Powers exercised

A. The Financial Conduct 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 137A (General rule-making power);
(2) section 137T (General supplementary powers);
(3) section 138C (Evidential provisions);
(4) section 138D(2) (Actions for damages);
(5) section 139A(1) (Power of the FCA to give guidance); and
(6) section 318(1) and (5) (Exercise of powers through Council).

B. The rule-making powers listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force on 1 January 2016.

Amendments to the Handbook

D. The modules of the Handbook listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

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Amendments to the material outside the Handbook

E. The Enforcement Guide (EG) is amended in accordance with Annex P to this instrument.

F. The Perimeter Guidance manual (PERG) is amended in accordance with Annex Q to this instrument.

Notes

G. In the annexes to this instrument, the “notes” (indicated by “Note:”) are included for the convenience of readers but do not form part of the legislative text.

Citation

H. This instrument may be cited as Solvency II Directive (Consequential Handbook Amendments) Instrument 2015.

By order of the Board of the Financial Conduct Authority
24 March 2015
Annex A

Amendments to the Glossary of definitions

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

Insert the following new definitions in the appropriate alphabetical position. This text is not underlined.

beneficiary

any person who is entitled to a right under a contract of insurance.

[Note: recital 16 of the Solvency II Directive]

EIOPA


SCR

means the solvency capital requirement calculated in accordance with the Solvency Capital Requirement – General Provisions; Standard Formula; and Internal Models Parts of the PRA Rulebook: Solvency II Firms.

SFCR

the solvency and financial condition report as detailed in the PRA Rulebook: Solvency II Firms: Reporting 3 to 6.

Solvency II Directive information

(in COBS) Solvency II Directive information as required in COBS 13 Annex 1R.

Solvency II firm

a firm which is any of:

(a) a “UK Solvency II firm” as defined in chapter 2 of the PRA Rulebook: Solvency II Firms: Insurance General Application;

(b) a third-country insurance undertaking, namely an undertaking that would require authorisation as an insurance undertaking under article 14 of the Solvency II Directive if its head office was situated in the EEA;

(c) an undertaking authorised in accordance with a non-UK EEA State’s measures which implement article 14 of the Solvency II Directive;

(d) the Society and, separately, a managing agent; and

(e) an insurance special purpose vehicle,

but excluding any firm to the extent that rule 2 of PRA Rulebook:
Solvency II Firms: Transitional Measures disappplies relevant rules implementing the Solvency II Directive.

Solvency II Regulations directly applicable EU Commission Delegated Regulations adopted in accordance with the Solvency II Directive.

with-profits fund surplus The difference between:

(a) the value of the assets of the with-profits fund identified in accordance with COBS 20; and

(b) the value of the best estimate component of technical provisions in respect of the policies written out of or transferred into that with-profits fund and the value of the other liabilities, including those referred to in COBS 20.1A.1R, in the fund;

calculated in accordance with PRA Rulebook: Solvency II Firms: Valuation, Technical Provisions, and Surplus Funds rule 2, and applicable parts of the Solvency II Regulation (EU) 2015/35 of 10 October 2014, and as determined by actuarial investigation.

Amend the following definitions as shown:

actuarial function …

(in the FCA Handbook) PRA controlled function CF12 in the table of PRA controlled functions, described more fully in SUP 4.3.13R and SUP 10B.8.1R or, for a Solvency II firm, the function in rule 6.1 of the PRA Rulebook: Solvency II firms: Conditions Governing Business.

actuarial investigation (1) (other than in COBS) an investigation to which IPRU-INS rule 9.4 applies.

(2) (in COBS and SUP 4) for a Solvency II firm, an investigation having regard to generally accepted actuarial practice, carried out at least once in every 12-month period with advice, as appropriate, from the persons holding the with-profits actuary function and the actuarial function.

admissible asset (1) (for the purpose of the rules in GENPRU and INSINU as they apply to members of the Society of Lloyd's, the Society and managing agents) an asset that, subject to paragraphs (2) and (3) of GENPRU 2 Annex 7 R, falls into one or more categories in paragraph (1) of GENPRU 2 Annex 7 R as modified by GENPRU 2.3.34R.

(2) otherwise:
(a) (in relation to an insurer which is not a pure reinsurer) an asset that, subject to paragraphs (2) and (3) of GENPRU 2 Annex 7R, falls into one or more categories in paragraph (1) of GENPRU 2 Annex 7R; or

(b) (in relation to a pure reinsurer) an asset the holding of which is consistent with compliance by the firm with INSPRU 3.1.61AR.

ancillary risk

(in relation to an insurer with permission under the Act to insure a principal risk belonging to one class (as defined for the purposes of INSPRU and SUP) 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.

However, 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 (legal expenses insurance) may be regarded as an ancillary risk of class 18 where:

(d) the conditions laid down in (a) to (c) are fulfilled, and

(e) 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.

[deleted]

annualised net written premiums

(for the purposes of INSPRU 1.4) in relation to a financial year, the net written premiums received during that financial year, except that in relation to a financial annualised net written premiums year that has been validly extended beyond, or shortened from, a period of 12 months, the amount of net written premiums is the amount determined in accordance with the formula: NWP x 365/D where:

(1) NWP is the amount of net written premiums received in the financial year; and

(2) D is the number of days in that financial year. [deleted]

approved index

in relation to permitted links:
(a) …

(aa) relevant indices meeting the requirements of COLL 5.2.33R; or

…

assessable mutual (for the purposes of INSPRU 1.4) a mutual where the insurance business carried on by the mutual is limited to the provision of insurance business to its members and whose articles of association, rules or bye-laws provide for the calling of additional contributions from members to meet claims. [deleted]

balancing amount in respect of a syndicate, any part of the capital resources that:

(a) the managing agent of the syndicate has assessed to be necessary to support the insurance business carried on by the members of the syndicate through the syndicate, including those capital resources required to support the risks arising at syndicate level that affect that business; but

(b) are not managed by or at the direction of the managing agent of the syndicate. [deleted]

capital instrument (in COBS, GENPRU, and BIPRU and INSPRU 6 and in relation to an undertaking) any security issued by or loan made to that undertaking or any other investment in, or external contribution to the capital of, that undertaking.

captive reinsurer a pure reinsurer owned by:

(a) a financial undertaking other than an insurance undertaking or a reinsurance undertaking; or

(b) a group of insurance undertakings or reinsurance undertakings to which the Insurance Groups Directive applies; or

(c) a non-financial undertaking,

the purpose of which is to provide reinsurance cover exclusively for the risks of the undertaking or undertakings to which it belongs or of an undertaking or undertakings of the group of which that pure reinsurer is a member. [deleted]

collateral (1) …

(2) (in COBS (except COBS 21.3) and CASS) any of the following:

…
(3) (in **INSPRU, COBS 21.3** and **SYSC**):

...  

**Collective insurance** (in relation to a **class of contract of insurance**) the **class of contract of insurance**, specified in paragraph VIII of Part II of Schedule 1 to the **Regulated Activities Order** (Contracts of long-term insurance), of a kind referred to in article 2(2)(e) of the **Consolidated Life Directive** 2(3)(b)(v) of the **Solvency II Directive** ("the operations carried out by life insurance undertakings companies such as those referred to in Chapter 1, Title 4 of Book IV of the French "Code des assurances".")

**Community Co-Insurance Directive** the **Council Directive of 30 May 1978 on the coordination of laws, regulations and administrative provisions relating to Community co-insurance (No 78/473/EEC)**, [deleted]

**Community co-insurance operation** as a **co-insurance operation** to which the **Community Co-Insurance Directive** applies, as modified by article 26 of the **Second Non-Life Directive** relates to one or more risks classified under **general insurance business classes** 3 to 16 and which fulfils the conditions in article 190(1)(a) to (f) of the **Solvency II Directive**.

**Competent authority** (3) (in relation to a group, and for the purposes of **SYSC 12** (Group risk systems and controls requirement), **GENPRU**, **BIPRU** and **INSPRU**, any **national authority of an EEA State** which is empowered by law or regulation to supervise **regulated entities**, whether on an individual or group-wide basis.

...  

**Consolidated Life Directive** the **Council Directive of 5 November 2002 on the taking-up and pursuit of the business of life assurance (No 2002/83/EC)**, which consolidates the provisions of the **First, Second and Third Life Directives**. [deleted]

**Consolidated Life Directive information** (in **COBS**) the **Consolidated Life Directive information (COBS 13 Annex 1R)**. [deleted]

**Contract of insurance** (2) ...

(2) ...  

(e) contracts of a kind referred to in article 2(2)(e) of the **Consolidated Life Directive** 2(3)(b)(v) of the **Solvency II Directive** (Collective insurance etc); and
(f) contracts of a kind referred to in article 2(3)(c) of the Consolidated Life Directive Solvency II Directive (Social insurance);

contracts of large risks  (in ICOBS) contracts of insurance covering risks within the following categories, in accordance with article 5(d) 13(27) of the First Non-Life Solvency II Directive.

counterparty  …

(2) for the purposes of the rules relating to insurers in GENPRU and INSPRU) (in relation to an insurer, the Society, a syndicate or member (‘A’));

covered bond …

(4) (in accordance with Article 22(4) of the Third Non-Life Directive and Article 24(4) of the Consolidated Life Directive and for the purposes of INSPRU 2.1) a debenture that is issued by a credit institution …

credit equalisation provision  the provision required to be established by INSPRU 1.4.43R. [deleted]

EEA firm  (in accordance with paragraph 5 of Schedule 3 to the Act (EEA Passport Rights)) any of the following, if it does not have its relevant office in the United Kingdom:

…

(d) an undertaking pursuing the activity of direct insurance (within the meaning of article 2 of the Consolidated Life Directive (No. 2002/83/EC) or of Article 1 of the First Non-Life Directive (No. 73/239/EEC)) which has received authorisation under of the Consolidated Life Directive or Article 6 of the First Non-Life Directive article 14 of the Solvency II Directive from its Home State regulator;

…

(g) an undertaking pursuing the activity of reinsurance (within the meaning of article 1 of the Reinsurance Directive) which has received authorisation under article 3 of the Reinsurance Directive from its Home State Regulator. [deleted]

…
**EEA insurer**
an insurer, other than a pure reinsurer or a non-directive insurer, whose head office is in any EEA State except the United Kingdom and which has received authorisation under article 6 of the First Life Directive or article 4 of the Consolidated Life Directive or article 6 of the First Non-Life Directive article 14 of the Solvency II Directive from its Home State Regulator.

**EEA prudential sectoral legislation**

**EEA pure reinsurer**
a reinsurance undertaking (other than an ISPV) pure reinsurer whose head office is in any EEA State except the United Kingdom and which has received (or is deemed to have received) authorisation under article 3 of the Reinsurance Directive article 14 of the Solvency II Directive from its Home State Regulator.

**EEA-deposit insurer**
a non-EEA insurer Solvency II firm that is a third-country insurance undertaking and that has made a deposit in an EEA State (other than the United Kingdom) under article 23 of the First Non-Life Directive (as amended) 162(2)(e) of the Solvency II Directive in accordance with article 26 of that Directive or under article 51 of the Consolidated Life Directive in accordance with article 56 of that Directive.

**equalisation provision**
a provision required to be established under the rules in INSPRU 1.4. [deleted]

**excess surplus**
(a) a firm that is not a Solvency II firm will have an excess surplus in a with-profits fund if, and to the extent that:

(a) the regulatory surplus (or in the case of a realistic-life firm the excess of realistic value of assets over realistic value of liabilities) in that with-profits fund; and

(b) any other financial resources applied to, or expected to be applied to, that with-profits fund;

(ii) exceed:

(c) the amount required to meet the higher of any regulatory capital requirement or the firm’s individual capital assessment (at the firm’s own risk appetite) for existing business; and

(iii)
(d) any further amount necessary to support the new business plans of that with-profits fund.

(iv) a Solvency II firm will have an excess surplus in a with-profits fund if, and to the extent that:

(i) the with-profits fund surplus in that with-profits fund;

and

(ii) any other financial resources applied to, or expected to be applied to, that with-profits fund;

exceed:

(iii) the amount required to meet the higher of any notional SCR in relation to that with-profits fund and any capital provision determined in relation to the with-profits fund at the firm’s own risk appetite, as reflected in the firm’s own risk and solvency assessment carried out from time to time as detailed in the PRA Rulebook: Solvency II Firms: Conditions Governing Business rules 3.8 to 3.10; and

(iv) any further amount necessary to support the new business plans of that with-profits fund.

financial year in question (for the purposes of INSPRU 1.1 and of the definition of non-directive insurer) the last financial year to end before the date on which the latest accounts of the insurer are required to be deposited with the appropriate regulator; the preceding financial year and previous financial years are construed accordingly.


group ... (in relation to a Solvency II firm) a group of undertakings that:

(a) consists of a participating undertaking, its subsidiary undertakings and the undertakings in which it holds a participation, as well as
undertakings linked to each other by a consolidation Article 12(1) relationship; or

(b) consists of a mutual-type group.

[Note: article 2(5) of the MiFID implementing Directive and article 212(1)(c) of the Solvency II Directive]

group capital resources

in relation to an undertaking in INSPRU 6.1.17R, that undertaking’s group capital resources as calculated in accordance with INSPRU 6.1.36R. [deleted]

group capital resources requirement

in relation to an undertaking in INSPRU 6.1.17R, that undertaking’s group capital resources requirement as calculated in accordance with INSPRU 6.1.33R. [deleted]

IMD insurance undertaking

(as defined in article 2(1) of the Insurance Mediation Directive) an undertaking which has received official authorisation in accordance with article 6.14 of the Consolidated Life Directive or article 6 of the First Non-Life Directive Solvency II Directive.

individual capital resources requirement

has the meaning in INSPRU 6.1.34 R. [deleted]

inherited estate

in relation to each with-profits fund:

(1) for a firm which is not a Solvency II firm, an amount representing the fair market value of the with-profits assets less the realistic value of liabilities value of liabilities of a with-profits fund, except liabilities in relation to non-profit insurance business;

(2) for a Solvency II firm, means the with-profits fund surplus.

insurance business grouping

a grouping comprising descriptions of general insurance business determined in accordance with INSPRU 1.4.12R. [deleted]

Insurance Directives


insurance group

(1) an insurance parent undertaking and its related undertakings;

(2) a participating insurance undertaking (not within (1)) and its related undertakings. [deleted]

Insurance Groups Directive

undertakings in an insurance group (1998/78/EC). [deleted]

**insurance parent undertaking**

- a parent undertaking which is:
  - (a) a participating insurance undertaking which has a subsidiary undertaking that is an insurance undertaking; or
  - (b) an insurance holding company which has a subsidiary undertaking which is an insurer.
  - (c) an insurance undertaking (not within (a)) which has a subsidiary undertaking which is an insurer. [deleted]

**insurance special purpose vehicle**

- an undertaking whether incorporated or not, other than an insurance undertaking or reinsurance undertaking which has received an official authorisation in accordance with article 6 of the First Non-Life Directive, article 4 of the Consolidated Life Directive or article 3 of the Reinsurance Directive; which has received authorisation in accordance with article 211(1) or (3) of the Solvency II Directive and:
  - (a) which assumes risks from such insurance undertakings or reinsurance undertakings a regulated insurance entity; and
  - (b) which fully funds its exposures to such risks through the proceeds of a debt issuance or some other financing mechanism where the repayment rights of the providers of such debt or other financing mechanism are subordinated to the undertaking’s reinsurance obligations to the insurance or reinsurance undertakings in respect of the risks in (a).

[Note: article 13(26) of the Solvency II Directive]

**insurance undertaking**

1. (except in COBS) an undertaking, or (in CASS 5 and COMP) a member, whether or not an insurer, which carries on insurance business.

2. (in COBS) an undertaking or a member which carries on insurance business.

- an undertaking including a member that carries on insurance business, whether or not an insurer.

**insurer**

- a firm with permission to effect or carry out contracts of insurance (other than a UK ISPV an ISPV).

**leading insurer**

- (in relation to a community co-insurance operation) has the same meaning as in the Community Co-Insurance Directive a co-insurer that assumes the leader’s role in co-insurance practice and, in
particular, determines the terms and conditions of insurance and rating.

**Lloyd's actuary**

the actuary appointed by the Society under SUP 4.6.1R. [deleted]

**Lloyd's actuary function**

controlled function CF12B in the table of controlled functions, described more fully in SUP 10.7.22R. [deleted]

**Lloyd's Return**

the financial report that the Society is required to submit to the FSA under IPRU(INS) 9.48(1). [deleted]

**mixed activity insurance holding company**

(in accordance with article 1(j) 212(1)(g) of the Insurance Groups Directive (Definitions)) a parent undertaking, other than an insurance undertaking, an insurance holding company or a mixed financial holding company, the subsidiary undertakings of which include at least one insurance undertaking. [deleted]

**non-credit equalisation provision**

the provision required to be established under INSPRU 1.4.17R. [deleted]

**non-directive firm**

(in SUP 11 (Controllers and close links) and SUP 16 (Reporting requirements)) … a UK domestic firm other than:

…

(d) a Solvency II firm an undertaking pursuing the activity of direct insurance within the meaning of:

(i) article 2 of the Consolidated Life Directive, authorised under that directive; or

(ii) article 1 of the First Non-Life Directive, authorised under that directive;

(e) an undertaking pursuing the activity of reinsurance within the meaning of article 2.1(a) of the Reinsurance Directive, authorised under that directive.

**non-directive friendly society**

(a) a friendly society 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;

(b) a friendly society whose long-term insurance business is restricted to the provision of benefits for employed and self-employed persons belonging to an undertaking or group of undertakings, or a trade or group of trades, in the event of death or survival or of discontinuance or curtailment of activity (whether or not the commitments arising from such operations are fully covered at all times
by mathematical reserves);

(c) a friendly society which undertakes to provide benefits solely in the event of death where the amount of such benefits does not exceed the average funeral costs for a single death or where the benefits are provided in kind;

(d) a friendly society (carrying on long-term insurance business):

(i) whose additional contributions registered rules contain provisions for calling-up from members or reducing their benefits or claiming assistance from other persons who have undertaken to provide it; and

(ii) whose annual gross premium income (other than from contracts of reinsurance) has not exceeded 5 million Euro for each of the three preceding financial years;

(e) a friendly society (carrying on general insurance business):

(i) whose registered rules contain provisions for calling up additional contributions from members or reducing their benefits;

(ii) whose gross premium income (other than from contracts of reinsurance) for the preceding financial year did not exceed 5 million Euro; and

(iii) whose members provided at least half of that gross premium income;

(f) (i) a friendly society whose liabilities in respect of general insurance contracts are fully reinsured with or guaranteed by other mutuals (including friendly societies); and

(ii) the mutuals providing the reinsurance or the guarantee are subject to the rules of the First Non-Life Directive;

and in each case whose insurance business is limited to that described in any of (a) to (f).

a friendly society that is not a Solvency II firm.

non-directive insurer (a) an insurer which is a provident or mutual benefit institution whose insurance business is restricted to the provision of benefits which vary according to the resources available
and in which the contributions are determined on a flat-rate basis; or

(b) an insurer whose long-term insurance business is restricted to the provision of benefits for employed and self-employed persons belonging to an undertaking or group of undertakings, or a trade or group of trades, in the event of death or survival or of discontinuance or curtailment of activity (whether or not the commitments arising from such operations are fully covered at all times by mathematical reserves); or

(e) an insurer which undertakes to provide benefits solely in the event of death where the amount of such benefits does not exceed the average funeral costs for a single death or where the benefits are provided in kind; or

(d) a mutual (carrying on long-term insurance business) whose:

(i) articles of association contain provisions for calling up additional contributions from members or reducing their benefits or claiming assistance from other persons who have undertaken to provide it; and

(ii) annual gross premium income (other than from contracts of reinsurance) has not exceeded 5 million Euro for each of the financial year in question and the two previous financial years; or

(e) a mutual (carrying on general insurance business) whose:

(i) articles of association contain provisions for calling up additional contributions from members or reducing their benefits;

(ii) business does not cover liability risks, other than ancillary risks, or credit or suretyship risks;

(iii) gross premium income (other than from contracts of reinsurance) for the financial year in question did not exceed 5 million Euro; and

(iv) members provided at least half of that gross premium income; or

(f) an insurer whose insurance business (other than reinsurance) is:
(i) restricted to the provision of assistance for persons who get into difficulties while travelling, while away from home or while away from their permanent residence;

(ii) carried out exclusively on a local basis and consists only of benefits in kind; and

(iii) such that the gross premium income from the provision of assistance in the financial year in question did not exceed 200,000 Euro; or

(g) (i) a mutual whose liabilities in respect of general insurance contracts are fully reinsured with or guaranteed by other mutuals (including friendly societies); and

(ii) the mutuals providing the reinsurance or the guarantee are subject to the rules of the First Non-Life Directive.

an insurer which is not a Solvency II firm.

non-directive mutual a mutual that falls into (d), (e) or (g) of the definition of a non-directive insurer that is not a Solvency II firm.


outsourcing (1) (except in SYSC 8, COBS 11.7, SYSC 3 and SYSC 13 to the extent applicable to a Solvency II firm, and the definition of relevant person) the use of a person to provide customised services to a firm other than:

…

(2) (in SYSC 8, COBS 11.7, SYSC 3 and SYSC 13 to the extent applicable to a Solvency II firm, and the definition of relevant person) an arrangement of any form between a firm and a service provider performs a process, service or an activity which would otherwise be undertaken by the firm itself.

