.2.7 G) and, if appropriate, to submit a scheme of operations in accordance with ■ SUP App 2.8.1 R.
- 2.9 Under control of a new parent undertaking
- App 2.9.1 G [deleted]
- 2.10 **Grant or variation of permission**
- App 2.10.1 G The PRA will ask Solvency II firms seeking a grant or variation of permission to provide a scheme of operations as part of the application process (see the UK provisions which implemented article 18 of the Solvency II Directive). It may make a similar request to other firms (see ■ SUP 6.3.25 G). Firms which have submitted such a scheme of operations are not required to submit to the PRA a further scheme of operations under this appendix unless SUP App 2.8 or the relevant parts of PRA Rulebook: Non-Solvency II firms: Run Off Operations or PRA Rulebook: Solvency II

firms: Run Off Operations apply. ■ SUP 6 Annex 4 does, however, apply to such a firm

#### 2.11 Submission of a scheme of operations or a plan for restoration

App 2.11.4 G

# 2.14A Fairness issues for with-profit firms in difficulty or in an irregular situation

- App 2.14A.1 **G** SUP App 2.14A applies to a *firm* carrying on *with-profits business*.
- App2.14A.2 G Action which a *firm* takes either to restore its capital resources to the levels set by the intervention points in *PRA* Rulebook: Solvency II Firms: Undertakings in Difficulty or *PRA* Rulebook: Non-Solvency II firms: Run Off Operations, or to prevent its capital resources falling below those points, should be consistent with *Principle* 6 of the *FCA*'s Principles for Businesses. *Principle* 6 requires a *firm* to pay due regard to the interests of its *customers* and treat them fairly.
- App 2.14A.3 G If a firm intends either (a) to remedy a fall in capital resources, or (b) to prevent such a fall, for example, by taking management action to reduce the risks to which a with-profits fund is exposed or by reducing non-contractual benefits for policyholders, it should explain to the FCA how such proposed actions are consistent with the firm's obligations under Principle 6 (Customers' interests).
- App 2.14A.4 G Where a *firm* submits a plan for restoration under PRA Rulebook: Solvency II Firms: Undertakings in Difficulty or PRA Rulebook: Non-Solvency II firms: Run Off Operations, the *FCA* would expect an explanation of how any actions it plans to take to restore its capital resources are consistent with the *firm*'s obligations under *Principle* 6 (Customers' interests).

### 2.15 Run-off plans for closed with-profits funds

App 2.15.1 G The run-off plan required by ■ COBS 20.2.53 R should include the information described in ■ SUP App 2.15.2 G to ■ SUP App 2.15.13 G in respect of the relevant withprofits fund.

- Funding A firm's run-off plan should describe how the firm proposes to manage the run-off App 2.15.2 G of the with-profits fund. That description should include:
  - (1) details of the expected duration and costs of fully running off the fund's liabilities:
  - (2) an explanation as to how a solvent run-off will be funded; and
  - (3) details of the firm's future strategy for managing the risks associated with the run-off of the fund.

- Investment risk App 2.15.3 G A firm's run-off plan should include an explanation of its future investment strategy, including:
  - (1) its strategy for matching the with-profits fund's liabilities with appropriate assets; and
  - (2) any changes it expects to make to the with-profits fund's investment strategy as a result of the closure of the with-profits fund, including any changes to the proportions of different types of investments.

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#### Credit risk

App 2.15.4 G A firm's run-off plan should include an explanation of its strategy for managing the with-profits fund's counterparty and credit risk, both within and external to the firm's group.

## Operational risk

- App2.15.5 G A firm's run-off plan should show how it will address any additional operational risks that may flow from the closure of the with-profits fund, including:
  - (1) any changes that it proposes to make to staffing arrangements for the runoff;
  - (2) an estimate of the cost of proposed operational changes, including redundancy costs; and
  - (3) any material outsourcing arrangements it proposes to enter into, explaining how the firm will address any specific operational risks created by those arrangements.

Reinsurance App2.15.6 G A firm's run-off plan should explain how it will use and manage reinsurance (if it will), including:

- (1) any new inwards or outwards reinsurance it proposes to enter into as a result of the closure of the with-profits fund identifying, in each case, the proposed counterparty and the counterparty's relationship to the firm's group (if any); and
- (2) how it will manage the risk that the *reinsurance* in (1) will not perform as expected.

