

**GENERAL PRUDENTIAL SOURCEBOOK (CAPITAL RESOURCES
AMENDMENT) INSTRUMENT 2008**

Powers exercised

- A. The Financial Services Authority 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 138 (General rule-making power);
 - (2) section 150(2) (Actions for damages);
 - (3) section 156 (General supplementary powers); and
 - (4) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 25 January 2008.

Amendments to the Handbook

- D. The General Prudential sourcebook (GENPRU) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the General Prudential Sourcebook (Capital Resources Amendment) Instrument 2008.

By order of the Board
24 January 2008

Annex

Amendments to the General Prudential sourcebook (GENPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text.

...

2.2.67A G The purpose of *GENPRU 2.2.64R(4)* is to ensure that a *firm* retains flexibility over the payment of *coupons* and can preserve cash in times of financial stress. However, a *firm* may include, as part of the capital instrument terms, a right to make payments of a *coupon* mandatory if an item of capital becomes ineligible to form part of its *capital resources* (e.g. through a change in the relevant *rules*) and the *firm* has notified the *FSA* that the instrument is ineligible.

...

2.2.129 R The *SPV* referred to in *GENPRU 2.2.124R(2)(a)* must fund its subscription for the capital issued by the *firm* by the issue of capital that satisfies the following conditions:

(1) ...

(2) its terms must include an obligation on the *firm*, when the *capital resources* of the *firm* fall below, or are likely to fall below, its *capital resources requirement*, to substitute for the instrument issued by the *SPV* a *tier one instrument* issued by that *firm* that:

(a) is not an *innovative tier one instrument*; or

(b) is an *innovative tier one instrument* provided that:

(i) it is only being classified as such because it is or may become subject to a *step-up*, and

(ii) the terms of the original instrument issued by the *SPV* included a *step-up*;

~~when the *capital resources* of the *firm* fall below, or are likely to fall below, its *capital resources requirement*;~~

...

2.2.131 R In relation to the obligation to substitute described in *GENPRU 2.2.129R(2)*, a *firm* must take all reasonable steps to ensure that it has at all times authorised and unissued *tier one instruments* that are not *innovative tier one instruments* or that are *innovative tier one instruments* only because they are or may become subject to a *step-up* (and the authority to issue them) sufficient to discharge its obligation to substitute.

2.2.131A G GENPRU 2.2.129R(2) and GENPRU 2.2.131R allow a firm to replace the capital issued by the SPV with a tier one instrument that is not an innovative tier one instrument or that is an innovative tier one instrument provided that:

(1) it is only being classified as such because it is or may become subject to a step-up, and

(2) the terms of the original instrument issued by the SPV included a step-up.

In all other respects, the innovative tier one instrument issued by the firm must meet the conditions to be an item of tier one capital capable of inclusion in Stage B or higher in the capital resources table.

2.2.134 G The purpose of GENPRU 2.2.133R is to deal with a capital-raising under which the capital raised by a special purpose vehicle is passed through a number of *undertakings* before it is invested in the *firm*. If the *capital resources* of the *firm* fall below, or are likely to fall below, its *capital resources requirement* the *firm* should replace the capital issued by that first special purpose vehicle with a *tier one instrument* directly issued by the *firm* itself ~~that is not an innovative tier one instrument~~ which complies with GENPRU 2.2.129R(2).

2.2.179 G (1) The purpose of GENPRU 2.2.177R(2) is to ensure that a firm which issues an item of capital with a coupon retains flexibility over the payments of such coupon and can preserve cash in times of financial stress. However, a firm may include, as part of the capital instrument terms, a right to make payments of a coupon mandatory if an item of capital becomes ineligible to form part of its capital resources (for example, through a change in the relevant rules) and the firm has notified the FSA that the instrument is ineligible.

(2) For the purpose of GENPRU 2.2.177R(2), GENPRU 2.2.68G (Dividend pushers) applies equally in relation to the inclusion of an instrument in *upper tier two capital resources*.