[Note: article 2(6) of the MiFID implementing Directive and article 13(28) of the Solvency II Directive]

participating insurance undertaking an insurer which:

(a) has a subsidiary undertaking that is an insurance undertaking; or
(b) holds a participation in an insurance undertaking; or

(c) is linked to an insurance undertaking by a consolidation Article 12(1) relationship. [deleted]

**participation**

(for the purposes of GENPRU (except GENPRU 3) and for the purposes of BIPRU (except BIPRU 12) and INSPRU as they apply on a consolidated basis):

...

**permitted derivatives contract**

in relation to permitted links, a contract involving a derivative or quasi-derivative that:

(a) (for a Solvency II firm) satisfies COBS 21.3.13R to COBS 21.3.14G, as applied in relation to assets covering liabilities in respect of linked long-term contracts of insurance; and

(b) (for an insurer which is not a Solvency II firm) satisfies INSPRU 3.2.5R to INSPRU 3.2.35AG with the exception of INSPRU 3.2.18R, as applied in relation to assets covering liabilities in respect of linked long-term contracts of insurance.

**permitted scheme interests**

(a) in respect of a firm's business with institutional linked policyholders only, any of the following:

(i) a qualified investor scheme or its EEA equivalent;

(ii) any unregulated collective investment scheme that invests only in permitted links and publishes its prices regularly;

(iii) any of the interests set out in (b)(i) to (b)(iv); [deleted]

(b) in respect of a firm's business with linked policyholders, other than those described in (a), any of the following:

...

**permitted stock lending**

in relation to permitted links, a stock lending transaction (including a repo transaction) that:

(a) (for a Solvency II firm) satisfies COBS 21.3.11R to COBS 21.3.12R (inclusive); and

(b) (for an insurer which is not a Solvency II firm) satisfies INSPRU 3.2.36AR to INSPRU 3.2.42G (inclusive).

**policyholder**

(1) (except for contracts of insurance where the insurer is a
Solvency II firm) (as defined in article 3 of the Financial Services and Markets Act 2000 (Meaning of “Policy” and “Policyholder”) Order 2001 (SI 2001/2361)) the person who for the time being is the legal holder of the policy, including any person to whom, under the policy, a sum is due, a periodic payment is payable or any other benefit is to be provided or to whom such a sum, payment or benefit is contingently due, payable or to be provided; and

(2) (in respect of a contract of insurance where the insurer is a Solvency II firm), a policyholder, which includes a beneficiary.

realistic basis life firm a firm to which GENPRU 2.1.18R applies (and which is therefore required to calculate a with-profits insurance capital component in accordance with INSPRU 1.3). [deleted]

realistic current liabilities (in relation to a with-profits fund) the realistic current liabilities of the with-profits fund calculated in accordance with INSPRU 1.3.190R. [deleted]

realistic excess capital (in relation to a with-profits fund) has the meaning set out in INSPRU 1.3.32R. [deleted]

realistic value of assets (in relation to a with-profits fund) has the meaning set out in INSPRU 1.3.33R. [deleted]

realistic value of liabilities (in relation to a with-profits fund) the sum of the with-profits benefit reserve, the future policy related liabilities and the realistic current liabilities for the with-profits fund. [deleted]

receivable (in relation to a member, a period and a premium) a premium due to the member in respect of contracts of insurance effected during the period, whether or not the premium is received during that period. [deleted]

regulated insurance entity an insurance undertaking or reinsurance undertaking within the meaning of Article 4 of the Consolidated Life Directive, Article 6 of the First Non-Life Directive or Article 1(b) of the Insurance Groups Directive article 13(1) and (4) of the Solvency II Directive.

regulatory basis only life firm a firm carrying on long-term insurance business which is not a realistic basis life firm.

Second Life Directive


sectoral rules

(in relation to a financial sector) rules and requirements relating to the prudential supervision of regulated entities applicable to regulated entities in that financial sector as follows:

... 

(f) (in relation to any financial sector) those requirements include both ones applying on a solo basis and ones applying on a consolidated basis; and

(g) (in relation to the insurance sector) references in this definition to consolidated supervision are to supplementary supervision, similar expressions being interpreted accordingly; and [deleted]

...

Single Market Directives

(a) the Banking Consolidation Directive;

(b) the Solvency II Directive Insurance Directives (within the meaning of paragraph 1 of Schedule 3 to the Act);

(ba) the Reinsurance Directive; [deleted]

(c) MiFID;

(d) the Insurance Mediation Directive; and

(e) the UCITS Directive.

social insurance

(in relation to a class of contract of insurance) the class of contract of insurance, specified in paragraph IX of Part II of Schedule 1 to the Regulated Activities Order (Contracts of long-term insurance), of a kind referred to in article 2(3)(c) of the Consolidated Life Directive Solvency II Directive ("operations relating to the length of human life which are prescribed by or provided for in social insurance legislation, when in so far as they are effected or managed by life insurance undertakings at their own risk by assurance undertakings in accordance with the laws of an EEA State").

Society GICR

the general insurance capital requirement calculated by the Society as if it were an insurer under GENPRU 2.3.13R. [deleted]

solo capital resources

(1) (for the purposes of GENPRU 3 and INSPRU 6) capital
... resources or eligible own funds that are or would be eligible as capital under the sectoral rules that apply for the purpose of calculating its solo capital resources requirement. Paragraph 6.8 of GENPRU 3 Annex 1R (Solo capital resources requirement: the insurance sector) applies for the purpose of this definition in the same way as it does for the definition of solo capital resources requirement.

solo capital resources requirement

(2) (for the purposes of INS PRU 6 GENPRU 1) a capital resources requirement calculated on a solo basis as defined in paragraph 6.2 to 6.7 of GENPRU 3 Ann 1R as it would apply if references to financial conglomerate in those paragraphs were replaced with references to insurance group.

Solvency II Directive


State of the commitment

in this definition, "commitment" means (in accordance with article 2 of the Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001 (SI 2001/3625)) any contract of insurance of a kind referred to in article 2 of the Consolidated Life Directive article 2(3) of the Solvency II Directive.

syndicate actuary

an actuary appointed to a syndicate as required by SUP 4.6.9R(1).
[deleted]

syndicate ICA

the capital assessment performed by a managing agent under the overall Pillar 2 rule, GENPRU 1.5.1R(1), INS PRU 7.1 and INS PRU 1.1.57R(1) in respect of each syndicate managed by it.
[deleted]

technical provision

(a) (for a firm which is not a Solvency II firm) a technical provision established:

(i) for general insurance business, in accordance with INS PRU 1.1.12R; and

(ii) for long-term insurance business, in accordance with INS PRU 1.1.16R.
(b) (for a Solvency II firm) means the technical provisions established in accordance with PRA Rulebook Solvency II Firms: Technical Provisions rule 2.1.

Third Life Directive


UK-deposit insurer

a non-EEA insurer that has made a deposit in the United Kingdom under article 23 of the First Non-Life Directive 162(2)(c) of the Solvency II Directive in accordance with article 26 of that Directive or under article 51 of the Consolidated Life Directive in accordance with article 56 of that Directive.

ultimate insurance parent undertaking

an insurance parent undertaking that is not itself the subsidiary undertaking of another insurance parent undertaking. [deleted]

with-profits actuary function

(in the FCA Handbook) PRA controlled function CF12A in the table of PRA controlled functions, described more fully in SUP 4.3.16AR and SUP 10B.8.2R or, for a Solvency II firm, the function described in rule 8 of PRA Rulebook: Solvency II firms: Insurance – Senior Insurance Management Functions.

with-profits assets

assets that match liabilities in respect of with-profits insurance business or represent a with-profits surplus assets in a with-profits fund, except those meeting liabilities in respect of non-profit insurance business.

with-profits fund

(1) for a firm that is not a Solvency II firm (except in INSPRU):

…

(2) for a Solvency II firm means a “with profits fund” as defined in the PRA Rulebook: Glossary.

(3) for the purposes of INSPRU, a long-term insurance fund in which policyholders are eligible to participate in any established surplus.

with-profits insurance business

the business of effecting contracts of insurance or carrying out with-profits insurance contracts, carrying out contracts of insurance that are with-profits policies.

with-profits insurance capital component

the capital component for with-profits insurance business of a realistic basis life firm calculated in accordance with INSPRU 1.3. [deleted]

with-profits policy

a contract falling within the class of long-term insurance business which is eligible to participate in any part of any
established surplus a long-term insurance contract which provides benefits through eligibility to participate in discretionary distributions based on profits arising from the firm’s business or from a particular part of the firm’s business.
Annex B

Amendments to the Senior Management Arrangements, Systems and Controls sourcebook (SYSC)

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

1 Application and purpose

1.1A Application

1.1A.1 The application of this sourcebook is summarised at a high level in the following table. The detailed application is cut back in SYSC 1 Annex 1 and in the text of each chapter.

<table>
<thead>
<tr>
<th>Type of firm</th>
<th>Applicable chapters</th>
</tr>
</thead>
<tbody>
<tr>
<td>Insurer</td>
<td>Chapters 2, 3, 12 to 18, 21</td>
</tr>
<tr>
<td>…</td>
<td>…</td>
</tr>
</tbody>
</table>

1.1A.2 … Such provisions are applied by each regulator to the extent of its powers and regulatory responsibilities. This general principle also applies where the PRA have made rules in the PRA Rulebook for Solvency II firms which overlap with those in SYSC.

(2) For Solvency II firms, the FCA considers that the requirements and guidance in Chapters 2, 3, 12 to 18 and 21 of SYSC are not inconsistent with either:

(a) the parts of the PRA Rulebook implementing the governance provisions in the Solvency II Directive (articles 40 to 49) or

(b) the Solvency II Regulation (EU) 2015/35 of 10 October 2014 (articles 258 to 275).

In most cases, there is no direct overlap with those provisions because the SYSC requirements are directed at FCA conduct requirements not expressly covered by or under the Solvency II Directive. Where there is a direct overlap with SYSC rules and guidance, the FCA will take the Solvency II Directive derived requirements into account and will interpret the SYSC rules and guidance in a way that avoids inconsistency.
### Part 1: Application of SYSC 2 and SYSC 3 to an insurer, a managing agent and the Society

<table>
<thead>
<tr>
<th>1.4</th>
<th>R</th>
<th>SYSC 3.2.6AR to SYSC 3.2.6JG do not apply:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(1) …</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(2) in relation to the following <em>regulated activities</em>:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>…</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) <em>long-term insurance business</em> which is outside the Consolidated Life Directive Solvency II Directive (unless it is otherwise one of the <em>regulated activities</em> specified in this rule);</td>
</tr>
<tr>
<td></td>
<td></td>
<td>…</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2.11</th>
<th>R</th>
<th>The <em>common platform requirements on financial crime</em> apply as set out in SYSC 1 Annex 1.2.8R, except that they do not apply:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(1) …</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(2) in relation to the following <em>regulated activities</em>:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>…</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c) <em>long-term insurance business</em> which is outside the Consolidated Life Directive Solvency II Directive (unless it is otherwise one of the <em>regulated activities</em> specified in this rule);</td>
</tr>
<tr>
<td></td>
<td></td>
<td>…</td>
</tr>
</tbody>
</table>

### 12 Group risk systems and controls requirements

#### 12.1 Application

...
12.1.2 R Except as set out in SYSC 12.1.4R, this section applies with respect to different types of group as follows:

(1) SYSC 12.1.8R and SYSC 12.1.10R apply with respect to all groups, including UK-regulated EEA financial conglomerates, other financial conglomerates and groups dealt with in SYSC 12.1.13R to SYSC 12.1.16R;

(3) the additional requirements set out in SYSC 12.1.13R to SYSC 12.1.16R only apply with respect to groups of the kind dealt with by whichever of those rules apply.

Purpose

12.1.7 G This section implements Articles 73(3) (Supervision on a consolidated basis of credit institutions) and 138 (Intra-group transactions with mixed activity holding companies) of the Banking Consolidation Directive; and Article 9 of the Financial Groups Directive (Internal control mechanisms and risk management processes) and Article 8 of the Insurance Groups Directive (Intra-group transactions).

12.1.9 G … Risk Unless the firm is a Solvency II firm, risk management processes must include the stress testing and scenario analysis required by GENPRU 1.2.42R and GENPRU 1.2.49R(1)(b).

Financial conglomerates

12.1.10 G SYSC 1.1A.2G sets out the general principle that the FCA will apply provisions to the extent of its powers and regulatory responsibilities. SYSC 12.1.10R will, therefore, have limited application to a Solvency II firm.

12.1.11 R Where this section applies with respect to a financial conglomerate, the risk management processes referred to in SYSC 12.1.8R(2) or, for a Solvency II firm, the risk management system referred to in the PRA Rulebook: Solvency II firms: Conditions Governing Business, rule 3, must include:

12.1.12 R Where this section applies with respect to a financial conglomerate, the internal control mechanisms referred to in SYSC 12.1.8R(2) or, for a Solvency II firm, the internal control system referred to in the PRA Rulebook: Solvency II firms: Conditions Governing Business, rule 3, must
include:

...
Annex C

Amendments to the Threshold Conditions (COND)

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

2.4 Appropriate resources

...

2.4.2 G ...

(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 purposes of this 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.

...

2.4.4 G ...

(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:

...

(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 2.4.6G) 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

...
Annex D

Amendments to the Fit and Proper test for Approved Persons (FIT)

In this Annex, underlining indicates new text.

1.2 Introduction

...

1.2.4A  G ...

1.2.4B  G Where the application relates to a function within a Solvency II firm and is for an FCA controlled function which is also a Solvency II Directive ‘key function’ as defined in the PRA Rulebook: Glossary, then the FCA will also have regard to the assessment made by the firm as required in article 273 of the Solvency II Regulation (EU) 2015/35 of 10 October 2014; Rules 2.1 and 2.2 of the PRA Rulebook: Solvency II Firms: Insurance - Fitness and Propriety, and other factors, as set out in EIOPA Guidelines on system of governance dated 28 January 2015 (see Guideline 16).
Annex E
Amendments to the General Prudential sourcebook for Banks, Building Societies, Insurers and Investment Firms (GENPRU)

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

1 Application

1.1 Application

…

1.1.2 

Broadly speaking however, GENPRU applies (except as provided in GENPRU 1.1.2AG) to:

(1) an insurer that is not a Solvency II firm;

…

1.2 Adequacy of financial resources

Application

1.2.1 R This section applies to:

…

(2) an insurer, unless it is:

…

(e) an incoming Treaty firm; or

(f) a Solvency II firm.

…

1.2.1A R This section also applies to an insurer, unless it is:

…

(5) an incoming Treaty firm; or

(6) a Solvency II firm.

…
1.2.48 R The requirements of the *ICAAP rules* as they apply on a consolidated basis must be carried out on the basis of the consolidated position of:

(1) (if *GENPRU 1.2.45R* applies) that *insurance group*; [deleted]

...

1.2.49 R (1) In accordance with the general principles in *GENPRU 1.2.48R* and *BIPRU 8* (Group risk - consolidation), for the purpose of the *ICAAP rules* as they apply on a consolidated basis:

...

(e) references to the CRR are to the consolidated capital requirements applicable to the relevant group under *BIPRU 8* (Group risk - consolidation) or, as the case may be, *INSPRU 6* (Group risk: Insurance groups);

...

(2) For the purpose of this *rule* the relevant group is the group referred to in *GENPRU 1.2.48R* and the members of that group are those *undertakings* that are included in the scope of consolidation with respect to the *insurance group*, *UK consolidation group* or, as the case may be, non-EEA sub-group in question.

...

1.2.55 G The purpose of *GENPRU 1.2.51R* – *GENPRU 1.2.53R* is to enable the *appropriate regulator* to assess the extent, if any, to which a *firm’s* assessment, calculated on a consolidated basis, is lower than it would be if each separate legal entity were to assess the amount of capital it would require to mitigate its risks (to the same level of confidence) were it not part of a group subject to consolidated supervision under *BIPRU 8* (Group risk – consolidation) or *INSPRU 6.1* (Group risk: Insurance groups). …

...

1.2.73C G … Also, an *insurer* may use methods that are more approximate than used for its *ICA* (for example, in projecting the *with-profit insurance capital component* for realistic basis life firms and the capital resources needed to meet the *overall financial adequacy rule*; and

...

Group risk (BIPRU firm only)

...

1.2.88 G A *firm* should include in the written record referred to in *GENPRU 1.2.60R* a description of the broad business strategy of the *insurance group*, the *UK consolidation group* or the non-EEA sub-group of which it is a member, the...
group’s view of its principal risks and its approach to measuring, managing and controlling the risks. This description should include the role of stress testing, scenario analysis and contingency planning in managing risk at the solo and consolidated level.

1.2.89 G A firm should satisfy itself that the systems (including IT) of the insurance group, the UK consolidation group or the non-EEA sub-group of which it is a member are sufficiently sound to support the effective management and, where applicable, the quantification of the risks that could affect the insurance group, the UK consolidation group or the non-EEA sub-group, as the case may be.

1.3 Valuation

Application

1.3.1 R (1) This section of the Handbook applies to an insurer, unless it is:

…

(b) an incoming EEA firm; or

(c) an incoming Treaty firm; or

(d) a Solvency II firm.

…

1.3.3 G …

(2) In the case of an insurer, GENPRU 1.3.4R implements the requirements of Articles 23.3(viii) and 24.2(iv) of the Consolidated Life Directive. [deleted]

…

2 Capital

2.1 Calculation of capital resources requirements

Application

2.1.1 R This section applies to:
(2) an insurer, unless it is:

(2) an insurer, unless it is:

(e) an incoming Treaty firm; or

(f) a Solvency II firm.

2.2 Capital resources

Application

2.2.1 R This section applies to:

2.2.1 R This section applies to:

(2) an insurer unless it is:

(2) an insurer unless it is:

(e) an incoming Treaty firm; or

(f) a Solvency II firm.

Notification of issuance of capital instruments

2.2.61H G Details of the notification to be provided by a BIPRU firm in relation to capital instruments issued by another undertaking in its group for inclusion in its capital resources or the consolidated capital resources of its UK consolidation group or non-EEA sub-group are set out in BIPRU 8.6.1AR to BIPRU 8.6.1FR. Details of the notification to be provided by an insurer in relation to capital instruments issued by another undertaking in its group for inclusion in its group capital resources are set out in INSPRU 6.1.43AR to INSPRU 6.1.43FR.

Deductions from tiers one and two: Material holdings (BIPRU firm only)

2.2.213 R An item falls into this provision for the purpose of GENPRU 2.2.212R if it
is:

(2) subordinated debt or another item of capital that falls into Article 16(3) of the First Non-Life Directive or, as applicable, Article 27(3) of the Consolidated Life Directive is an item of “basic own funds” as defined in the PRA Rulebook: Glossary.

...

Other requirements: insurers carrying on with-profits business (Insurer only)

2.2.270 R GENPRU 2.2.270R to GENPRU 2.2.275G only apply to an insurer falling within GENPRU 2.2.

...

3 Cross sector groups

...