#### Governance and impact on policy holders

#### **App 2.15.7 G** A *firm*'s run-off plan should include:

- (1) details of any changes that will be made to the *firm*'s corporate governance arrangements as a consequence of closure;
- (2) an explanation of how costs charged to the *with-profits fund* may change in the light of closure;
- (3) an explanation of any changes it will make, as a consequence of closure, to any charges for guarantees, including:
  - (a) the circumstances in which those charges may be varied in the future; or
  - (b) the manner by which the level of any appropriate variation to those charges may be determined;
- (4) an explanation of any actual or potential changes in the maturity payment or surrender payment target ranges that the *firm* will apply to determine benefits under its *with-profits policies*;
- (5) an explanation of any actual or potential changes in the *firm*'s smoothing policy as a consequence of closure;
- (6) an explanation of any changes to the *firm's projection* rates as a consequence of closure;
- (7) details of any new deductions to be made from the *firm*'s surrender payments, together with an explanation as to how those deductions are consistent with:
  - (a) Principle 6 (Customers' interests); and
  - (b) COBS 20.2.11 G to COBS 20.2.16 R (Amounts payable under with-profits policies: Surrender payments);
- (8) if there are groups of unitised with-profits policies in the with-profits fund with similar market value reduction free dates, an explanation as to whether:
  - (a) the firm expects surrenders to peak around any of those dates; and
  - (b) if it does, how it proposes to deal with those peaks;
- (9) details of the information that the *firm* gives to its *with-profits* policyholders about their right (if any) to use the proceeds of a personal pension scheme, stakeholder pension scheme, FSAVC, retirement annuity contract or pension buy-out contract to purchase an annuity on the open market when the relevant contracts or schemes vest or mature and any changes that will be made to that information as a result of the closure;

- (10) details of how the firm will deal with any potential mis-selling costs that may arise in the future in respect of contracts of insurance effected in the with-profits fund;
- (11) an explanation of how the firm:
  - (a) anticipates capital will become available for distribution to policyholders (and shareholders where appropriate); and
  - (b) will ensure a full and fair distribution of the closed with-profits fund, including any inherited estate;

including details of:

- (c) how the firm plans to provide in the long term for annuity payments on any with-profits and non-profits policies under which benefits have vested:
- (d) how the firm will address future adverse circumstances in relation to these (e.g. increased annuitant longevity); and
- (e) details of the firm's plans for distributing the embedded value in any major subsidiaries held in or by the closed with-profits fund;
- (12) an explanation of any material differences between the firm's run-off plan and relevant parts of its PPFM, together with details of any changes that will be made to the *PPFM* as a consequence of closure (The *firm* should provide the FCA with a copy of the revised sections of its PPFM when it submits its run-off plan.);
- (13) an explanation of whether the firm will be seeking to expand any other business following closure of the with-profits fund. (This explanation should include whether the firm will effect any new with-profits policies in a different with-profits fund and whether it will seek to expand its unitlinked or non-profit insurance business. It should also include an explanation of how such plans will impact on the closed with-profits fund. For example, will the firm offer policyholders in the closed with-profits fund the opportunity to switch into another with-profits fund or into unit-linked business?)

# Financial projections

App2.15.8 G A firm, other than a Solvency II firm, should include in its run-off plan:

- (1) a forecast summary revenue account for the with-profits fund, in the form of ■ SUP App 2.15.9 G Table 1;
- (2) a forecast summary balance sheet and statement of solvency for the withprofits fund, which has been prepared in the form of ■ SUP App 2.15.9 G Table 2 and on a regulatory basis; and
- (3) a forecast summary balance sheet and statement of solvency for the entire firm, which has been prepared in the form of ■ SUP App 2.15.9 G Table 3 and on a regulatory basis;

in each case, for at least a three year period, beginning on the date of closure; and

(4) a description of the assumptions underlying the forecasts at (1) to (3) and the reasons for adopting those assumptions.

