

**RECOVERY AND RESOLUTION DIRECTIVE (AMENDMENT) INSTRUMENT
2016**

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the following sections of the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
 - (2) section 137T (General supplementary powers);
 - (3) section 139A (Power of the FCA to give guidance); and
 - (4) section 192J (Rules requiring provision of information by parent undertakings).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 9 December 2016.

Amendments to the Handbook

- D. The Prudential sourcebook for Investment Firms (IFPRU) is amended in accordance with the Annex to this instrument.

Notes

- E. In the Annex 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

- F. This instrument may be cited as the Recovery and Resolution Directive (Amendment) Instrument 2017.

By order of the Board
8 December 2016

Annex

Amendments to the Prudential sourcebook for Investment Firms (IFPRU)

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

11 Recovery and resolution

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11.2 Individual recovery plans

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Recovery plan for a non-significant IFPRU firm

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- 11.2.8 G A *firm* should include additional information from *IFPRU* 11 Annex 1R (Recovery plans for significant IFPRU firms and group recovery plans for groups that include significant IFPRU firms) in its *recovery plan* where this information is material to its business.

[**Note:** article 5(5) of *RRD*]

- 11.2.8A G The *FCA* may require a *firm* to include the additional information referred to in *IFPRU* 11.2.8G in its *recovery plan* using its power under section 55L of the *Act*.

[**Note:** article 4(3) of *RRD*]

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Recovery plan indicators

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- 11.2.14 R ~~Where the relevant indicator has not been met, a *firm* must decide whether or not it is appropriate to take action under its *recovery plan*~~ A *firm* must notify the *FCA* without delay of a decision to take an action referred to in its *recovery plan*, whether or not the relevant indicator has been met.

- 11.2.15 R A *firm* must notify the *FCA* without delay of a decision not to take an action referred to in its *recovery plan* ~~or of a decision not to take action~~ where the relevant indicator has been met.

[**Note:** article 9(1) of *RRD*]

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11.3 Group recovery plans

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Group recovery plan for a group that includes an IFPRU 730k firm that is not a significant IFPRU firm

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- 11.3.10 G *A firm or qualifying parent undertaking* should include additional information from *IFPRU 11 Annex 1R* (Recovery plans for significant IFPRU firms and group recovery plans for groups that include significant IFPRU firms) in its *group recovery plan* where this information is material to the business of the *group*.

[**Note:** article 5(5) of *RRD*]

- 11.3.10A G The FCA may require a firm or qualifying parent undertaking to include the additional information referred to in IFPRU 11.3.10G in its group recovery plan by using its power under:

- (1) section 55L of the Act to require a firm; or
- (2) section 192C of the Act to direct a qualifying parent undertaking.

[**Note:** article 4(3) of *RRD*]

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Group recovery plan indicators

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- 11.3.16 R ~~Where the relevant indicator has not been met, a firm or qualifying parent undertaking must decide whether or not it is appropriate to take action under the group recovery plan~~ A firm or qualifying parent undertaking must notify the FCA without delay of a decision to take an action referred to in its recovery plan, whether or not the relevant indicator has been met.

- 11.3.17 R *A firm or qualifying parent undertaking* must notify the *FCA* without delay of a decision not to take an action referred to in the *group recovery plan* ~~or of a decision not to take action where the relevant indicator has been met.~~

[**Note:** article 9(1) of *RRD*]

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11.5 Intra-group financial support

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Decision to give and receive group financial support using an RRD group financial support agreement

11.5.16 R ...

11.5.16 G A firm or qualifying parent undertaking proposing to give financial support using an RRD group financial support agreement should also refer to articles 33 to 36 of Commission Delegated Regulation (EU) 2016/1075 of 23 March 2016 supplementing RRD:

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R1075&from=EN>.

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11.5.21 R ~~An IFPRU 730k firm~~ A firm or qualifying parent undertaking must ensure it sends the decision of its *management body* to give financial support to:

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11.6 Contractual recognition of bail-in

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Contractual recognition of bail-in

11.6.3 R (1) ...

(2) The contractual recognition of a bail-in requirement in (1) applies to a liability that is:

(a) ...

(b) issued or entered into after 1 January 2016;

(ba) issued or entered into before 1 January 2016 but materially amended after 9 December 2016;

(c) ...

...

11.6.4 G A firm or qualifying parent undertaking proposing to provide contractual recognition of bail-in should also refer to articles 42 to 44 of Commission Delegated Regulation (EU) 2016/1075 of 23 March 2016 supplementing RRD:

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R1075&from=EN>.

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11 Information for resolution plans

Annex

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Part A: Corporate structure and material legal entity information

(1) Where an RRD institution's parent organisation is a UK incorporated entity, a firm or qualifying parent undertaking should provide the information in Part A for all material legal entities and branches that form part of the group, both domestic and international, that provide the economic functions identified in Part B below.

(2) Where an RRD institution's parent organisation is incorporated outside the United Kingdom, a firm or qualifying parent undertaking should only provide the information required in Part A for:

- UK subsidiaries (and any associated overseas branches);
- UK branches of any overseas subsidiaries; and
- material interdependencies with non-UK persons in the group.

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