Risk concentration and intra-group transactions: Table of applicable sectoral rules

3.1.36 R Table: application of sectoral rules
This table belongs to GENPRU 3.1.35R

<table>
<thead>
<tr>
<th>The most important financial sector</th>
<th>Applicable sectoral rules</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Risk concentration</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>...</td>
<td></td>
</tr>
</tbody>
</table>

**Insurance sector**

<table>
<thead>
<tr>
<th>Risk concentration</th>
<th>Intra-group transactions</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td><strong>Rule 9.39 of IPRU(INS) and, for Solvency II firms, the PRA Rulebook: Solvency II firms.</strong></td>
</tr>
</tbody>
</table>

...  

3 Annex 1R Capital adequacy calculations for financial conglomerates (GENPRU 3.1.26R and GENPRU 3.1.29R)

...

7 Table
A mixed financial holding company must be treated in the same way as:

…

(2) an insurance holding company (if the rules in INSPRU 6.1. PRA Rulebook: Solvency II Firms: Group Supervision are applied).

8 Table: PART 5: Principles applicable to all methods

<table>
<thead>
<tr>
<th>Application of sectoral rules: General</th>
<th>5.4</th>
<th>The following adjustments apply to the applicable sectoral rules as they are applied by the rules in this annex.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>…</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(2) If any of those rules would otherwise not apply to a situation in which they are applied by GENPRU 3 Annex 1R, those rules nevertheless still apply (and in particular, any of those rules that would otherwise have the effect of disapplying consolidated supervision (or, in the case of the insurance sector, supplementary supervision) do not apply).</td>
</tr>
</tbody>
</table>

9 Table: PART 6: Definitions used in this Annex

<table>
<thead>
<tr>
<th>Solo capital resources requirement:</th>
<th>6.4</th>
<th>…</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(2) Subject to (3), the solo capital resources</td>
</tr>
</tbody>
</table>
requirement of a Solvency II firm in the insurance sector is the capital resources requirement identified (for a Solvency II firm) in INSPRU 6.1.34R(1) to (8) the PRA Rulebook: Solvency II firms: Solvency Capital Requirement – General Provisions as applying to that undertaking.

(3) INSPRU 6.1.34R(1)(b) does not apply for the purposes of this annex.

11 Table: Paragraph 6.10: Application of sectoral consolidation rules

<table>
<thead>
<tr>
<th>Financial sector</th>
<th>Sectoral rules</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
<td></td>
</tr>
</tbody>
</table>

**Insurance sector**

INSPRU 6.1. PRA Rulebook: Solvency II Firms: Group Supervision

| ... |

---

**3 Annex 3G  Guidance Notes for Classification of Groups**

...  

General guidance  

...  

Please note the following:  

...  

(d) You will need to assign non-regulated financial entities to one of these sectors:  

• **banking/investment** activities are listed in - Annex 1 to the Capital Requirements Directive 2013/36/EU.  

• **insurance** activities are listed in IPRU Insurers Annex 11.1 and 11.2 p 163-168, schedule 1 to, and contracts of insurance defined in article 3(1) of, the Regulated Activities Order.  

...
Annex F

Amendments to the Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)

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

5.5 Other funded credit risk mitigation

…

Life insurance policies: Minimum requirements

5.5.5 R For life insurance policies pledged to a lending firm to be recognised the following conditions must be met:

(1) the party providing the life insurance must be subject to Directive 2002/83/EC and Directive 2001/17/EC of the European Parliament and of the Council, the Solvency II Directive, or is subject to supervision by a competent authority of a third country which applies supervisory and regulatory arrangements at least equivalent to those applied in the Community;

…
Annex G

Amendments to the Prudential sourcebook for Insurers (INSPRU)

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

1 Capital resources requirements and technical provisions for insurance business

1.1 Application

1.1.1 R INSPRU 1.1 applies to an insurer unless it is:

…

(3) an incoming Treaty firm; or

(4) a Solvency II firm.

…

1.1.6 G This section may apply in cases where a firm has its head office in another EEA State but is neither an incoming EEA firm nor an incoming Treaty firm; this could arise in the case of a non-directive mutual.

…

1.1.28 R In addition to complying with INSPRU 1.1.27 R, a realistic basis life firm must also ensure that the realistic value of assets for each of its with-profits funds is at least equal to the realistic value of liabilities of that fund.

[deleted]

1.1.29 G INSPRU 1.1.27 R and INSPRU 1.1.28 R support the funding of policyholder benefits by requiring firms to maintain admissible assets in with-profits funds to cover the technical provisions and other long-term insurance liabilities relating to all the business in that fund, and, in the case of a realistic basis life firm, realistic assets to cover the realistic liabilities of the with-profits insurance contracts written in the fund.

1.2 Mathematical reserves

Application

1.2.1 R INSPRU 1.2 applies to a long-term insurer unless it is:

…
an incoming Treaty firm; or

a Solvency II firm.

... The calculations required for accumulating with-profits policies are set out in **INSPRU 1.2.71R(1)**. For realistic basis life firms, except for accumulating with-profits policies, the mathematical reserves may be calculated without taking into account discretionary benefits, including both annual bonuses and final bonuses. For such firms full allowance for discretionary benefits is made in the calculation of the realistic value of liabilities (see **INSPRU 1.3.105R(5)**).

... Application of **INSPRU 1.2** to Lloyd's

1.2.92 **INSPRU 1.2** applies to managing agents in accordance with **INSPRU 8.1.4R**. [deleted]

... **INSPRU 1.3** (With-profits insurance capital component) is deleted in its entirety. The deleted text is not shown.

Amend the following as shown.

1.5 **Internal-contagion risk**

Application

... 1.5.2A **INSPRU 1.5** does not apply, to the extent stated, to any insurer in (1) to (3):

(1) none of the provisions apply to:

(a) non-directive friendly societies; or

(b) Solvency II firms;

(2) none of the provisions, apart from **INSPRU 1.5.33R** (payment of financial penalties) apply to firms which qualify for authorisation under Schedule 3 or 4 of the Act;

... Permissions not to include both types of insurance
1.5.17 G …

(3) It is the policy of the appropriate regulator, in compliance with EU directives on insurance, not to grant or vary permission if that would allow a newly established firm, or an existing firm engaging solely in general insurance business or solely in long-term insurance business, to engage in both general insurance business and long-term insurance business. This does not apply where a firm’s permission to carry on long-term insurance business is or is to be restricted to reinsurance. It also does not apply where a firm’s permission to carry on general insurance business is or is to be restricted to effecting or carrying out accident or sickness contracts of insurance (see article 18(2) of the Consolidated Life Directive).

(4) Where a firm’s permission extends to effecting or carrying out life and annuity contracts of insurance this will normally include permission to effect or carry out accident contracts of insurance or sickness contracts of insurance on a supplementary basis (see article 2(1)(c) of the Consolidated Life Directive).

…

1.5.29 G … the business in that fund. INSPRU 1.1.28R requires a realistic basis life firm to ensure that the realistic value of assets for each of its with-profits funds is at least equal to the realistic value of liabilities of that fund.

1.5.30 R (1) A firm must apply or use a long-term insurance asset only for the purposes of its long-term insurance business.

(2) For the purposes of (1), applying or using an asset includes coming under any obligation (even if only contingently) to apply or use that asset.

1.5.31 R A firm must not agree to, or allow, any mortgage or charge on its long-term insurance assets other than in respect of, and for the purposes of, a long-term insurance liability.

…

Payment of financial penalties

…

1.5.34 G INSPRU 1.5.2R states that this provision applies to all firms, except mutuals, and includes firms qualifying for authorisation under Schedule 3 or 4 to the Act. [deleted]

…

Application of INSPRU 1.5 to Lloyd’s
1.5.58 R \textit{INSPRU} 1.5 applies to managing agents and to the Society in accordance with:

(1) for managing agents, \textit{INSPRU} 8.1.4R; and

(2) for the Society, \textit{INSPRU} 8.1.2R. [deleted]

1.5.59 R The Society and managing agents must take all reasonable steps to ensure that:

(1) a corporate member does not carry on any commercial business other than insurance business and activities arising directly from that business; and

(2) individual members do not, in their capacity as underwriting members, carry on any commercial business other than insurance business and activities arising directly from that business. [deleted]

3 Market risk

3.1 Market risk in insurance

3.1.1 R \textit{INSPRU} 3.1 applies to an insurer, unless it is:

... (3) an incoming Treaty firm; or

(4) a Solvency II firm.

... Purpose

... 3.1.7 G \textit{INSPRU} 3.1 addresses the impact of market risk on insurance business in the ways set out below:

... (6) The Reinsurance Directive \textit{INSPRU} 3.1.61AR applies to pure reinsurers’ “prudent person” investment principles in relation to the investment of their assets. \textit{INSPRU} 3.1.61AR sets out these principles.
3.1.62 R INSPRU 3.1 applies to managing agents and to the Society in accordance with:

(1) for managing agents INSPRU 8.1.4R, subject to INSPRU 3.1.65R below; and

(2) for the Society, INSPRU 8.1.2R. [deleted]

...

3.2 Derivatives in insurance

Application

3.2.1 R This section applies to an insurer, unless it is:

(1) a non-directive friendly society; or

(2) an incoming EEA firm; or

(3) an incoming Treaty firm; or

(4) a pure reinsurer; or

(5) a Solvency II firm.

...

7 Individual Capital Assessment

7.1 Application

...

7.1.13 R … in accordance with INSPRU 1.1.72CR. For realistic basis life firms ECR forms part of the CRR and is calculated in accordance with GENPRU 2.1.38R.

...

Appropriate regulator assessment process - all firms

...

7.1.99 G … The appropriate regulator will not grant a waiver that would cause a breach of the minimum capital requirements under the Insurance Directives
8  General provisions applying INSPRU and GENPRU to Lloyd’s

8.1  Application

8.1.2  R  If a provision in INSPRU or GENPRU applies to the Society “in accordance with” this rule, the Society must:

(1)  manage each member’s funds at Lloyd’s;

(2)  manage its central assets; and

(3)  supervise the insurance business carried on by each member at Lloyd’s;

so as to achieve in relation to those assets and that insurance business the same effect as the relevant INSPRU or GENPRU provision would have (that is, conforming with the requirements of any rule and taking appropriate account of any applicable guidance,) when applied to a firm or to the insurance business of a firm. [deleted]

8.1.3  G  The Society is subject to INSPRU and GENPRU rules in respect of the insurance business of each Lloyd’s member. These include rules in respect of:

(1)  the calculation of the capital resources requirements for each member;

(2)  the financial resources it manages on behalf of members; and

(3)  the Society’s own financial resources. [deleted]

8.1.4  R  If a provision in INSPRU or GENPRU applies to managing agents “in accordance with” this rule, the managing agent must, in relation to each syndicate managed by it and for each syndicate year, manage:

(1)  the syndicate assets; and

(2)  the insurance business carried on by the members of the syndicate through that syndicate;

so as to achieve in relation to those assets and that insurance business the same effect as the relevant INSPRU or GENPRU provision would have (that is, conforming with the requirements of any rule and taking appropriate account of any applicable guidance,) when applied to a firm or to the
insurance business of a firm. [deleted]

8.1.5 G Syndicate membership may change from year to year or it may remain constant. Managing agents are required to apply INSPRU and GENPRU to the insurance business carried on through each syndicate for each syndicate year. This should ensure that INSPRU and GENPRU are applied to Lloyd’s in a way that is consistent with the provision of capital to support the insurance business underwritten. [deleted]

...  

8.2 Special provisions for Lloyd’s

...  

Obligations under INSPRU and GENPRU

8.2.2 R The Society must ensure that all participants in the Lloyd’s market are made aware of their obligations under INSPRU and GENPRU. [deleted]

...

8.2.12 R The arrangements in INSPRU 8.2.11R must enable the Society to identify any significant overstatement of financial resources resulting from any transaction falling within INSPRU 8.2.11R(2) to INSPRU 8.2.11R(4), including as a result of:

(1) any differences in the amounts recorded as due or payable by each party to any such transaction; or

(2) any actual or likely disputes between the parties to any such transaction. [deleted]

8.2.13 R If the Society identifies a significant overstatement of the kind referred to in INSPRU 8.2.12R, it must ensure that an appropriate adjustment is made, including if appropriate by a deduction from or reduction in the value attributed to:

(1) the capital resources of any member concerned; or

(2) the Society’s capital resources. [deleted]

...

Provision of information by managing agents

8.2.17 R A managing agent must, as soon as possible, give the Society any information the managing agent has concerning material risks to funds at Lloyd’s or central assets. [deleted]

8.2.18 R A managing agent need not comply with INSPRU 8.2.17R if the managing agent knows that the Society already has the relevant information. [deleted]
Amendments to byelaws, trust deeds and standard form letters of credit and guarantees

8.2.24 R The Society must, as soon as it is practical to do so, notify the appropriate regulator FCA of its intention to make any amendment which may alter the meaning or effect of any byelaw, including:

8.2.25 R The Society must provide the appropriate regulator FCA with full details of:

8.2.28 R The information provided to the appropriate regulator FCA by the Society under INSPRU 8.2.25R must include:

8.2.29 G The appropriate regulator FCA would normally expect to receive the information required under INSPRU 8.2.25R and INSPRU 8.2.28R not less than three months in advance of the proposed change.

8.4 Capacity Transfer Market

8.4.8 R (1) The Society must give the FCA a report as at the end of each calendar quarter in which any capacity is transferred.

(2) The report referred to in (1) must reach the FCA within one month of the end of the relevant calendar quarter and must include information on:

(a) the total capacity in syndicates transferred during the quarter, analysed by syndicate and method of transfer;

(b) the number, and nature, of all investigations by the Society into conduct in the capacity transfer market undertaken or continued during the quarter; and

(c) the number, and nature, of all complaints received during the quarter about the operation of the capacity transfer market.
Transitional provisions

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<th>Application</th>
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3 PRU waivers

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Sch 1 Record keeping requirements

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<th>Handbook reference</th>
<th>Subject of Record</th>
<th>Contents of Record</th>
<th>When must record be made</th>
<th>Retention period</th>
</tr>
</thead>
<tbody>
<tr>
<td>INSPRU 1.3.17R, INSPRU 1.3.19R</td>
<td>Calculation of with-profits insurance capital component</td>
<td>(1) The methods and assumptions used in making any calculation required for the purposes of INSPRU 1.3 (and any subsequent)</td>
<td>Not specified</td>
<td>An appropriate period</td>
</tr>
</tbody>
</table>
changes) and the reasons for their use

(2) Any change in practice (in particular changes in those items which will or may be significant in relation to the eventual claim values) and the nature of, reasons for, and effect of, any change in approach with respect to those methods and assumptions

...
Annex H

Amendments to the Interim Prudential sourcebook for Friendly Societies (IPRU(FSOC))

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

GUIDANCE: THE PURPOSE OF THE PRUDENTIAL RULES FOR FRIENDLY SOCIETIES AND AN OVERALL DESCRIPTION

...

Chapter 3

focuses on systems and controls. Friendly societies should also refer to the provisions on senior management arrangements, systems and controls in the High Level Standards part of the Handbook (SYSC) and to Annex 3 of IPRU(FSOC). Directive friendly societies should also refer to the PRA Rulebook: Solvency II firms: Conditions Governing Business and the Solvency II Regulation of (EU) 2015/35 of 10 October 2014 which contain systems and control requirements, and the FCA will take these into account.

...

Chapter 1: Application

Application

...

1.1A

The rules in Chapters 1, 2 (with the exception of rule 2.3(1)(a) in relation to registered branches), 3 (with the exception of rule 3.1(7)), rule 4.20, rule 5.1A, Chapters 7 and 8 also apply to a directive friendly society which has permission under the Act to effect or carry out contracts of insurance. A directive friendly society must also comply with any requirement imposed on it by or under the Act, the 1992 Act or the 1974 Act.

...

Chapter 2: Integrity, Skill, Care and Diligence

Legal Compliance

2.1

A friendly society must take reasonable steps to ensure that –

(a) it does not carry on activities beyond its powers;

(b) it and its registered branches comply with –

(i) any requirements of or under the 1992 Act or the Act which relate to the conduct of its insurance business, and
any applicable requirement (whether of the law of any part of the United Kingdom or of the law of another EEA State) which gives effect to the insurance Directives or is otherwise applicable to the insurance activities of the friendly society.

Chapter 7: Definitions

Part I Definitions

7.1 In this Part of the IPRU(FSOC), unless the contrary intention appears, the following definitions apply –

... insurance Directives means –

(a) the first non-life Directive, the second non-life Directive and the third non-life Directive, and such other Directives as make provision with respect to the business of direct insurance other than long-term assurance; and

(b) the Consolidated Life Directive, and such other Directives as make provision with respect to the business of direct long-term assurance;

... taxes included in premiums has the same meaning as the words "taxes pertaining to the premiums" in the third indent of the first sub-paragraph of article 16(3) of the first non-life Directive;
Annex I

Amendments to the Interim Prudential sourcebook for Insurers (IPRU(INS))

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

CONTENTS

Volume One: Rules

Chapter 9  Financial reporting

Part V  Group Capital Adequacy [deleted]

Part VII  Lloyd's of London [deleted]

Volume 2: Appendices to the Rules


Appendix 9.7  Insurance statistics: other EEA states (Forms 91 to 94) (rule 9.37) [deleted]

Appendix 9.9  Group Capital Adequacy (rule 9.40 to rule 9.42 and guidance 9.43) [deleted]

Appendix 9.12  Certificate by the Council (rule 9.58 (1)(a)) [deleted]
Appendix 9.13  Statement by the Lloyd's actuary (rule IPRU(INS) 9.58 (1)(b)) [deleted]
Appendix 9.14  Certificate by syndicate actuary (rule IPRU(INS) 9.58 (1)) [deleted]
Appendix 9.15  Auditor’s report (rule IPRU(INS) 9.58(3)) [deleted]
Chapter 1: Application Rule

CONTENTS

Application

1.1 An insurer must comply with IPRU(INS) unless it is -

(a) a friendly society; or

(b) an EEA insurer or an EEA pure reinsurer qualifying for authorisation under Schedules 3 or 4 to the Act; or

(c) a Solvency II firm.

The Society of Lloyd’s

1.2 No provisions of IPRU(INS) apply to the Society of Lloyd’s, or members of the Society of Lloyd’s except rules 9.37 and 9.38, and Part VII of Chapter 9. [deleted]

1 A non-directive friendly society must comply with IPRU(FSOC); a directive friendly society must comply with GENPRU and INSPRU; PRA Rulebook: Solvency II firms; and with Chapters 1, 2 (with the exception of rule 2.3(1)(a) in relation to registered branches), and 3, 4 (rules 4.20 to 4.23 only), 5 (rule 5.1A only) 7, and 8 and Appendix 3 of IPRU(FSOC). Rule 5.1A of IPRU(FSOC) effectively applies most of Chapter 9 of IPRU(INS) to directive friendly societies, notwithstanding IPRU(INS) 1.1(a)
Part VII of Chapter 9 is deleted in its entirety. The deleted text is not shown.

ANNEX 11.1

CLASSES OF LONG-TERM INSURANCE BUSINESS

VIII  Collective insurance etc  Effecting or carrying out contracts of a kind referred to in Article 2(2)(e) of the Consolidated Life Directive article 2(3)(b)(v) of the Solvency II Directive.

IX  Social insurance  Effecting or carrying out contracts of a kind referred to in Article 2(3) of the Consolidated Life Directive article 2(3)(c) of the Solvency II Directive.
Annex J

Amendments to the Interim Prudential sourcebook for Investment Businesses (IPRU(INV))

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

4 Chapter 4: Lloyd’s firms

... 4.2.3 D Underwriting agents are subject to regulation by the Society as well as by the appropriate regulator. In particular, they are subject to requirements as to their financial resources and as to making and maintaining accounting records, set by the Society. The appropriate regulator is satisfied that underwriting agents will be subject to adequate financial resource and accounting requirements as long as they remain subject to and comply with requirements at least equivalent to Lloyd’s Capital and Solvency Requirements 2001 and the relevant parts of, or requirements made under Lloyd’s Underwriting Agents Byelaw (No. 4 of 1984), in each case as amended and in force immediately before commencement. Accordingly, instead of imposing an obligation directly on underwriting agents members’ agents, the directions in IPRU(INV) 4.4.1D to 4.4.5D and 4.5.1D require the Society to require those firms to comply with the relevant requirements.