- App 2.15.8A G A Solvency II firm should include the following information in its run off plan, except in the circumstances set out in SUP App 2.15.8B G:
  - (1) a forecast summary revenue account for the *with-profits fund*, in accordance with *PRA* Rulebook: Non-Solvency II firms: Run Off Operations 6.1(3)(a);
  - (2) a forecast summary balance sheet and "eligible own funds" as defined in the PRA Rulebook: Glossary and any notional SCR for the with-profits fund, in accordance with PRA Rulebook: Non-Solvency II firms: Run Off Operations 6.1(3)(b); and
  - (3) "eligible own funds", "MCR" (as those terms are defined in the PRA Rulebook: Glossary), forecast summary balance sheet and *SCR* for the entire *firm*, in accordance with *PRA* Rulebook: Non-Solvency II firms: Run Off Operations 6.1(3)(b) and 6.1.3(c) to (e);

in each case, for at least a three-year period, beginning on the date of closure.

App 2.15.8B G Delegated acts or implementing technical standards may be adopted under the UK provisions which implemented article 35(6) and (7) of the Solvency II Directive in relation, among other things, to run-off plans. In that event Solvency II firms should comply with those acts and standards to the extent that they supersede SUP App 2.15.8A G.

#### App 2.15.9 G These tables belong to ■ SUP App 2.15.8 G

#### Table 1 - forecast summary revenue account for the relevant with-profits fund

- (1) Premiums and claims (gross and net of reinsurance) analysed by major class of insurance business
- (2) Investment return
- (3) Expenses
- (4) Other charges and income
- (5) Taxation
- (6) Increase (decrease) in fund in financial year
- (7) Fund brought forward
- (8) Fund carried forward

#### Table 2 - forecast summary balance sheet and statement of solvency for the relevant with-profits fund

Assets analysed by type	(excluding implicit items):

- (1) Equities
- (2) Land and buildings
- (3) Fixed interest investments
- (4) All other assets
- (5) Total assets (excluding *implicit items*)
- (6) Policyholder liabilities
- (7) Other liabilities
- (8) Total liabilities
- (9) Excess/(deficiency) of assets over liabilities before implicit items

Table 2 - forecast summary balance sheet and statement of solvency for the relevant with-profits fund		
(10)	Implicit items allocated to the with-profits fund	
(11)	Long-term insurance capital requirement for the with-profits fund	
(12)	Resilience capital requirement for the with-profits fund	
(13)	[deleted]	
(14)	Net excess/(deficiency) of assets in the with-profits fund	
Table 3 - forecast summary balance sheet and statement of solvency for the firm		
L1	Surplus long-term insurance assets, with-profit fund(s)	
L2	Surplus long-term insurance assets, non-profit fund(s)	
L3	Total long-term insurance assets	L1+L2
L4	Total long-term insurance liabilities (excluding resilience capital requirement)	
L5	Total long-term insurance fund surplus	L3-L4
L6	Shareholder fund assets	
L7	Implicit items	
L8	Long-term insurance capital requirement	
L9	Excess of regulatory assets over long-term insurance capital requirement	L5+L6+L7-L8
L10	[deleted]	
L11	Resilience capital requirement	
L12	Net excess assets	L9-L10-L11
L13	FTSE level at which the long-term insurance capital requirement would be breached	

#### App 2.15.10 G

App 2.15.11 G The run-off plan of a firm to which PRA Supervisory Statement: Non-Solvency II Insurance companies - Capital assessments applies should include:

- (1) a revised individual capital assessment for the firm (see INSPRU 7.1), which reflects the impact of the closure of the relevant with-profits fund; or
- (2) a statement that the firm is satisfied that the closure will not materially affect the firm's most recent assessment.

## App 2.15.12 G A firm's run-off plan should include details of any:

- (1) intra-group balances held by the with-profits fund;
- (2) group company investments held by the with-profits fund; and
- (3) guarantees given by the firm;

which, in each case, have a value in excess of 5% of the firm's gross technical provisions.

- App2.15.13 **G** A *firm*'s run-off plan should include any other information that the *firm* considers relevant to the run-off of the closed *with-profits fund*.
- App 2.15.14 G Either regulator may request additional information and explanations from the firm. (See section 165 (Regulators' power to require information) of the Act.)
- App 2.15.15 G Significant changes to, or departures from, a firm's run-off plan are likely to trigger one or more of the firm's obligations to notify the FCA. (See, for example, Principle 11 (Relations with regulators). The guidance in SUP 15.3 (General notification requirements) may also be relevant.)