... 4.3.1 D The directions in IPRU(INV) 4.4.1D to 4.4.5D and 4.5.1D are given in relation to the exercise of the powers of the Society and of the Council generally, with a view to achieving the objective that underwriting agents members’ agents have adequate financial resources to support, and keep and preserve adequate accounting records in respect of their business at Lloyd’s.

4.4 Financial Resources Requirements

4.4.1 D The Society must maintain appropriate and effective arrangements to require underwriting agents members’ agents to meet and continue to meet financial resource requirements …

4.4.2 D The Society must give the appropriate regulator FCA a report on each underwriting agent’s members’ agent’s compliance with the financial resource requirements referred to in IPRU(INV) 4.4.1D as at the end of each quarter (determined by reference to each underwriting agent’s accounting reference date).

4.4.3 D The report referred to in IPRU(INV) 4.4.2D must reach the appropriate regulator FCA within two months of the end of the relevant quarter and
must state:

(1) whether the Society has any information indicating or tending to indicate that, during the quarter to which the report relates, the underwriting agent members’ agent failed to meet the financial resource requirements referred to in IPRU(INV) 4.4.1D;

(2) whether, at the end of the quarter to which the report relates, the underwriting agent members’ agent failed to meet the financial resource requirements referred to in IPRU(INV) 4.4.1D; and

(3) the nature and extent of any failure to comply reported under (1) or (2) and the actions taken or to be taken by the Society in response to this.

4.4.4 D In addition to the reports required under IPRU(INV) 4.4.2D, the Society must give the appropriate regulator FCA an annual report on each underwriting agent’s members’ agent’s compliance or non-compliance with financial resource requirements as at the end of that underwriting agent’s members’ agent’s financial year.

4.4.5 D The report in IPRU(INV) 4.4.4D must reach the appropriate regulator FCA within seven months of that underwriting agent’s members’ agent’s accounting reference date and must:

(1) confirm that:

(a) the Society has received from that underwriting agent members’ agent in respect of the financial year to which the report relates, all relevant attachments to the Annual Financial Return that the underwriting agent members’ agent is required to make to the Society under the requirements identified in IPRU(INV) 4.4.1D;

(b) that underwriting agent members’ agent met the applicable financial resource requirements at the end of the financial year to which the report relates; and

(c) the Society is not aware of any matters likely to be of material concern to the appropriate regulator FCA relating to that underwriting agent’s members’ agent’s compliance with financial resource requirements during the year to which the report relates, or arising from the attachments referred to in (a); or

…

4.5 Accounting Records
The Society must maintain appropriate and effective arrangements to require underwriting agents, members’ agents to meet the obligation to keep and preserve accounting records, set out in …

Chapter 5: Financial Resources

TABLE 5.2.2(1) CALCULATION OF OWN FUNDS AND LIQUID CAPITAL

PART II

DETAILED REQUIREMENTS

5A Material insurance holdings (Item 8)

(a) …

(b) An item falls into this provision for the purpose of (a) if it is:

(i) …

(ii) subordinated debt or another item of capital that forms part of the tier two capital resources that falls into Article 16(3) of the First Non-Life Directive or, as applicable, Article 27(3) of the Consolidated Life Directive GENPRU 2 or, as the case may be, INSPRU 7, or is an item of “basic own funds” defined in the PRA Rulebook: Glossary.

Chapter 9: Financial resources requirements for an exempt CAD firm

Appendix 9(1): Interpretation

material insurance holdings

(a) …

(b) An item falls into this provision for the purpose of (a) if it is:

(i) …

(ii) subordinated debt or another item of capital that
forms part of the tier two capital resources that falls into Article 16(3) of the First Non-Life Directive or, as applicable, Article 27(3) of the Consolidated Life Directive GENPRU 2 or, as the case may be, INSPRU 7, or is an item of “basic own funds” defined in the PRA Rulebook: Glossary.

13 Chapter 13: Financial Resource Requirements for Personal Investment Firms

Table 13.5.4(2) Part I

This table forms part of rule 13.5.4

<table>
<thead>
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<th>EXEMPT CAD FIRM</th>
<th>CALCULATION</th>
<th>TYPE OF ADJUSTMENT</th>
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<tr>
<td>ASSETS</td>
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<tr>
<td>(13) All other assets</td>
<td>...</td>
<td>An Illiquid Adjustment</td>
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</table>

Eligible capital instruments include ordinary share capital, cumulative preference shares, perpetual securities and long-term subordinated loans, that are eligible for insurance undertakings under PRU 2 GENPRU 2 or, as the case may be, INSPRU 7, or is an item of basic own funds as defined in the PRA Rulebook: Glossary.
## Annex K

**Amendments to the Conduct of Business sourcebook (COBS)**

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

### 1 Annex 1  Application (see COBS 1.1.2R)

...  

Part 3: Guidance

<table>
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<tr>
<th>5.</th>
<th><strong>Consolidated Life Solvency II Directive: effect on territorial scope</strong></th>
</tr>
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<tbody>
<tr>
<td>5.1</td>
<td><strong>G</strong></td>
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<tr>
<td>5.2</td>
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### 6 Distance Marketing Directive: effect on territorial scope

...  

<table>
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<th>6.5</th>
<th><strong>G</strong></th>
<th>In the FCA’s view:</th>
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</table>

(2) for business within the scope of both the **Distance Marketing Directive** and the **Consolidated Life Solvency II Directive**, the territorial application of the **Distance Marketing Directive** takes precedence; in other words, the rules requiring pre-contract
information and cancellation rules (COBS 15), derived from the Consolidated Life Solvency II Directive apply on a ‘country of origin’ basis rather than being based on the state of the commitment; (See articles 4(1) and 16 of the Distance Marketing Directive, noting that the Distance Marketing Directive was adopted after the Consolidated Life Directive)

7 Electronic Commerce Directive: effect on territorial scope

7.3 The effect of the Directive on this sourcebook is subject to the ‘insurance derogation’, which is the only ‘derogation’ in the Directive that the FCA has adopted for this sourcebook. The derogation applies to an insurer that is authorised under and carrying on an electronic commerce activity within the scope of the Consolidated Life Solvency II Directive and permits EEA States to continue to apply their advertising rules in the ‘general good’. Where the derogation applies, the financial promotion rules continue to apply for incoming electronic commerce activities (unless the firm’s ‘country of origin’ applies rules of like effect) but do not apply for outgoing electronic commerce activities. (See article 3(3) and Annex, fourth indent of the Electronic Commerce Directive; Annex to European Commission Discussion Paper MARKT/2541/03)

4 Communicating with clients, including financial promotions (COBS 4)

4.10 Systems and controls and approving and communicating financial promotions

Systems and controls

4.10.1 The rules in SYSC 3 (and also for Solvency II firms, the PRA Rulebook: Solvency II firms: Conditions Governing Business) and SYSC 4 require a firm that communicates with a client in relation to designated investment business, or communicates or approves a financial promotion, to put in place systems and controls or policies and procedures, or an effective internal control system, in order to comply with the rules in this chapter.

13.1 The obligation to prepare product information
13.1.2 R A firm must prepare the Consolidated Life Solvency II Directive information for each life policy it effects:

1. in a clear and accurate manner and in writing; and
2. in an official language of the State of the commitment, or in another language if the policyholder so requests and the law of the State of commitment so permits or the policyholder is free to choose the law applicable;

in good time before that information has to be provided.

[Note: article 36(1) of, and Annex III to, the Consolidated Life Directive article 185(1) and (6) of the Solvency II Directive]

Exceptions

13.1.3 R A firm is not required to prepare:

... 

3. a key features illustration:

... 

(d) for a packaged product which, at the end of its fixed term, provides for the return of the initial capital invested and a specified level of growth linked by a pre-set formula to the performance of a specified asset or index or a combination of assets or indices;

4. the Consolidated Life Directive information, if the policy is a reinsurance contract or a pure protection contract. [deleted]

... 

13.2 Product information: production standards, form and contents

...

13.2.3 G The Consolidated Life Solvency II Directive information can be included in a key features document, a key features illustration or any other document.

...

13.3 Contents of a key features document

...

Additional requirements for packaged products
13.3.2 R Table

<table>
<thead>
<tr>
<th>‘Questions and Answers’</th>
<th>...</th>
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</table>

[Note: in respect of ‘Risks’, article 185(4) of the Solvency II Directive]

...  

13 Annex 1R The Consolidated Life Solvency II Directive Information

This annex belongs to COBS 13.1.2R (The Consolidated Life Directive Information Solvency II Directive information)

Information about the firm

| (1) | The firm’s name and its legal form; |
| (2) | The name of the EEA State in which the head office and, where appropriate, agency or branch concluding the contract is situated; and |
| (3) | The address of the head office and, where appropriate, agency or branch concluding the contract; and |
| (3A) | A concrete reference to the firm’s SFCR allowing the policyholder easy access to this information. |

Information about the commitment

<p>| (4) | Definition of each benefit and each option; |
| (5) | Term of the contract; |
| (6) | Means of terminating the contract; |
| (7) | Means of payment of premiums and duration of payments; |
| (8) | Means of calculation and distribution of bonuses; |
| (9) | Indication of surrender and paid-up values and the extent to which they are guaranteed; |
| (10) | Information on the premiums for each benefit, both main benefits and supplementary benefits, where appropriate; |
| (11) | For unit-linked policies, the definition of the units to which the benefits are linked; |
| (12) | Indication of the nature of the underlying assets for unit-linked policies; |</p>
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<tbody>
<tr>
<td>(13)</td>
<td><strong>Arrangements for application of the cooling off period, cancellation period or right to withdraw</strong>;</td>
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<tr>
<td>(14)</td>
<td><strong>General information on the tax arrangements applicable to the type of policy</strong>;</td>
</tr>
<tr>
<td>(15)</td>
<td>The arrangements for handling complaints concerning contracts by <em>policyholders</em>, lives assured or <em>beneficiaries</em> under contracts including, were where appropriate, the existence of a complaints body (usually the Financial Ombudsman Service), without prejudice to the right to take legal proceedings; and</td>
</tr>
<tr>
<td>(16)</td>
<td><strong>Law applicable to the contract</strong> where the parties do not have a free choice or, where the parties are free to choose the law applicable, the law the <em>insurer</em> proposes to choose.</td>
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</table>

[Note: article 36(1) of, and Annex III to, the *Consolidated Life Directive* article 185(2) and (3) of the *Solvency II Directive*]

### 13 Annex 2R  Projections

... 

#### R

**Exceptions**

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<td>1.7</td>
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</table>

1.7 If a *projection* is prepared in connection with an offer for or conclusion of a *personal pension scheme*, three different rates of return must be used.

[Note: article 185(5) of the *Solvency II Directive*]

... 

#### R

5. **Projections: accompanying statements and presentation**

5.1 ... 

(f) … 

[Note: article 185(5) of the *Solvency II Directive*]
Additional requirements: pension schemes and products linked to other products

| 5.2 | ... |

[Note: article 185(5) of the Solvency II Directive]

14.2 Providing product information to clients

...  

14.2.1 R A firm that sells:

...  

(2) a life policy that is not a reinsurance contract to a client, must provide the Consolidated Life Solvency II Directive information to that client;

...  

[Note: in respect of (2), article 36(1) of, and Annex III to, the Consolidated Life Directive 185(1) of the Solvency II Directive]

...  

14.2.5 R A firm is not required to provide:

...  

(3) the Consolidated Life Solvency II Directive information, if another person is required to provide that information by the rules of another EEA State;

...  

[Note: in respect of (3), article 36(4) of, and Annex III to, the Consolidated Life Directive 185(8) of the Solvency II Directive]

...  

14.2.7 R A firm is not required to provide a key features document or a key features illustration for:

...  

(2) a life policy that is not a reinsurance contract if:
Note: in respect of (2), articles 4(1) and 16 of the Distance Marketing Directive and article 36 of the Consolidated Life Directive 185 of the Solvency II Directive

15.2 The right to cancel

Cancellable contracts

15.2.1 R A consumer has a right to cancel any of the following contracts with a firm:

...[Note: article 35 of the Consolidated Life Directive, 186 of the Solvency II Directive and article 6(1) of the Distance Marketing Directive]

15.2.3 R The cancellation period begins:

...[Note: article 35 of the Consolidated Life Directive, 186 of the Solvency II Directive and article 6(1) of the Distance Marketing Directive]

16.6 Communications to clients – life insurance, long term care insurance and income withdrawals

...[Note: article 35 of the Consolidated Life Directive, 186 of the Solvency II Directive and article 6(1) of the Distance Marketing Directive]

16.6.2 R (1) If The policyholder must be informed if during the term of a life policy entered into on or after 1 July 1994, there is any proposed change in the following information; referred to in paragraphs (1) to (12) of the Consolidated Life Directive information (COBS 13 Annex 1R) the long-term insurer must inform the policyholder of the effect of the change before the change is made,

(a) the policy conditions;

(b) the name of the insurer, its legal form or the address of its
head office and, where appropriate, of the agency or branch which concluded the contract; and

(c) the information in (8) to (13) of COBS 13 Annex 1R (The Solvency II Directive information) in the event of a change in the policy conditions or amendment of the law applicable to the contract.

(2) A notification in (1) must be made:

(a) in a clear and accurate manner and in writing; and

(b) in an official language of the State of commitment or in another language if the policyholder so requests and the law of the State of commitment so permits or the policyholder is free to choose the law applicable.

[Note: article 36(2) of the Consolidated Life Directive 185(5) and (6) of the Solvency II Directive]

16.6.3 R If a life policy entered into on or after 1 July 1994 provides for the payment of bonuses and the amounts of bonuses are unspecified, the long-term insurer must, in every calendar year except the first, either:

(1) notify the policyholder in writing of the amount of any bonus which has become payable under the contract, and which has not previously been notified under this rule; or

(2) give the policyholder in writing sufficient information to enable him to determine the amount of any such bonus.

[Note: in respect of (1), article 185(5) of the Solvency II Directive]

16.6.3A R If a firm provides figures, on or after 1 January 2016, about the potential future development of bonuses under a with-profits policy it must inform the policyholder annually in writing of any differences between the actual bonuses payable to date and the figures previously provided.

[Note: article 185(5) of the Solvency II Directive]

...
20.2.1G to COBS 20.2.41G and COBS 20.2.53R to COBS 20.2.60G), and the governance provisions in COBS 20.5 apply only in so far as responsibility for the matter in question has not been reserved to the firm’s Home State regulator by a European Community an EU instrument; notwithstanding the above:

(b) COBS 20.2.26AR (financial penalties and the with-profits fund) applies;

(c) the rules and guidance on the notification of policyholders where there is a change in the percentage allocation of distributions (COBS 20.2.19AR to COBS 20.2.19CG) apply but only to the extent that the UK is the State of the commitment;

(3) the rule on providing information to with-profits policyholders who are habitually resident in where the United Kingdom is the State of the commitment (COBS 20.4.4R) and the rule on production and provision of a CFPPFM (COBS 20.4.5R) apply, but the rest of COBS 20.4 (Communications with with-profits policyholders) does not; and

(4) the rule on production and provision of a CFPPFM (COBS 20.4.5R) applies as if a reference to a firm was a reference to an EEA insurer in relation to any of its with-profits policyholders who are habitually resident in where the State of the commitment is the United Kingdom; and

(5) references in COBS 20 to a with-profits fund or to terms derived from the Solvency II Directive requiring transposition in the Home State, apply as if they were references to the relevant fund or terms established in accordance with the requirements of the Home State.

Insert the following new section after COBS 20.1. The text is not underlined.

20.1A The with-profits fund

‘Other liabilities’ in the with-profits fund

20.1A.1 R For the purposes of calculating any with-profits funds surplus and the rules and guidance in COBS 20, including COBS 20.1A.5R, COBS 20.1A.6R and COBS 20.2.17C, a firm must include the following non-exhaustive list as ‘other liabilities’:

(1) liabilities arising from its regulatory duty to treat customers fairly
(where not already included in \textit{technical provisions}); and

(2) the value of any prospective future transfers out of the \textit{with-profits fund} properly attributable to shareholders in accordance with \textit{COBS} 20.

\textbf{Sub-funds}

\textbf{20.1A.2 R (1)} Where the \textit{firm}:

(a) identifies particular assets as forming a distinct part of its \textit{with-profits fund}; and

(b) restricts participation in the profits or other experience of that distinct part of the fund to a particular category of \textit{with-profits policies};

then, provided that:

(c) such identification and restriction is consistent with the considerations in (3), and

(d) the \textit{firm} treats each affected category of \textit{with-profits policyholder} fairly, having regard to those considerations;

each such part constitutes a separate \textit{with-profits fund}.

(2) Notwithstanding (1), each different part of its \textit{with-profits fund} constitutes a separate \textit{with-profits fund} if that is necessary in order to treat each affected category of \textit{with-profits policyholder} fairly, having regard to the considerations in (3).

(3) The considerations referred to in (1) and (2) are the terms of the relevant \textit{with-profits policies}; the \textit{firm}'s established practice; its PPFM and/or other relevant communications to affected \textit{with-profits policyholders}, and the terms of any arrangement formally approved by a court of competent jurisdiction, \textit{appropriate regulator} or previous regulator.

\textbf{20.1A.3 R (1)} For a \textit{Solvency II firm} operating a with-profits fund prior to 1 January 2016:

(a) assets in the with-profits fund held in accordance with \textit{INSPRU} on 31 December 2015 are deemed to be items in a \textit{with-profits fund} for the purposes of \textit{COBS} 20 from 1 January 2016, provided that any transfers out of, and any outgoings from, the fund up to 31 December 2015 were made in accordance with, and/or do not as at 31 December 2015, constitute, or continue to constitute, a breach of \textit{INSPRU} \textit{1.5.21R} and \textit{INSPRU} \textit{1.5.27R};
(b) any assets transferred out of the fund in breach of INSPRU 1.5.21R and 1.5.27R are deemed not to have been transferred out of the fund and remain part of the with-profits fund;

(c) to the extent that the assets in (b) have also been transferred out of the firm then, before (a) can apply to the firm, the firm must transfer into the with-profits fund assets equal to the value of the assets referred to in (b), and of a similar quality, having regard to the PRA Rulebook: Solvency II Firms: Investments.

(2) Firms to which (1)(a) applies must, in any event, comply with COBS 20.1A.2R. Paragraph (1)(a) does not apply to the extent that it would be inconsistent with the operation of COBS 20.1A.2R where the effect is to require a firm to create or make changes to sub-funds amounting to separate with-profits funds.

Governance arrangements for the with-profits fund

20.1A.4 R A Solvency II firm effecting or carrying out with-profits insurance business must identify the assets relating to all the business written in, or transferred into, each with-profits fund which it is required to hold under COBS 20.1A.5R or PRA Rulebook: Solvency II firms: With Profits rule 2.1.

20.1A.5 R A Solvency II firm must ensure that it holds assets in each of its with-profits funds of a value at least sufficient to cover the “with-profits policy liabilities” defined in the PRA Rulebook: Glossary and as required by PRA Rulebook: Solvency II firms: With Profits rule 2.1, and any other liabilities in respect of all of the business written in, or transferred into, that with-profits fund.

20.1A.6 R A Solvency II firm must maintain separate accounting records for each of its with-profits funds. The accounting records must identify:

(1) all of the assets of that with-profits fund;

(2) the best estimate component of technical provisions for the with-profits policies written in, or transferred into, that with-profits fund;

(3) the best estimate component of technical provisions for the non-profit insurance contracts written in, or transferred into, that with-profits fund;

(4) any other liabilities of the with-profits fund not covered by (2) or (3), and their value calculated in accordance with PRA Rulebook: Solvency II Firms: Valuation and applicable parts of the Solvency II Regulation (EU) 2015/35 of 10 October 2014.

20.1A.7 G A Solvency II firm must ensure that the assets in its with-profits funds are separately identified and allocated to the relevant with-profits fund at all
times. Assets in external accounts (e.g. with banks, custodians, or brokers) should be segregated in the firm's books and records into separate accounts for with-profits insurance business and other business. Where a firm has more than one with-profits fund, separate accounting records must be maintained for each fund. Accounting records should clearly document the allocation.

20.1A.8 R  A Solvency II firm must not transfer assets out of a with-profits fund unless:

(1) the assets represent any part of a with-profits fund surplus, or represent assets held in accordance with COBS 20.1A.5R in relation to the part of a distribution that has been made which is properly attributable to shareholders, in accordance with COBS 20; and

(2) no more than three months have passed since the actuarial investigation determining that surplus.

20.1A.9 G  For the purposes of COBS 20.1A.8R, an actuarial investigation is required to determine any with-profits fund surplus for the requirements in COBS 20 and remains in-date for three months from the date when the determination of the surplus was made. However, even where the investigation is still in-date, the firm should not make the transfer unless there is sufficient surplus at the time of the transfer to cover the value of the assets being transferred. The actuarial investigation carried out may rely, in part, on any relevant and sufficiently up-to-date valuation exercise carried out for the purposes of calculating technical provisions under the PRA Rulebook: Solvency II Firms: Technical Provisions and applicable parts of the Solvency II Regulation (EU) 2015/35 of 10 October 2014, provided that the person carrying out the actuarial investigation considers it appropriate to do so.

20.1A.10 R  (1) A Solvency II firm must use or apply an asset in a with-profits fund only for the purpose of the business in the with-profits fund.

(2) For the purpose of (1), applying or using an asset includes any obligation (even if only contingent) to apply or use that asset.

20.1A.11 R  A Solvency II firm must not agree to, or allow, any mortgage or charge on the assets in any of its with-profits funds, other than in respect of, and for the purposes of, the business in the with-profits fund.

20.1A.12 G  References in COBS 20.1A.10R and COBS 20.1A.11R to ‘the purposes of the business’ in the with-profits fund include the payment of claims, expenses and liabilities arising from that business, the acquisition of lawful access to fixed assets to be used in that business and the investment of assets. The payment of liabilities may include repaying a loan but only where that loan was incurred for the purpose of the business written into the with-profits fund. The purchase or investment of assets may include an exchange at fair market value of assets (including cash) between the with-profits fund and other assets of the firm. A Solvency II firm may also lend securities held in a with-profits fund under a stock lending transaction, or transfer assets as collateral for a stock lending transaction, where the firm is
the borrower and where such lending or transfer is for the benefit of the business written into the with-profits fund.

Management of the with-profits fund

20.1A.13  R  A Solvency II firm which is subject to contractual terms providing for payments under a capital instrument included in that insurer's own funds, must:

(1) manage any with-profits fund so that discretionary benefits under a with-profits policy are calculated and paid, disregarding, insofar as is necessary for its customers to be treated fairly, any requirements in such contractual terms whether or not they are absolute, contingent or at the discretion of the firm; and

(2) disclose its intention to manage the with-profits fund on the basis set out in (1) in the firm's PPFM.

20.1A.14  G  (1) A Solvency II firm is expected to manage its with-profits fund so that amounts (whether interest, principal, or other outgoings) payable by the firm under a capital instrument included in that insurer's own funds (as determined in accordance with the PRA Rulebook: Solvency II Firms: Own Funds) do not impact on the with-profits fund’s assets or on the firm’s ability to declare and pay under a with-profits policy discretionary benefits that are consistent with the firm's obligations under Principle 6 (Customers' interests).

(2) A firm, other than a mutual, should not regard any asset held in the with-profits fund as necessarily available to cover payments or other obligations arising under a subordinated loan.

20.1A.15  R  A Solvency II firm must ensure that it has adequate arrangements in place for ensuring that transactions affecting the assets of the firm operate fairly between with-profits policyholders and other persons interested in the other assets of the insurer and, where the firm has more than one with-profits fund, those transactions operate fairly between the with-profits policyholders in each of those funds.

Amend the following as shown.

20.2  Treating with-profits policyholders fairly

...  

20.2.5  R  ...

(3) A firm must calculate unsmoothed asset share by:

(a) (i) for a firm which is not a Solvency II firm, applying the methods in INSPRU 1.3.119R to INSPRU 1.3.123R;
(ii) for a firm which is a Solvency II firm, applying the methods in PRA Rulebook: Solvency II Firms Valuation, Technical Provisions and Surplus Funds and applicable parts of the Solvency II Regulation (EU) 2015/35 of 10 October 2014;

...

Conditions relevant to distributions

20.2.16B G References to distributions in COBS 20 includes distributions of distributable profits arising, namely any permanent addition to policy benefits made at the firm’s discretion based on the investment or other experience in the fund or more generally. Distributions include those relating to expected payments for which allowance has been made in the technical provisions or to a firm’s other liabilities arising from its regulatory duty to treat customers fairly, and not just distributions of any with-profits fund surplus.

20.2.16C G Examples of distributions include any payment of a cash bonus (including a final bonus on exit or a reduction in premium), or a declaration of a reversionary bonus in the form of a permanent addition to the benefits guaranteed to be payable at death or on maturity. In COBS 20.2.21R and COBS 20.2.22E (distributions from excess surplus) distributions also include any other amounts that are added to asset shares or to any other measure that is used to determine pay-outs under policies.

...

20.2.17C R A firm must not make a distribution from a with-profits fund, unless:

(1) if it is not a Solvency II firm, the whole of the cost of that distribution can be met without eliminating the regulatory surplus in that with-profits fund; and

(2) if it is a Solvency II firm:

(a) the whole of the cost of that distribution can be met without eliminating the with-profits fund surplus in that with-profits fund; and

(b) following any distribution that is made to meet a liability for which allowance has been made in technical provisions or other liabilities the firm is able to demonstrate that it reasonably expects to be able to continue to comply with the requirements in COBS 20.1A.5R (Governance arrangements for the with-profits fund).

20.2.18 R A realistic basis life firm which is not a Solvency II firm, must not
make a distribution from a with-profits fund to any person who is not a with-profits policyholder, unless the whole of the cost of that distribution (including the cost of any obligations that will or may arise from the decision to make a distribution) can be met from the excess, if any, of the realistic value of assets over the realistic value of liabilities in that with-profits fund.

20.2.19 R …

Notification and other requirements in relation to certain distributions

20.2.19A R If a firm which is a Solvency II firm proposes to make a distribution from a with-profits fund to any person who is not a with-profits policyholder, where:

(1) the distribution to with-profits policyholders is smaller than the ‘pre-notification to policyholder minimum’ calculated in accordance with COBS 20.2.19BR(1) then the firm must:

(a) provide the FCA with written details of the proposed distribution at least two months prior to the proposed distribution, together with copies of draft notifications it proposes to send to with-profits policyholders to satisfy (b); and

(b) give affected with-profits policyholders in the fund at least one months prior written notice stating:

(i) that it proposes to make no distribution to them; or

(ii) that it proposes to make a distribution of an amount which is smaller than the ‘pre-notification to policyholder minimum’, and setting out the amount and how the distribution is calculated; and

the reasons for (i) or (ii) as relevant; or

(2) the distribution to with-profits policyholders does not meet the test in (1) but is smaller than the ‘after the event notification to policyholder minimum’ calculated in accordance with COBS 20.2.19BR(2) then the firm must:

(a) provide the FCA with written details of the proposed distribution at least one month prior to the proposed distribution together with copies of draft notifications it proposes to send to with-profits policyholders to satisfy (b); and

(b) give affected with-profits policyholders in the fund, notice of the distribution within a reasonable period from the date of the distribution, setting out the amount of the distribution, how it was calculated and the reasons for the change
compared to the last previous distribution.

20.2.19B R (1) The ‘pre-notification to policyholder minimum’ referred to in COBS 20.2.19AR is as follows:

\[
\frac{b \times c - c}{a} = 50
\]

where

- \(a\) is the total amount available for with-profits distribution in the with-profits fund in question at the time of the most recent previous distribution;
- \(b\) is the amount of the most recent previous distribution to with-profits policyholders; and
- \(c\) is the total amount available for with-profits distribution in relation to the proposed distribution.

(2) The ‘after the event notification to policyholder minimum’ referred to in 20.2.19AR is as follows:

\[
\frac{b \times c - c}{a} = 200
\]

where \(a\), \(b\) and \(c\) have the same meaning as in (1).

(3) The calculations in (1) and (2) must be determined by actuarial investigation.

20.2.19C G (1) If the circumstances in COBS 20.2.19AR(1) or (2) arise, the firm should also consider whether any reduction(s) in the proposed distribution and any previous distributions to with-profits policyholders over a period of at least the last five years are consistent with treating with-profits policyholders fairly and any other obligations of the firm under COBS 20.

(2) When calculating the amounts distributed in COBS 20.2.19AR and COBS 20.2.19BR:

(a) any amount allocated to with-profits policyholders in anticipation of a distribution is treated as included in the next distribution;

(b) the amount of any available distributable profits is treated as reduced by any part of it which the firm has decided to carry forward unappropriated; and

(c) risk margin associated with technical provisions should be excluded.
(3) A firm which is not a Solvency II firm is required to comply with IPRU(INS) 3.3.

... 

20.2.25 R A proprietary firm may pay compensation or redress due to a policyholder, or former policyholder, from assets attributable to shareholders, whether or not they are held within a long-term insurance fund or with-profits fund, as relevant.

... 

20.2.26 R ... 

20.2.26A R A proprietary firm must not charge to a with-profits fund any financial penalty imposed on the firm by the appropriate regulator.

... 

20.2.32 R Unless COBS 20.2.32AR applies, a firm carrying on with-profits business must not:

... 

20.2.32A R COBS 20.2.32R(1) does not apply to a Solvency II firm.

20.2.32B G Loans to a connected person using assets in a with-profits fund should be considered as investments of assets within the with-profits fund. As such, a Solvency II firm will need to ensure that:

(a) such loans comply with the PRA Rulebook: Solvency II Firms: Investments having regard to COBS 20.2.35AG; and

(b) where there is a conflict of interests, in the reasonable opinion of the firm's senior management, they are in the best interests of the with-profits policyholders in the relevant with-profits fund.

... 

Support arrangements

20.2.34A R (1) A Solvency II firm must ensure that, in relation to any arrangements where assets outside a with-profits fund provide or may provide support to it, both the following requirements are met:

(a) the precise terms and conditions on which those support asset arrangements operate and assets may become available, including whether and when they are repayable:

(i) are adequately documented in the firm’s records; and
(ii) if the firm is required to produce a PPFM, are set out clearly and unambiguously in its PPFM, and an appropriate description is set out in the CFPPFM;

(b) the operation of those support asset arrangements is consistent with terms and conditions in communications to with-profits policyholders, including any PPFM and CFPPFM.

Other rules and guidance on the conduct of with-profits business

20.2.35 G When a firm, other than a Solvency II firm, determines its investment strategy …

20.2.35A G (1) A Solvency II firm is required to consider its investment strategy in relation to the assets in a with-profits fund, including any strategic investments, in accordance with the PRA Rulebook: Solvency II Firms: Investments. Firms are expected, in applying the PRA Rulebook: Solvency II Firms: Investments, to take into account the particular circumstances and requirements of the liabilities in the with-profits fund to which those assets relate. For example, a Solvency II firm will need to consider:

(a) whether a strategic investment meets the criteria in the PRA Rulebook: Solvency II Firms: Investments; and

(b) that the investment will ensure the quality, security, liquidity of the portfolio of assets of the firm as a whole and that the investment(s) are localised to ensure their availability.

(2) Where there is a conflict of interest (e.g. between the with-profits policyholders and the firm) the firm must ensure that the strategic investment is made in the best interests of policyholders. It is expected that a Solvency II firm applying the provisions in PRA Rulebook Solvency II Firms Investments in this manner will lead to with-profits policyholders being treated no less fairly than if the firm was not a Solvency II firm and was subject to COBS 20.2.35G and COBS 20.2.36R.

20.2.36 R A firm, other than a Solvency II firm, must not:

…

…

20.2.36B G …

(2) A firm should also consider whether making or retaining the investment a strategic investment should be disclosed to with-profits policyholders.
20.3 Principles and Practices of Financial Management

20.3.5 R A firm’s PPFM must cover any matter that has, or it is reasonably foreseeable may have, a significant impact on the firm’s management of with-profits funds, including but not limited to:

(1) any requirements or constraints that apply as a result of previous dealings, including previous business transfer schemes; and

(2) the nature and extent of any shareholder or other commitment to support the with profits fund; and

(3) the precise terms and conditions of support asset arrangements, as described in COBS 20.2.34AR.

20.4 Communications with with-profits policyholders

Requirements on EEA insurers

20.4.4 R In relation to any with-profits policyholder who is habitually resident in where the state of the commitment is the United Kingdom, an EEA insurer must:

(1) on request, provide the information necessary to enable that policyholder properly to understand the insurer's commitment under the policy;

(2) ensure that the information provided is not narrower in scope or less detailed in content than the equivalent information required to be provided in the PPFM produced by a firm subject to COBS 20.3; and

20.5 With-profits governance
20.5.3 R A firm must ensure that the terms of reference contain, as a minimum, terms having the following effect:

...

(2) that the with-profits committee or advisory arrangement must:

...

(b) in any event give appropriate consideration to the following non-exhaustive list of specific matters:

...

(ix) the drafting, review, updating of and compliance with run-off plans, court schemes and similar matters; and

(x) the costs incurred in operating the with-profits fund;

(xi) the identification and extent of the firm’s with-profits funds, with particular regard to the considerations as to whether a part of the with-profits fund constitutes a separate with-profits fund in accordance with COBS 20.1A.2R (Sub-funds); and

(xii) the use and purpose of, and terms under which, support assets are available to the with-profits fund, having regard to the considerations in COBS 20.2.33G to COBS 20.2.34G and 20.2.34AR.

...

21 Permitted Links

21.1 Application

21.1.1 R …

Limit to the application of COBS 21.3

21.1.1A R COBS 21.3 (Further rules for firms engaged in linked long-term insurance business) applies only in respect of linked long-term contracts of insurance where the investment risk is borne by a policyholder who is a natural person.

21.1.2 R The rules in this section do not apply to:

(1) contracts that were effected before 1 July 1994, and under which linked benefits were permitted to be determined before that date;

(2) contracts effected by an insurer that are linked long-term contracts
only because the policyholder is eligible to participate in any established surplus;

(3) contracts effected by an EEA insurer that are linked long-term contracts only because the policyholder is eligible to participate in an excess of assets representing the whole or a particular part of the long-term insurance fund over the liabilities, or a particular part of the liabilities, of the insurer as determined by the law of the EEA state in which the head office of the insurer is situated;

(4) [deleted]

(5) contracts effected before 30 June 1995, to the extent that they provide for benefits to be determined by reference to a collective investment scheme that was a listed security immediately before 1 July 1994; and

(6) contracts linked to permitted units that were effected before 1 February 1992, except to the extent that they relate to acts or omissions on or after that date. [deleted]

21.2 Principles Rules for firms engaged in linked long-term insurance business

21.2.1 R A For the purposes of determining policyholder benefits, a firm must ensure that the values of its permitted links are determined fairly and accurately.

21.2.1A R An insurer must not contract to provide benefits under linked long-term contracts of insurance that are determined wholly or partly, directly or indirectly, by reference to fluctuations in any index or wholly or partly by reference to the value of, or the income from, or fluctuations in the value of, property other than in accordance with the rules in this section.

21.2.1B G Insurers other than EEA insurers effecting linked long-term contracts of insurance are obliged to comply with the requirements on investments in the PRA Rulebook Solvency II Firms Investments.

21.2.2 R A firm must ensure that its linked assets:

(1) are capable of being realised in time for it to meet its obligations to linked policyholders; and

(2) are matched with its linked liabilities as required by the close matching rules. [deleted]

21.2.3 R A firm must ensure that there is no reasonably foreseeable risk that the aggregate value of any of its linked funds will become negative. [deleted]

21.2.4 R …

Reinsurance
21.2.4A R A firm that has entered into a reinsurance contract in respect of its linked long-term insurance business must nevertheless discharge its responsibilities under its linked long-term insurance contracts, as if no reinsurance contract had been effected.

21.2.4B G To comply with the requirements of COBS 21.2.4AR, a firm should:

1. disclose to policyholders the implications of any credit-risk exposure they may face in relation to the solvency of the reinsurer; and

2. suitably monitor the way the reinsurer manages the business in order to discharge its continuing responsibilities to policyholders.

21.2.5 R A firm must ensure that its systems and controls and other resources are appropriate for the risks associated with its linked assets and linked liabilities. [deleted]

21.2.6 R (1) A firm must ensure when selecting linked assets that there is no reasonably foreseeable risk of a conflict of interest with its linked policyholders. [deleted]

2. If a conflict does arise, the firm must take reasonable steps to ensure that the interests of the linked policyholders are safeguarded. [deleted]

21.2.7 R In applying the rules in this section, a firm must consider the economic effect of its permitted links and linked assets ahead of their legal form. [deleted]

Notification to the FCA

21.2.8 R A firm must notify the appropriate regulator FCA in writing as soon as it becomes aware of any failure to meet the requirements of this section COBS 21, or of the PRA Rulebook Solvency II Firms Investments to the extent applicable to linked long-term contracts of insurance.

Rules Further rules for firms engaged in linked long-term insurance business

Application

21.3.-1 R The rules in this section apply to linked long-term contracts of insurance where the investment risk is borne by a policyholder who is a natural person.

Permitted links

21.3.1 R An insurer must not contract to provide benefits under linked long-term contracts of insurance that are determined:
(2) wholly or partly by reference to the value of, or the income from, or fluctuations in the value of, property other than any of the following:

(h) [deleted] approved money market instruments meeting the requirements in COBS 21.3.6R to COBS 21.3.8R;

(l) permitted derivatives contracts.

21.3.1A R A firm must classify the types of property listed in COBS 21.3.1R(2)(a) to (2)(l) according to their economic behaviour ahead of their legal form.

21.3.3 R A firm that has entered into a reinsurance contract in respect of its linked long-term insurance business must nevertheless discharge its responsibilities under its linked long-term insurance contracts as if no reinsurance contract had been effected: [deleted]

21.3.4 G In order to comply with the requirements of COBS 21.3.3R a firm should:

(1) disclose to policyholders the implications of any credit risk exposure they may face in relation to the solvency of the reinsurer; and

(2) suitably monitor the way the reinsurer manages the business in order to discharge its continuing responsibilities to policyholders. [deleted]

21.3.5 R (1) Except in the case specified in (2), a firm which proposes to undertake linked long-term insurance business, which is linked to the average earnings index and used for the purposes of orders made by the Department for Work and Pensions under section 148 of the Social Security Administration Act 1992, must notify the appropriate regulator in writing of its intention to do so in good time before effecting any such business for the first time, or if there is a material change in the volume of such business, and explain how the risks associated with this business will be safely managed. [deleted]

(2) These requirements do not apply in respect of liabilities for which a limited revaluation premium has been paid to the Department for Work and Pensions so that the liability for revaluation, while still linked to orders made under section 148 of the Social Security Administration Act 1992, is limited to 5%. [deleted]

Insert the following new provisions after the COBS 21.3.5R (deleted). The text is not underlined.
Money-market instruments

21.3.6 R A money-market instrument will be regarded as normally dealt in on the money market if it:

(1) has a maturity at issuance of up to, and including, 397 days; or

(2) has a residual maturity of up to, and including, 397 days; or

(3) undergoes regular yield adjustments in line with money market conditions at least every 397 days; or

(4) undergoes regular yield adjustments in line with money market conditions at least every 397 days.

21.3.7 R (1) A money-market instrument will be regarded as liquid if it can be sold at limited cost in an adequately short timeframe.

(2) A money-market instrument will be regarded as having a value which can be accurately determined at any time if accurate and reliable valuations systems, which fulfil the following criteria, are available:

(a) enabling the firm to calculate a net asset value in accordance with the value at which the instrument held in the portfolio could be exchanged between knowledgeable willing parties in an arm's length transaction; and

(b) based either on market data or on valuation models, including systems based on amortised costs.

(3) A money-market instrument that is normally dealt in on the money market and is admitted to, or dealt in, on an eligible market will be presumed to be liquid and have a value which can be accurately determined at any time, unless there is information available to the firm that would lead to a different determination.

21.3.8 G A firm should assess the liquidity of a money-market instrument in accordance with CESR's UCITS eligible assets guidelines, with respect to article 4(1) of the UCITS eligible assets Directive.

Permitted stock lending transactions

21.3.9 R A permitted stock lending transaction is one which, for a Solvency II firm, satisfies the requirements in COBS 21.3.11R to COBS 21.3.12R and, for an insurer which is not a Solvency II firm, satisfies INSPRU 3.2.36AR to INSPRU 3.2.42G.

21.3.10 G The specific method of stock lending permitted is an arrangement of the kind described in section 263B of the Taxation of Chargeable Gains Act 1992, under which the lender transfers securities to the borrower other than
by way of sale and the borrower is to transfer those securities, or securities of the same type and amount, back to the lender at a later date. In accordance with good market practice, a separate transaction by way of transfer of assets is also involved for the purpose of providing collateral to the "lender" to cover him against the risk that the future transfer back of the securities may not be satisfactorily completed.

Stock lending: requirements

21.3.11 R (1) The stock lending arrangement is of the kind described in section 263B of the Taxation of Chargeable Gains Act 1992 (without extension by section 263C), and:

(a) all the terms of the agreement under which securities are to be reacquired by the firm for the account of the unit-linked fund are in a form which is acceptable to the firm and in accordance with good market practice;

(b) the counterparty is:

(i) an authorised person; or

(ii) a person authorised by a Home State regulator; or

(iii) a person registered as a broker-dealer with the Securities and Exchange Commission of the United States of America; or

(iv) a bank, or a branch of a bank, supervised and authorised to deal in investments as principal, with respect to OTC derivatives, by at least one of the following federal banking supervisory authorities of the United States of America:

(A) the Office of the Comptroller of the Currency;

(B) the Federal Deposit Insurance Corporation;

(C) the Board of Governors of the Federal Reserve System; and

(D) the Office of Thrift Supervision; and

(c) collateral is obtained to secure the obligation of the counterparty under the terms in (a) and the collateral is:

(i) acceptable to the firm;

(ii) adequate; and

(iii) sufficiently immediate; and
(d) for the purposes of property-linked assets only:

(i) where the linked policyholder bears the whole of the risk associated with the stock lending transaction, the linked policyholder receives the whole of the recompense (net of fees and expenses);

(ii) the extent of any risk that the linked policyholder bears in relation to the stock lending transaction is disclosed to them; and

(iii) where the risk associated with the stock lending transaction is borne outside the linked fund, the linked fund receives a fair and reasonable recompense for the use of the linked policyholders' funds.

(2) The counterparty for the purpose of (1) is the person who is obliged under the agreement in (1)(a) to transfer to the firm the securities transferred by the firm under the stock lending arrangement or securities of the same kind.

(3) COBS 21.3.11R(1)(c) does not apply to a stock lending transaction made through Euroclear Bank SA/NV’s Securities Lending and Borrowing Programme.

Stock lending: treatment of collateral

21.3.12 R (1) Collateral is adequate for the purposes of this section only if it is:

(a) transferred to the firm or the firm’s agent;

(b) at least equal in value, at the time of the transfer to the firm or its agent, to the value of the securities transferred by the firm; and

(c) in the form of one or more of:

(i) cash;

(ii) a certificate of deposit;

(iii) a letter of credit;

(iv) a readily realisable security;

(v) commercial paper with no embedded derivative content;

(vi) a qualifying money market fund.
(2) Collateral is sufficiently immediate for the purposes of this section if:

(a) it is transferred before or at the time of the transfer of the securities by the firm; or

(b) the firm takes reasonable care to determine at the time referred to in (a) that it will be transferred at the latest by the close of business on the day of the transfer.

(3) The firm must ensure that the value of the collateral at all times is at least equal to the value of the securities transferred by the firm.

(4) The duty in (3) may be regarded as satisfied in respect of collateral the validity of which is about to expire, or has expired, where the firm takes reasonable care to determine that sufficient collateral will be transferred, at the latest, by the close of business on the day of expiry.

Requirements for derivative contracts

21.3.13 R A permitted derivatives contract is one which:

(1) for a Solvency II firm, is effected or issued:

(a) on or under the rules of a regulated market; or

(b) off-market with an approved counterparty; and

satisfies COBS 21.3.14G; and

(2) for an insurer which is not a Solvency II firm, satisfies INSPRU 3.2.5R to INSPRU 3.2.35AG with the exception of INSPRU 3.2.18R; and

(3) in each of (1) and (2) the provisions are applied in relation to assets covering liabilities in respect of linked long-term contracts of insurance.

21.3.14 G Firms are also required to comply with the PRA Rulebook Solvency II Firms Investment and ensure that the use of derivative contracts is adequately covered. Firms are also referred to the rules in COLL 5.3 (Derivative Exposure) in relation to the use of derivatives in investment funds and the further guidance from CESR and its successor body, ESMA, which represent good practice in this area.

Amend the following as shown.

Schedule 1 Record keeping requirements
### Sch 1.3G

<table>
<thead>
<tr>
<th>Handbook reference</th>
<th>Subject of record</th>
<th>Contents of record</th>
<th>When record must be made</th>
<th>Retention period</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>COBS 19.2.3R</strong></td>
<td></td>
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</tr>
<tr>
<td><strong>COBS 20.2.34AR(1)(a)(i)</strong></td>
<td>Support assets outside the <em>with-profits fund</em></td>
<td>Precise terms and conditions on which support assets operate and are available including whether and when they are repayable</td>
<td>When a <em>firm</em> first has support assets outside the <em>with-profits fund</em></td>
<td>Until the <em>firm</em> ceases to use support assets outside the <em>with-profits fund</em></td>
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<td>...</td>
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</tbody>
</table>

### Sch 2  Notification requirements

### Sch 2.1G

<table>
<thead>
<tr>
<th>Handbook reference</th>
<th>Matters to be notified</th>
<th>Contents of notification</th>
<th>Trigger event</th>
<th>Time allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>COBS 20.2.19AR(1)</strong></td>
<td>Details of a proposed distribution,</td>
<td>Written details of the proposed distribution, together with copies of draft notifications it proposes to send to <em>policyholders</em>.</td>
<td>The proposed distribution to <em>policyholders</em> is smaller than the ‘pre-notification to <em>policyholder</em> minimum’ calculated in accordance with <em>COBS 20.2.19BR(1)</em>.</td>
<td>At least two months prior to the proposed distribution</td>
</tr>
<tr>
<td><strong>COBS 20.2.19AR(2)</strong></td>
<td>Details of a proposed distribution,</td>
<td>Written details of the proposed distribution, together with copies of draft notifications it proposes to send to <em>policyholders</em>.</td>
<td>The distribution to <em>policyholders</em> does not meet the test in <em>COBS 20.2.19AR(1)</em> but is smaller than the ‘after the event notification to <em>policyholder</em> minimum’ calculated</td>
<td>At least one month prior to the proposed distribution</td>
</tr>
<tr>
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<td>in accordance with COBS 20.2.19BR(2).</td>
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<tr>
<td>COBS 20.2.45R</td>
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</tbody>
</table>
Annex L

Amendments to the Insurance: Conduct of Business sourcebook (ICOBS)

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

### 1 Annex 1 Application (see ICOBS 1.1.2R)

... 

<table>
<thead>
<tr>
<th>Part 2: What?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Modifications to the general application rule according to activities</td>
</tr>
<tr>
<td>...</td>
</tr>
<tr>
<td>2.2 G ...</td>
</tr>
<tr>
<td>2.3 R ICOBS 6.2.3R does not apply to contracts of large risk.</td>
</tr>
<tr>
<td>[Note: article 184(1) of the Solvency II Directive]</td>
</tr>
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<td>...</td>
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</table>

<table>
<thead>
<tr>
<th>Part 4: Guidance</th>
</tr>
</thead>
<tbody>
<tr>
<td>...</td>
</tr>
<tr>
<td>4 Non-Life Directives Solvency II Directive non-life business: effect on territorial scope</td>
</tr>
<tr>
<td>4.2 G The rules in this sourcebook within the Directives’ Directive’s scope … and ICOBS 8 (claims handling) except those parts of ICOBS 8.2 (motor vehicle liability insurers) implementing the Consolidated Motor Insurance Directive.</td>
</tr>
<tr>
<td>4.3 G The Directives specify Directive specifies minimum information requirements and permit EEA States to adopt additional mandatory rules. (See article 7 of the Second Non-Life Directive articles 178, 180, 183, 184 of the Solvency II Directive).</td>
</tr>
<tr>
<td>4.4 G If the State of the risk is an EEA State, the Directives provide Directive provides that the applicable information rules shall be</td>
</tr>
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<tr>
<td>determined by that state. Accordingly, if the State of the risk is the United Kingdom, the relevant rules in this sourcebook apply. Those rules do not apply if the State of the risk is another EEA State. The territorial scope of other rules, in particular the financial promotion rules, is not affected since the Directive explicitly permit EEA States to apply rules, including advertising rules, in the 'general good'. (See articles 28 and 41 of the Third Non-Life Directive, articles 156 and 180 of the Solvency II Directive.)</td>
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<td>5.4</td>
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<td>7</td>
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<tr>
<td>7.5</td>
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<tr>
<td></td>
</tr>
<tr>
<td>(2)</td>
</tr>
</tbody>
</table>
that the Distance Marketing Directive was adopted after the Consolidated Life Directive).

...

8.4 G The effect of the Directive on this sourcebook is subject to the 'insurance derogation', which is the only 'derogation' in the Directive that the FCA has adopted for this sourcebook. The derogation applies to an insurer that is authorised under, and carrying on an electronic commerce activity within, the scope of the Insurance Directives Solvency II Directive and permits EEA States to continue to apply their advertising rules in the 'general good'.

...

2.5 Exclusion of liability, conditions and reliance on others

Exclusion of liability and conditions

2.5.1 R (1) A firm must not seek to exclude or restrict, or rely on any exclusion or restriction of, any duty or liability it may have to a customer or other policyholder unless it is reasonable to do so and the duty or liability arises other that under the regulatory system.

(2) A Solvency II firm must ensure that general and special policy conditions do not include any conditions intended to meet, in an individual case, the particular circumstances of the risk to be covered.

[Note: article 187 of the Solvency II Directive]

...

4 Information about the firm, its services and remuneration

...

4.2 Additional requirements for protection policies for insurance intermediaries and insurers

...

4.2.6 G Insurers cannot carry on an insurance mediation activity in respect of a third party's products unless they can show a natural fit or necessary connection between their insurance business and the third party's products (see the restriction of business in INSPRU 1.5.13R and rule 9 of the PRA Rulebook: Solvency II firms: Conditions Governing Business.

...
6  Product Information

... 

6.2  Pre-contract information: general insurance contracts

... 

Non-life insurance directive  Solvency II Directive disclosure requirements

6.2.2  R  ... 

[Note: article 31 of the Third Non-Life Directive 183(1) to (2) of the Solvency II Directive]

6.2.3  R  (1)  If the insurance undertaking is an An EEA firm, the firm must inform the a customer, before any commitment is entered into, of the EEA State in which the head office or, where appropriate, the branch with which the contract is to be concluded, is situated.

(2)  Any documents issued to the customer must convey the information required by this rule.

[Note: article 43(2) of the Third Non-Life Directive 184(1) of the Solvency II Directive]

6.2.4  R  The An EEA firm must ensure that the contract or any other document granting cover, together with the insurance proposal where it is binding upon the customer, must state states the address of the head office, or, where appropriate, of the branch branch of the insurance undertaking firm which grants the cover.

[Note: article 43(2) of the Third Non-Life Directive 184(2) of the Solvency II Directive]

... 

6.3  Pre- and post-contract information: pure protection contracts

Life Insurance directive  Solvency II Directive disclosure requirements

6.3.1  R  (1)  Before a pure protection contract is concluded, a firm must inform a customer of communicate, at least, the information in the table below to the customer.

(2)  The information must be communicated provided in a clear and accurate manner, in writing, and in an official language of the State of the commitment or in another language agreed by the parties if the policyholder so requests and the law of the State of the commitment so permits or the policyholder is free to choose the applicable law.
### Information to be communicated before conclusion

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>…</td>
</tr>
<tr>
<td>(2)</td>
<td>The name of the <strong>EEA State</strong> in which the head office and, where appropriate, the agency or <strong>branch</strong> concluding the contract is situated.</td>
</tr>
<tr>
<td>(3)</td>
<td>…</td>
</tr>
<tr>
<td>(3a)</td>
<td>A concrete reference to the firm’s <strong>SFCR</strong> allowing the <strong>policyholder</strong> easy access to this information.</td>
</tr>
<tr>
<td></td>
<td>…</td>
</tr>
<tr>
<td>(9)*</td>
<td>Arrangements for application of the cancellation period.</td>
</tr>
<tr>
<td>(10)</td>
<td>…</td>
</tr>
<tr>
<td>(11)</td>
<td>The arrangements for handling complaints concerning contracts by <strong>policyholders</strong>, lives assured or <strong>beneficiaries</strong> under contracts including, where appropriate, the existence of a complaints body (usually the <strong>Financial Ombudsman Service</strong>), without prejudice to the right to take legal proceedings.</td>
</tr>
<tr>
<td>(12)</td>
<td>The law applicable to the contract where the parties do not have a free choice or, where the parties are free to choose the law applicable, the law the insurance undertaking <strong>firm</strong> proposes to choose.</td>
</tr>
</tbody>
</table>

**Note:** The rule on mid-term changes applies to items marked with an asterisk (see ICOBS 6.3.3R).

**Note:** Annex III(A) to the **Consolidated Life Directive** article 185 of the **Solvency II Directive**

---

### Mid-term changes

**6.3.3** R **In addition to** A **firm** must keep a **customer** informed throughout the term of a **pure protection contract** of any change concerning the **policy** conditions, both general and special, a **customer** must, throughout the term of a **pure protection contract**, receive and any change in the following information:

1. **any change** in the name of the insurance undertaking **firm**, its legal form or the address of its head office and, where appropriate, of the agency or **branch** which concluded the contract; and
2. all the information marked ‘**∗**’ in the table of information to be communicated before conclusion, in the event of a change in the **policy** conditions or amendment of the law applicable to the contract.
6.3.4 R When a firm provides a customer with information in accordance with ICOBS 6.3.3R, it must provide it in a clear and accurate manner, in writing, in an official language of the State of the commitment, or in another language if the policyholder so requests and the law of the State of the commitment so permits or the policyholder is free to choose the law applicable.

[Note: Annex III(B) of the Consolidated Life Directive article 185(3) and (5) of the Solvency II Directive]

7 Cancellation

7.1 The right to cancel

The right to cancel

7.1.1 R A consumer has a right to cancel, without penalty and without giving any reason, within:

(1) 30 days for a contract of insurance which is, or has elements of, a pure protection contract or payment protection contract; or

(2) 14 days for any other contract of insurance or distance contract.

[Note: article 6(1) of the Distance Marketing Directive in relation to a distance contract and article 35 of the Consolidated Life Directive 186 of the Solvency II Directive in relation to a pure protection contract]

Exceptions to the right to cancel

7.1.3 R The right to cancel does not apply to:

…

(3) a pure protection contract of six months’ duration or less which is not a distance contract;

…

[Note: articles 6(2)(b) and (c) of the Distance Marketing Directive and 35(1) and (2) of the Consolidated Life Directive article 186(2) of the Solvency II Directive]

Start of the cancellation period
7.1.5 R The cancellation period begins either:

(1) from the day of the conclusion of the contract, except in respect of a pure protection contract where the time limit begins when the customer is informed that the contract has been concluded; or

(2) from the day on which the consumer receives the contractual terms and conditions and any other pre-contractual information required under this sourcebook, if that is later than the date referred to above.

[Note: article 35 of the Consolidated Life Directive 186(1) of the Solvency II Directive and article 6(1) of the Distance Marketing Directive]

...

8 Claims handling

...

8.2 Motor vehicle liability insurers

Application: who? what?

8.2.1 R (1) …

(2) The rules in this section relating to the appointment of claims representatives apply:

(a) in relation to claims by injured parties resulting from accidents occurring in an EEA State other than the injured party's EEA State of residence which are caused by the use of vehicles insured through an establishment in, and normally based in, an EEA State other than the injured party's EEA State of residence; and

(b) in relation to claims arising out of events occurring, and risks situated, in the United Kingdom, and covered by an incoming EEA firm on a services basis.

(3) The rules in this section relating to claims handling apply in respect of claims arising from any accident caused by a vehicle normally based in the United Kingdom.

[Note: article 20(1) of the Consolidated Motor Insurance Directive and article 152 of the Solvency II Directive]

...

8.2.2A R A person carrying on, or seeking to carry on, motor vehicle liability insurance business must have a claims representative in each EEA state other than the United Kingdom.
8.2.2B R A incoming EEA firm carrying on motor vehicle liability insurance business and covering UK risks on a services basis must have a claims representative in the United Kingdom to deal with claims arising out of events occurring in the United Kingdom.

[Note: article 152 of the Solvency II Directive]

Conditions for appointing claims representatives

8.2.3 R A firm must ensure that each claims representative:

... 

[Note: article 21(1), (4) and (5) of the Consolidated Motor Insurance Directive and article 152 of the Solvency II Directive]
Annex M

Amendments to the Supervision manual (SUP)

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

3 Auditors

3.1 Application

...  

3.1.10 G Other relevant sections of the Handbook (see SUP 3.1.9G)

<table>
<thead>
<tr>
<th>Friendly society</th>
<th>IPRU(FSOC)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Insurer (other than a Solvency II firm or a friendly society)</td>
<td>IPRU(INS)</td>
</tr>
</tbody>
</table>

...

4 Actuaries

4.1 Application

...

4.1.2A G This chapter applies in part to a Solvency II firm where it appoints an actuary. This will be in particular with regard to the with-profits actuary function but also where an external actuary is appointed to perform tasks of the actuarial function of a Solvency II firm, under PRA Rulebook: Solvency II Firms: Actuaries. More generally, this chapter applies to a Solvency II firm which chooses to appoint an actuary to fulfil the requirements under rule 6.1 of PRA Rulebook: Solvency II firms: Conditions Governing Business to provide for an actuarial function.

4.1.3 R Applicable sections
<table>
<thead>
<tr>
<th>(1)</th>
<th>Category of firm</th>
<th>(2) Applicable sections or rules</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>A <em>long-term insurer</em>, other than:</td>
<td>SUP 4.1, SUP 4.2, SUP 4.3 and SUP 4.5</td>
</tr>
<tr>
<td></td>
<td>(a) a <em>registered friendly society</em> which is a <em>non-directive friendly society</em>;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) an <em>incorporated friendly society</em> that is a flat rate benefits business friendly society;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(c) an <em>incoming EEA firm</em>; and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(d) a <em>Solvency II firm</em> (for which see (5) below).</td>
<td></td>
</tr>
<tr>
<td>(2)</td>
<td>A <em>friendly society</em>, other than a <em>friendly society</em> within (1) or (5).</td>
<td>SUP 4.1, SUP 4.2, SUP 4.4 and SUP 4.5</td>
</tr>
<tr>
<td>(3)</td>
<td>A <em>Lloyd's managing agent</em>, in respect of each <em>syndicate</em> it manages [deleted]</td>
<td>SUP 4.1, SUP 4.2, SUP 4.5, SUP 4.6</td>
</tr>
<tr>
<td>(4)</td>
<td>The <em>Society of Lloyd's</em> [deleted]</td>
<td>SUP 4.1, SUP 4.2, SUP 4.5, SUP 4.6</td>
</tr>
<tr>
<td>(5)</td>
<td>A <em>Solvency II firm</em> which does any of the following:</td>
<td>SUP 4.1, 4.2, 4.3, 4.4 and 4.5 except that:</td>
</tr>
<tr>
<td></td>
<td>(a) appoints an <em>actuary</em> to fulfil the <em>actuarial function</em> for the purposes of rule 6 of the PRA Rulebook: Solvency II firms: Conditions Governing Business;</td>
<td>SUP 4.3.8G to 4.3.10G do not apply to (a) and (b) in column 2; and</td>
</tr>
<tr>
<td></td>
<td>(b) appoints an external <em>actuary</em> in accordance with PRA Rulebook: Solvency II Firms: Actuaries;</td>
<td>SUP 4.3.13R to 4.3.15G, and 4.4.6R do not apply.</td>
</tr>
<tr>
<td></td>
<td>(c) appoints a <em>with-profits actuary</em>.</td>
<td></td>
</tr>
</tbody>
</table>

### 4.2 Purpose

...  

### 4.2.2 G

... The purpose of the chapter is to ensure that:

1. *long term insurers* (other than certain *friendly societies* and *Solvency II firms*) ...; and

2. *other friendly societies* (other than *Solvency II firms*) carrying on insurance business...; and
managing agents of Lloyd’s syndicates employ or use an actuary of appropriate seniority and experience to evaluate the liabilities associated with insurance business carried on at Lloyd’s where Solvency II firms appoint, employ or use an actuary, certain appropriate safeguards are in place.

4.2.3 G The functions described by SUP 4.2.2G(1) are performed by one or more actuaries who are required to hold office continuously and must be approved persons. Solvency II firms are required to have an actuarial function. Solvency II firms are not required to appoint an external actuary to fulfil the actuarial function for the purposes of rule 6 of the PRA Rulebook: Solvency II firms: Conditions Governing Business, but they must do so if they do not have the internal capability (see PRA Rulebook: Solvency II Firms: Actuaries). Whoever has responsibility for the actuarial function (whether internal or external) will need to be approved by the PRA as a Chief Actuary. Solvency II firms carrying on with-profits business are required to appoint a qualified with-profits actuary (whether internal or external). Whoever has responsibility for advising the governing body of the firm on the exercise of discretion affecting the firm’s with-profits business will need to be approved by the PRA as a With-Profits Actuary. The principal duty of an actuary appointed to perform these functions is to advise the firm (see SUP 4.3.13R to SUP 4.3.18G for the rights and duties of such an actuary).

…

4.2.5 G Actuaries act as a valuable source of information to the appropriate regulator appropriate regulator in carrying out its functions. For example, in determining whether a firm satisfies the threshold conditions, the appropriate regulator appropriate regulator has regard to whether the firm has appointed an actuary (or some other person with responsibility for the actuarial function required by rule 6 of the PRA Rulebook: Solvency II firms: Conditions Governing Business) with sufficient experience in the areas of business to be conducted by the firm.

4.2.6 G In making appointments under this chapter and in allocating duties to actuaries, firms are reminded of their obligation under SYSC 2.1.1R or rule 2.2(2) of the PRA Rulebook: Solvency II firms: Conditions Governing Business to maintain a clear and appropriate apportionment of significant responsibilities so that it is clear who has which of those responsibilities and that the business and affairs of the firm can be adequately monitored and controlled by the directors, relevant senior managers and governing body of the firm.

4.3 Appointment of actuaries

Appointment by firms
4.3.2 G The provisions relating to the duties of an actuary appointed to perform these functions are set out in SUP 4.3.13R to SUP 4.3.18G. For Solvency II firms, the actuarial function is set out in rule 6.1 of the PRA Rulebook: Solvency II firms: Conditions Governing Business and the role of an external actuary set out in the PRA Rulebook: Solvency II Firms: Actuaries. The functions performed by actuaries appointed by a firm under SUP 4.3.1R are specified as controlled functions (CF12). For Solvency II firms the functions required to be controlled functions are set out in PRA Rulebook: Solvency II firms: Insurance – Senior Insurance Management Functions. As a result …

Disqualified actuaries

4.3.11 R A firm must not appoint under SUP 4.3.1R or rule 6.1 of the PRA Rulebook: Solvency II firms: Conditions Governing Business, or in accordance with the PRA Rulebook: Solvency II Firms: Actuaries, an actuary who is disqualified by the FCA under section 345 of the Act (Disciplinary measures: FCA) or the PRA under section 345A of the Act (Disciplinary measures: PRA) from acting as an actuary either for that firm or for a relevant class of firm.

4.3.12A R A firm must take reasonable steps to ensure that an actuary who is to be, or has been, appointed under SUP 4.3.1R or rule 6.1 of the PRA Rulebook: Solvency II firms: Conditions Governing Business, or in accordance with the PRA Rulebook: Solvency II Firms: Actuaries:

The actuarial function

4.3.14 G IPRU(INS) 9.4R and IPRU(FSOC) 5.1R require firms to which this section applies to cause an investigation to be made at least yearly by the actuary or actuaries appointed to perform the actuarial function, and to report on the result of that investigation. INSPRU 1.3 requires realistic basis life firms to calculate the with-profits insurance component as part of their capital resources requirements. The firm is responsible for the methods and assumptions used to determine the liabilities attributable to its long-term insurance business. …

The with-profits actuary function
4.3.16A R An actuary appointed to perform the with-profits actuary function must:

... where the firm is a realistic basis life firm advise the firm's governing body as to whether the assumptions used to calculate the with-profits insurance component under INSPRU 1.3 are consistent with the firm's PPFM in respect of those classes of the firm's with-profits business; [deleted].

(2A) where the firm is a Solvency II firm, advise the firm's governing body as to whether the assumptions used to calculate the future discretionary benefits within the technical provisions are consistent with the firm's PPFM in respect of those classes of the firm's with-profits business:

...

(8) advise on any actuarial investigation required to determine the with-profits-fund surplus.

...

4.5 Provisions applicable to all actuaries

... Objectivity

4.5.1 R An actuary appointed under this chapter or the PRA Rulebook: Solvency II firms sector must be objective in performing his duties.

...

4.5.3 R An actuary appointed under this chapter or the PRA Rulebook: Solvency II firms must take reasonable steps ...

...

4.5.7 G (1) Actuaries appointed under this chapter or the PRA Rulebook: Solvency II firms are subject to regulations ...

...

4.5.8 G SUP 4.5.9R to SUP 4.5.11G apply to a person who is or has been an actuary appointed under this chapter or the PRA Rulebook: Solvency II firms.

4.5.9 R An actuary appointed under this chapter or the PRA Rulebook: Solvency II firms must notify the appropriate regulator ...
4.5.10 R An actuary who has ceased to be appointed under this chapter or the PRA Rulebook: Solvency II firms, or who has been formally notified that he will cease to be so appointed, must notify the appropriate regulator: 

Rights and duties

4.5.13 R When carrying out his duties, an actuary appointed under this chapter or the PRA Rulebook: Solvency II firms must pay due regard:

4.5.14 G The standards, codes and guidance issued from time to time by the Institute of Actuaries, and the Faculty of Actuaries and the Financial Reporting Council are important sources of generally accepted actuarial practice.

6.3 Applications for variation of permission and/or imposition, variation or cancellation of requirements

6.3.13 G The application for variation of Part 4A permission will need to provide information about the classes of contract of insurance for which variation of Part 4A permission is requested and also those classes qualifying to be carried on, on an ancillary or supplementary basis. For example, an insurer applying to vary its permission to include class 10 (motor vehicle liability, other than carrier's liability) must satisfy the FCA that it will meet, and continue to meet, threshold condition 3F (Appointment of claims representatives). Firms should note that, although the relevant regulator is able in principle to use its power to give Part 4A permission for an applicant to carry on a regulated activity for which it did not originally apply, this is not possible under the Insurance Directive Solvency II Directive, which sets out minimum information requirements for an application for authorisation including information on the specified investments the applicant proposes to deal in.

11 Controllers and close links

11.8 Changes in the circumstances of existing controllers

11.8.1 R A firm must notify the appropriate regulator immediately it becomes aware of any of the following matters in respect of one or more of its controllers:
(4) if a controller, who is authorised in another EEA State as a MIFID investment firm, CRD credit institution or UCITS management company or under the Insurance Directives, Solvency II Directive or the Insurance Mediation Directive, ceases to be so authorised (registered in the case of an IMD insurance intermediary).

13 Exercise of passport rights by UK firms

13.1 Application and purpose

13.1.3 G This chapter does not apply to:

(3) any insurance activity by way of provision of services which is provided by an EEA firm participating in a community co-insurance operation otherwise than as leading insurer; article 26.2 190(2) of the Second Non-Life Solvency II Directive provides that only the leading insurer in such an operation is required to complete any passporting formalities (see also article 11 of the Regulated Activities Order); or

13.2 Introduction

13.2.3 G In some circumstances, a UK firm that is carrying on business which is outside the scope of the Single Market Directives has a right under the Treaty to carry on that business. For example, for an insurer carrying on both direct insurance and reinsurance business, the authorisation of reinsurance business is not covered by the Insurance Directives, Solvency II Directive. The firm may, however, have rights under the Treaty in respect of its reinsurance business. Such UK firms may wish to consult with the appropriate UK regulator on their particular circumstances (see SUP 13.12.2G).

13.3 Establishing a branch in another EEA State

The conditions for establishing a branch
13.3.2 G A UK firm other than a UK pure reinsurer cannot establish a branch in another EEA State for the first time under an EEA right unless the relevant conditions in paragraphs 19(2), (4) and (5) of Part III of Schedule 3 to the Act are satisfied. It is an offence for a UK firm which is not an authorised person to contravene this prohibition (paragraph 21 of Part III of Schedule 3 to the Act). These conditions are that:

…

(3) (a) …

(b) in any other case (except for a firm passporting under AIFMD):

(i) the Host State regulator has notified the UK firm (or, where the UK firm is passporting under the Insurance Directives Solvency II Directive, the PRA) of the applicable provisions or, in the case of a UK firm passporting under MiFID or the UCITS Directive, that the branch may be established; or

(ii) two months have elapsed beginning with the date on which the appropriate UK regulator gave the consent notice.

…

Issue of a consent notice to the Host State regulator

13.3.5 G …

(2) (a) If the UK firm’s EEA right derives from the Insurance Directives Solvency II Directive, the PRA will give the Host State regulator a consent notice within three months unless it has reason to:

…

…

(c) If the PRA has required a financial “recovery plan” or a “finance scheme” of a UK firm of the kind mentioned in paragraph 1 of article 38 of the Consolidated Life Directive or paragraph 1 of article 20a of the First Non-Life Directive, PRA Rulebook: Solvency II firms: Undertakings in Difficulty, the PRA will not not expect to give a consent notice for so long as it considers that policyholders are threatened within the meaning of those provisions.

…
13.3.6 G …

(2) The consent notice will contain, among other matters, the requisite details or, if the firm is passporting under the Insurance Directives Solvency II Directive, the relevant EEA details (see SUP 13 Annex 1R) provided by the UK firm in its notice of intention (see SUP 13.5 (Notices of intention)).

(3) …

13.4 Providing cross border services into another EEA State

The conditions for providing cross border services into another EEA State

13.4.2 G A UK firm, other than a UK pure reinsurer or an AIFM exercising an EEA right to market an AIF under AIFMD, cannot start providing cross border services into another EEA State under an EEA right unless it satisfies the conditions in paragraphs 20(1) of Part III of Schedule 3 to the Act and, if it derives its EEA right from the Insurance Directives Solvency II Directive, AIFMD, MiFID or the UCITS Directive, paragraph 20(4B) of Part III of Schedule 3 to the Act. It is an offence for a UK firm which is not an authorised person to breach this prohibition (paragraph 21 of Part III of Schedule 3 to the Act). The conditions are that:

…

(2) if the UK firm is passporting under the Insurance Directives Solvency II Directive, the firm has received written notice from the PRA as described in SUP 13.4.6G; or

…

Issuing a consent notice or notifying the Host State regulator

13.4.4 G …

(2) (a) If the UK firm’s EEA right derives from the Insurance Directives Solvency II Directive, paragraph 20(3A) of Part III of Schedule 3 to the Act requires the PRA, within one month of receiving the notice of intention, to:

…

(b) …
(c) If the PRA has required of a UK firm a financial “recovery plan” or “finance scheme” of the kind mentioned in paragraph 1 of article 38 of the Consolidated Life Directive or paragraph 1 of article 20a of the First Non-Life Directive PRA Rulebook: Solvency II firms: Undertakings in Difficulty, the PRA will not would not expect to give a consent notice for so long as it considers that policyholders’ rights are threatened within the meaning of those provisions.

...

13.5 Notices of intention

...

13.5.2 A UK firm wishing to provide cross border services into a particular EEA State for the first time under an EEA right other than under the auction regulation must submit a notice in the form set out in:

(1) ...

(1A) SUP 13 Annex 3R if the UK firm is passporting under the Insurance Directives Solvency II Directive; or

...

13.5.2A SUP 13.5.2R does not apply to UK pure reinsurers or a UK firm exercising an EEA right under the auction regulation as they have automatic passport rights on the basis of their Home State authorisation under the Reinsurance Directive Solvency II Directive or the auction regulation. However, the information required by SUP 13.5.2-AR assists the FSA’s supervision of a UK firm’s provision of a service in another EEA state under the auction regulation.

...

13.6 Changes to branches

13.6.1 Where a UK firm is exercising an EEA right, other than under the Insurance Mediation Directive (see SUP 13.6.9AG) or as a pure reinsurer or the Reinsurance Directive (see SUP 13.6.9BR) or the CRD, and has established a branch in another EEA State, any changes to the details of the branch are governed by the EEA Passport Rights Regulations. …

13.6.2 UK firms should note that if a branch in another EEA State ceases to provide services, this may represent a change in requisite details or, if the firm is passporting under the Insurance Directives Solvency II Directive, the
relevant EEA details or relevant UK details.

13.6.3 G UK firms should also note that changes to the details of branches may lead to changes to the applicable provisions to which the UK firm is subject. These changes should be communicated to the UK firm either by the Host State regulator, or, if the firm is passporting under Insurance Directives the Solvency II Directive, via the PRA.

... Changes arising from circumstances beyond control of a UK firm

13.6.10 G (1) If the change arises from circumstances beyond the UK firm’s control, the UK firm:

(a) …

(b) may, if it is passporting under the Insurance Directives, Solvency II Directive, make a change to its relevant UK details under regulation 15(1) ...

... Changes to cross border services

13.7 G Where a UK firm, other than a pure reinsurer, is exercising an EEA right under the UCITS Directive, MiFID, Insurance Directives Solvency II Directive or AIFMD and is providing cross border services into another EEA State, any changes to the details of the services are governed by the EEA Passport Rights Regulations. ...

... Changes of details: provision of notices to the appropriate UK regulator

... 13.8 G UK firms, other than pure reinsurers, passporting under the CRD or the Insurance Directives, Solvency II Directive may be required to submit the change to details notice in the language of the Host State as well as in English.

13 Annex 1 Passporting: Notification of intention to establish a branch in another EEA state

... 6 Consolidated Life Assurance Solvency II Directive (Life insurance)

Note to section 6
If the firm is a pure reinsurer, it should not complete section 6 of this form, but should complete section 8 instead.

2 Please note that this change needs to be in the same format as the current Note to Question 6.1 i.e. in a grey box on the left hand side of this part of the form.

6.6 Please confirm you have attached the following. †

<table>
<thead>
<tr>
<th>iii. For each of the first three years following the establishment of the branch, estimates of the firm’s margin of solvency and the margin of solvency required and the method of calculation</th>
<th>Attached</th>
<th>□</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) future SCR as well as the calculation method used to derive those estimates; and</td>
<td>Attached</td>
<td>□</td>
</tr>
<tr>
<td>b) future “MCR” as defined in the PRA Rulebook: Glossary as well as the calculation method used to derive those estimates.</td>
<td>Attached</td>
<td>□</td>
</tr>
</tbody>
</table>

| v. For each of the first three years following the establishment of the branch, the details described below with regards to the business carried on in the EEA State concerned: | | |
| --- | --- | |
| a) a statement setting out, on both optimistic and pessimistic bases, detailed estimates of income and expenditure for direct business, reinsurance acceptances and reinsurance cessions; and | Attached | □ |
| b) a statement of estimates relating to of the financial resources intended to cover underwriting liabilities technical provisions, the “MCR” as defined in the | Attached | □ |
7  First, Second and Third Non-Life Insurance Directives Solvency II Directive (Non-life insurance)

**Note to section 7**

If the firm is a pure reinsurer, it should not complete section 7 of this form, but should complete section 8 instead.

---

**Note to question 7.3**

iii. If the firm covers (or intends to cover) risks relating to legal expenses insurance, please state, in question 7.3, the option chosen from those described in Article 3(2) of Directive 87/344/EEC.
of 22 June 987 on the coordination of laws, regulations and administrative provisions relating to legal expenses insurance article 200(1) of the *Solvency II Directive*.

...  

7.6 Please confirm you have attached the following. †  

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
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</tbody>
</table>

### iv. For each of the first three years following the establishment of the branch, estimates of the firm’s margin of solvency and the margin of solvency required and the method of calculation.  

<p>| | | |</p>
<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>a) future SCR, as well as the calculation method used to derive those estimates; and</td>
<td>Attached</td>
<td></td>
</tr>
<tr>
<td>b) future “MCR” as defined in the PRA Rulebook: Glossary, as well as the calculation method used to derive those estimates.</td>
<td>Attached</td>
<td></td>
</tr>
</tbody>
</table>

### v. For each of the first three years following the establishment of the branch, the details described below about the business carried on in the EEA State concerned:  

<p>| | | |</p>
<table>
<thead>
<tr>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a) estimates relating to expenses of management (other than cost of installation) and, in particular, those relating to current general expenses and commissions;</td>
<td>Attached</td>
<td></td>
</tr>
<tr>
<td>b) estimates relating to premiums or contributions (both gross and net of all reinsurance ceded) and to claims (after all reinsurance</td>
<td>Attached</td>
<td></td>
</tr>
</tbody>
</table>
recoveries); and

c) estimates relating to of the financial resources intended to cover underwriting liabilities technical provisions, the “MCR” as defined in the PRA Rulebook: Glossary, and the SCR.

8 Reinsurance Solvency II Directive (Reinsurance)

Note to section 8

Only pure reinsurers should complete this section of this form.

8.1 Please confirm the type(s) of reinsurance activity to be carried out by the branch under the Reinsurance Directive Solvency II Directive by ticking one of the boxes below. †

11 Declaration

I enclose the following sections (mark the appropriate section) *

Section 6 – Consolidated Life Assurance Solvency II Directive (Life insurance)

Section 7 – First, Second and Third Non-Life Directives Solvency II Directive (Non-life insurance)

Section 8 – Reinsurance Solvency II Directive (Reinsurance)
13A Qualifying for authorisation under the Act

13A.1 Application and purpose

Application

...

13A.1.3 G

(1) Under the Gibraltar Order made under section 409 of the Act, a Gibraltar firm is treated as an EEA firm under Schedule 3 to the Act if it is:

(a) authorised in Gibraltar under the Insurance Directives Solvency II Directive; or

(aA) authorised in Gibraltar under the Reinsurance Directive; or [deleted]

(b) …

...

...

13A.2 EEA firms and Treaty firms

13A.2.1 G … A person may be a Treaty firm, where, for example, it carries on business that includes regulated activities, the right to carry on which does not fall within the scope of the Single Market Directive or the auction regulation under which it is entitled to exercise an EEA right, for example, reinsurance in the case of a direct insurer to which the Insurance Directives apply, or Solvency II Directive applies.

...

13A.4 EEA firms establishing a branch in the United Kingdom

...

The notification procedure

13A.4.4 G (1) When the appropriate regulator receives a consent notice from the EEA firm’s Home State regulator, it will, under paragraphs 13(2)(b), (c) and 13(3) of Part II of Schedule 3 to the Act, notify the applicable provisions (if any) to:

(a) …

(b) in the case of an EEA firm passporting under the Insurance Directives Solvency II Directive, the Home State regulator; …
### 13A Annex 1  Application of the Handbook to Incoming EEA Firms

<table>
<thead>
<tr>
<th>(1) Module of Handbook</th>
<th>(2) Potential application to an incoming EEA firm with respect to activities carried on from an establishment of the firm (or its appointed representative) in the United Kingdom</th>
<th>(3) Potential application to an incoming EEA firm with respect to activities carried on other than from an establishment of the firm (or its appointed representative) in the United Kingdom</th>
</tr>
</thead>
<tbody>
<tr>
<td>INSPRU</td>
<td>INSPRU does not apply unless the firm is an insurer to which INSPRU 1.5.33R applies.</td>
<td>INSPRU does not apply.</td>
</tr>
<tr>
<td>ICOBS</td>
<td>ICOBS 8.4 applies and parts of ICOBS 8.2 apply except to the extent necessary to be compatible with European law. Other chapters of ICOBS do not apply, except to the extent necessary to be compatible with European law. Guidance on the territorial application of ICOBS is contained in ICOBS 1 Annex 1 G Part 4.21</td>
<td></td>
</tr>
<tr>
<td>SUP</td>
<td>SUP 10A (Approved persons)</td>
<td>Does not apply.</td>
</tr>
<tr>
<td></td>
<td>SUP 10A applies in a limited way in relation to an incoming EEA firm that is a Solvency II firm (see SUP 10A.1.8G).</td>
<td></td>
</tr>
</tbody>
</table>

### 13A Annex 2  Matters reserved to a Home State regulator

Requirements in the interest of the general good

2

| (1) | the Single Market Directives expressly reserve responsibility for the prudential supervision of a MiFID investment firm, CRD credit institution, UCITS management company AIFM or passporting insurance undertaking Solvency II firm to the Firm’s Home State regulator. The Insurance |
Mediation Directive reaches the same position without expressly referring to the concept of prudential supervision. Accordingly, the FCA, as Host State regulator, is entitled to regulate only the conduct of the firm's business within the United Kingdom;

Application of SYSC 2 and SYSC 3

SYSC 2 and SYSC 3 only apply to an insurer, a managing agent and the Society. See paragraph 8 below for a discussion of how the common platform requirements apply. SYSC 2.1.1R and SYSC 2.1.2G do not apply for a relevant incoming Treaty firm. The FCA and PRA consider that they are entitled, in the interests of the general good, to impose the requirements in SYSC 2.1.3R to SYSC 2.2.3G (in relation to the allocation of the function in SYSC 2.1.3R(2)) and SYSC 3 on an incoming EEA firm and an incoming Treaty firm; but only in so far as they relate to those categories of matter responsibility for which is not reserved to the firm's Home State regulator.

13 Examples of how SYSC 3 and/or the common platform provisions apply in practice.

(1) The Prudential Standards part of the Handbook (with the exception of INSPRU 1.5.33R on the payment of financial penalties and the Interim Prudential sourcebook (insurers) (IPRU(INS)) (rules 3.6 and 3.7) do not apply to an insurer which is an incoming EEA firm. Similarly, SYSC 3 does not require such a firm:

(a) to establish systems and controls in relation to financial resources (SYSC 3.1.1R); or

(b) to establish systems and controls for compliance with that Prudential Standards part of the Handbook (SYSC 3.2.6R); or

(c) to make and retain records in relation to financial resources (SYSC 3.2.20R and SYSC 9.1.1R to 9.1.4G).

14 Incoming EEA firms changing details, and cancelling qualification for authorisation

14.1 Application and purpose

Application

14.1.3 G (1) Under the Gibraltar Order made under section 409 of the Act, a Gibraltar firm is treated as an EEA firm under Schedule 3 to the Act if it...
is:

(a) authorised in Gibraltar under the Insurance Directives Solvency II Directive; or

(aa) authorised in Gibraltar under the Reinsurance Directive; or

[deleted]

…

14.3 Changes to cross border services

14.3.1 Where an incoming EEA firm passporting under the MiFID, UCITS Directive, Insurance Directives Solvency II Directive or AIFMD is exercising an EEA right and is providing cross border services into the United Kingdom, the EEA Passport Rights Regulations govern any changes to the details of those services. …

…

Firms passporting under the Insurance Directives Solvency II Directive

14.3.5 If an incoming EEA firm passporting under the Insurance Directives Solvency II Directive is providing cross border services into the United Kingdom, it must not make a change to the details referred to in regulation 7(1) unless it has complied with the relevant provisions.

…

16.4 Annual controllers report

…

16.4.4 A firm and its controllers are required to notify certain changes in control (see SUP 11 (Controllers and close links)). The purpose of the rules and guidance in this section is:

(1) …

(2) to implement certain requirements relating to annual reporting of controllers which must be imposed on firms under the Investment Services Directive, the Banking Consolidation Directive, the Consolidated Life Directive and the Third Non-Life Directive Solvency II Directive; and

…

18 Transfers of business
18.2 Insurance business transfers

18.2.24 The guidance set out in SUP 18.2.25G to SUP 18.2.30G derives from the requirements of the Insurance Directives, the Reinsurance Directive, Solvency II Directive and the associated agreements between EEA regulators. Schedule 12 of the Act implements some of these requirements.

18.2.25 G (1) If the transferee is (or will be) an EEA firm (authorised in its Home State to carry on insurance business under the Insurance Directives Solvency II Directive) or a Swiss general insurance company, then the appropriate regulator has to consult the transferee's Home State regulator, who has 3 months to respond. It will be necessary for the appropriate regulator to obtain from the transferee's Home State regulator a certificate confirming that the transferee will meet the Home State's solvency margin requirements (if any) after the transfer.

(2) If the transferee is authorised in the United Kingdom, the appropriate regulator will need to certify that the transferee will meet its solvency margin requirements after the transfer. If the appropriate regulator has required of a UK firm a financial “recovery plan” of the kind mentioned in paragraph 1 of article 38 of the Consolidated Life Directive (2002/83/EC) or paragraph 1 of article 20a of the First Non-Life Directive, or paragraphs 1 and 2 of article 42 of the Reinsurance Directive, the PRA Rulebook: Solvency II firms: Undertakings in Difficulty, the appropriate regulator will not issue a certificate for so long as it considers that policyholders' rights are threatened within the meaning of these paragraphs.

18.3 Insurance business transfers outside the United Kingdom

Purpose

18.3.1 G Under section 115 of the Act, the appropriate regulator has the power to give a certificate confirming that a firm possesses any required minimum margin necessary margin of solvency, to facilitate an insurance business transfer to the firm under overseas legislation from a firm authorised in another EEA State or from a Swiss general insurance company. This section provides guidance on how the appropriate regulator would exercise this power and on related matters.

Appendix 2 Insurers: Regulatory intervention points and run-off plans
App 2.1  Application

App 2.1.1  R  Subject to SUP App 2.1.6R, SUP App 2.1 to 2.15 apply to an insurer, unless it is:

(1) a Swiss general insurer; or
(2) an EEA-deposit insurer; or
(3) an incoming EEA firm; or
(4) an incoming Treaty firm.

App 2.1.4  G  SUP App 2.14A and 2.15 apply to an insurer carrying on with-profits business, but SUP App 2.15 only applies if COBS 20.2.53R (Ceasing to effect new contracts of insurance in a with-profits fund) also applies.

App 2.1.6  R  SUP App 2.7 and 2.11 do not apply to a Solvency II firm.

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.

App 2.2  Interpretation

App 2.2.1  R  For the purpose of SUP App 2.1 to 2.14:

(1) "capital resources":

(2) "guarantee fund":

(b) in relation to a participating insurance undertaking, means $P + T$, where $P$ and $T$ have the meanings given by INSPRU 6.1.45R(3)(a) and (e) respectively, as calculated in accordance with INSPRU 6.1.43R; and [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 GENPRU 2.2.17R; and

(d) in relation to a Solvency II firm means the firm's “eligible own funds” as defined in the PRA Rulebook: Glossary;
…

(b) in relation to a participating insurance undertaking, means the amount of capital resources which that firm must hold to comply with INSPRU 6.1.45R(2); [deleted]

(c) in relation to a firm other than a Solvency II firm which is not covered by (a) or (b), carrying on general insurance business, means the amount of capital resources which that firm must hold to comply with GENPRU 2.2.34R; and

(d) in relation to a firm other than a Solvency II firm, which is not covered by (a) or (b), carrying on long-term insurance business, means the amount of capital resources which that firm must hold to comply with GENPRU 2.2.33R;

…

App 2.3 Purpose

…

App 2.7 Capital resources below the level of individual capital guidance

…

App 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 appropriate regulator including:

...

App 2.10

Grant or variation of permission

App 2.10.1

The PRA may will ask a firm Solvency II firms seeking a grant or variation of permission to provide a scheme of operations as part of the application process (see article 18 of the Solvency II Directive). It may make a similar request to other firms (see SUP 6.3.25G). Such a firm is Firms which have submitted such a scheme of operations are not required to submit a further scheme of operations under this appendix unless SUP App 2.4, SUP App 2.5 or SUP App 2.8 applies. SUP App 2.13 and SUP 6 Annex 4 do, however, apply to such a firm.

App 2.11

Submission of a scheme of operations or a plan for restoration

...

App 2.11.4

In relation to a firm which carries on with-profits insurance business and which submits a plan, the appropriate regulator would expect an explanation of how any actions it plans to take to restore capital resources to the level of the guarantee fund, required margin of solvency or capital resources requirement are consistent with the firm's obligations under the FCA’s Principle 6 (Customers' interests).

App 2.14A

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

App 2.14A.1

SUP App 2.14A applies to a firm carrying on with-profits business.

App 2.14A.2

Action which a firm takes either to restore its capital resources to the levels set by the intervention points in this appendix or in PRA Rulebook: Solvency II Firms: Undertakings in Difficulty, 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

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.
App 2.14A.4 G Where a firm submits a plan for restoration under this appendix or complies with PRA Rulebook: Solvency II Firms: Undertakings in Difficulty, 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).

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

... Financial projections

App 2.15.8 G A firm's firm, other than a Solvency II firm, should include in its run-off plan should include:

... Financial projections

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 2.15.8BG:

1. a forecast summary revenue account for the with-profits fund, in accordance with SUP App 2.12.7R;

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 SUP App 2.12.8R; 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 SUP App 2.12.8R and SUP App 2.12.9R;

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

App 2.15.9 G Delegated acts or implementing technical standards may be adopted under 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 2.15.8AG.
Table 2 - forecast summary balance sheet and statement of solvency for the relevant with-profits fund

<p>| | |</p>
<table>
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<tbody>
<tr>
<td>(13)</td>
<td><em>With-profits insurance capital component (for realistic basis life firms only)</em> [deleted]</td>
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Table 3 - forecast summary balance sheet and statement of solvency for the firm

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<tr>
<td>L10</td>
<td><em>With-profits insurance capital component</em> [deleted] for realistic basis life firms only [deleted]</td>
</tr>
</tbody>
</table>

App 2.15.10 G If a firm is a realistic basis life firm, its run-off plan should include:

1. a realistic balance sheet and statement of solvency position in the form of SUP App 2.15.9 G Table 2, if the financial position of the relevant *with-profits fund* would, when stated in that form, be materially different from the firm's most recent realistic solvency submission for that fund; or

2. a statement that the firm is satisfied that the closure of the *with-profits fund* will not materially affect the solvency position of that fund, as reflected in the firm's most recent solvency submission for that fund.

[deleted]

App 2.15.11 G A firm's The run-off plan of a firm to which INSPRU 7 applies should include:

... 

Appendix 3 Guidance on passporting issues

... 

App 3.6 Freedom to provide services

... 

Place of supply

App 3.6.6 G ... The location of risks and commitments is found by reference to the rules set out in paragraph 6 of schedule 12 to the Act, which derive from article 1 of the Consolidated Life Directive and article 2 of the Second Non-Life Directive article 13(13) and (14) of the Solvency II Directive. ...
Mapping of Insurance Directives the Solvency II Directive to the Regulated Activities Order

Introduction

The guidance in Table 3 describes in broad outline the relationship between:

1. the insurance-related regulated activities specified in the Regulated Activities Order; and

2. the activities within the scope of the Insurance Directives Solvency II Directive.

This is a guide only and should not be used as a substitute for legal advice in individual cases.

<table>
<thead>
<tr>
<th>Table 3: Insurance Solvency II Directive activities</th>
<th>Part II RAO Activities</th>
<th>Part III RAO Investments</th>
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<tbody>
<tr>
<td><strong>1. Insurance Directive Non-life insurance activities</strong></td>
<td></td>
<td></td>
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<tr>
<td>1. Taking up and carrying on direct non-life insurance business</td>
<td>Article 10</td>
<td>Article 75</td>
</tr>
<tr>
<td>2. Classes 1 to 18 of direct non-life insurance business in Point A of the Annex I to the First Solvency II Directive</td>
<td>Corresponding paragraphs 1 to 18 of Schedule 1, Part I</td>
<td></td>
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<tr>
<td><strong>2. Consolidated Life Directive insurance activities</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Taking up and carrying on direct life insurance business</td>
<td>Article 10</td>
<td>Article 75</td>
</tr>
<tr>
<td>2. Classes I to IX of direct life insurance business in the Annex II to the Consolidated Life Solvency II Directive</td>
<td>Corresponding paragraphs I to IX of Schedule 1, Part II</td>
<td></td>
</tr>
</tbody>
</table>

Meaning of contract of insurance

Such funeral plans (to the extent that they are insurance) are also excluded from the Insurance Directives Solvency II Directive. It covers some contracts which might not otherwise be viewed as insurance in the
United Kingdom (for example, contracts of guarantee). These contracts are also governed by the Insurance Directives Solvency II Directive. ...

**The Insurance Directives Solvency II Directive**

App 3.10.4 G Article 1 of the First Non-Life Solvency II Directive and article 2 of the Consolidated Life Directive provides that the Directives Directive "concerns ... the taking up and pursuit, within the Community, of the self-employed activity activities of direct insurance and reinsurance". By contrast, article Article 10 of the Regulated Activities Order (Effecting and carrying out contracts of insurance) also covers reinsurance.

App 3.10.5 G Articles 2, 3 and 4 of the First Non-Life Directive and article 3 of the Consolidated Life Directive 3 to 12 of the Solvency II Directive set out certain exclusions by reference to:

...  

App 3.10.6 G Some of the exclusions referred to in the Solvency II Directive mirror exclusions in the Regulated Activities Order. So, the exclusion for breakdown insurance in article 2(3) 6 of the First Non-Life the Solvency II Directive is matched by a slightly narrower exclusion in article 12 of the Regulated Activities Order (Breakdown insurance). The separate treatment of benefit-in-kind funeral plans under the Regulated Activities Order (see SUP App 3.10.4G) is matched by their exclusion on a slightly wider basis in article 3(5) 10 of the Consolidated Life Solvency II Directive.

Other requirements from these Directives the Solvency II Directive are also excluded from regulation by the Exemption Order.

App 3.10.7 G Most of the exclusions under the Directives, however, are not excluded from being regulated activities. For example, article 3 of the Consolidated Life Directive and article 3 of the Non-Life Directive exclude certain mutual associations whose annual contribution income falls below a defined threshold. In the United Kingdom, these include certain smaller friendly societies commonly referred to as "non-directive friendly societies". The activities of such societies 'non-directive friendly societies' are regulated under the Act, on a "lighter basis" than the activities of other insurers.

**Territorial scope of the Regulated Activities Order and the Directives Directive**

App 3.10.8 G … By contrast, under the Directives Solvency II Directive, the responsibility, as between EEA States, for regulating the conduct of passported insurance services is determined by reference to the location of the risk or commitment, as defined in article 1 of the Consolidated Life Directive and article 2 of the Second Non-Life Directive article 13(13) and (14) of the Solvency II Directive.

...  

App G An insurer authorised in another EEA State who is insuring UK risks and so
3.10.10 passports on a services basis under the Insurance Directives Solvency II Directive into the United Kingdom (see ), may not be carrying on a regulated activity in the United Kingdom. But, if it passports into the United Kingdom, it will qualify for authorisation under paragraph 12 of Schedule 3 to the Act (Firms qualifying for authorisation). Where this is the case, the insurer will be subject to conduct of business requirements in the United Kingdom (see SUP 13A.6 (Which rules will an incoming EEA firm be subject to?)).

Activities carried on by incoming EEA firms in connection with insurance business.

App G 3.10.11 Although the Insurance Directives are Solvency II Directive is concerned with the regulated activities of effecting and carrying out contracts of insurance, an incoming EEA firm passported under the Insurance Directives Solvency II Directive will be entitled to carry on certain other regulated activities without the need for top-up permission. This is where the regulated activities are carried on for the purposes of or in connection with the incoming EEA Firm's insurance business. These regulated activities may include:

…
Annex N

Amendments to the Compensation sourcebook (COMP)

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

14.1 Application and Purpose

... 

14.1.3 G This chapter provides supplementary rules and guidance for an incoming EEA firm which is a credit institution, an IMD insurance intermediary, an MiFID investment firm, UCITS management company or an AIFM. It reflects in part the implementation of the Deposit Guarantee Directive, Investors Compensation Directive, and UCITS Directive. This sourcebook applies in the usual way to an incoming EEA firm which is exercising EEA rights under the Insurance Directives. Such a firm is not affected by the Deposit Guarantee Directive, the Investors Compensation Directive or the UCITS Directive.

...
Annex O

Amendments to the Regulated Covered Bonds sourcebook (RCB)

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

1.1 Introduction to sourcebook

... 

1.1.7 G An insurer (which is not a UK Solvency II firm, non-directive friendly society, incoming EEA firm or an incoming Treaty firm) may benefit from increased counterparty limits under INSPRU 2.1.22R(3)(b). An insurer which is a UK Solvency II firm is subject to the rules in the PRA Rulebook which transpose the Solvency II Directive and also to Solvency II Regulation (EU) 2015/35 of 10 October 2014.

...
Annex P

Amendments to the Enforcement Guide (EG)

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

8 Variation and cancellation of permission and imposition of requirements on the FCA’s own initiative and intervention against incoming firms

...

Exercising the power under section 55Q to vary or cancel a firm’s part 4A permission or to impose requirements on a firm in support of an overseas regulator: the FCA’s policy

...

8.19 Relevant Community obligations which the FCA may need to consider include those under the Capital Requirements Directive, the Insurance Directives, Solvency II Directive, the Investment Services Directive/Markets in Financial Instruments Directive; and the Insurance Mediation Directive. Each of these Directives imposes general obligations on the relevant EEA competent authority to cooperate and collaborate closely in discharging their functions under the Directives.

...

19 Non-FSMA Powers

...

Financial Conglomerates and Other Financial Groups Regulations 2004

...

19.64 The FCA's powers to vary a firm’s Part 4A permission or to impose requirements under sections 55J and 55L of the Act have been extended under these Regulations. The FCA is able to use these powers where it is desirable to do so for the purpose of:

...

Annex Q

Amendments to the Perimeter Guidance manual (PERG)

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

2 Authorisation and regulated activities

...

2.4 Link between activities and the United Kingdom

...

2.4.7 G Electronic commerce activities, other than insurance business falling within the scope of the Insurance Directives Solvency II Directive, provided by an incoming ECA provider will not be regulated activities (see PERG 2.9.18G(2)).

...

2.8 Exclusions applicable to particular regulated activities

...

Effecting and carrying out contracts of insurance

2.8.3 G The following activities are excluded from both the regulated activities of effecting and carrying out contracts of insurance.

(1) In specified circumstances, the activities of an EEA firm when participating in a Community co-insurance operation are excluded. A Community co-insurance operation is defined in the Community Co-insurance Directive Solvency II Directive.

(2) ...

(3) Electronic commerce activities provided by an incoming ECA provider where those activities are outside the scope of the Insurance Directives Solvency II Directive (see PERG 2.9.18G).

...

Agreeing

2.8.15 G ... The provision of electronic commerce activities by an incoming ECA provider is also excluded from the regulated activity of agreeing to carry on certain other regulated activities (see PERG 2.7.21G). But this is not the case where the agreement relates to the regulated activity of effecting or
carrying out contracts of insurance falling under the Insurance Directives Solvency II Directive (see PERG 2.8.3G). …

2.9 Regulated activities: exclusions applicable in certain circumstances

Incoming ECA providers

2.9.18 G …

(2) … Where activities consist of electronic commerce activities, an incoming ECA provider will not require authorisation for such activities in the United Kingdom. This does not extend to the regulated activity of effecting or carrying out contracts of insurance falling under the Insurance Directives Solvency II Directive (see PERG 2.8.3G). …

5 Guidance on insurance mediation activities

5.3 Contracts of insurance

5.3.8 G … The location of the risk or commitment may be determined by reference to the EEA State in which the risk is situated, defined in article 2(d) 13(13) of the Second Non-Life Directive (88/357/EEC) Solvency II Directive or the EEA State of the commitment, defined in article 4(1)(c) 13(14) of the Consolidated Life Directive (2002/83/EC) Solvency II Directive. …

8 Financial promotion and related activities

8.12 Exemptions applying to all controlled activities

8.12.38 G … However, article 20B does not apply to the following communications:

…
(2) an invitation or inducement to enter into a *contract of insurance* where:

(a) it is made by an undertaking which has received official authorisation for direct insurance in line with article 4 of the **Consolidated Life Directive** or article 6 of the **First Non-life Directive** article 14 of the **Solvency II Directive**; and

(b) the insurance falls within the scope of any of the **Insurance Directives** **Solvency II Directive** or

…

…

16 Scope of the Alternative Investment Fund Managers Directive

…

16.2 What types of funds and business are caught?

…

Question 2.58: Is a bank or insurer caught?

An undertaking authorised under the **Insurance Directives** **Solvency II Directive** or the **CRD** will not be an **AIF**.