

PRA RULEBOOK: CRR FIRMS: REMUNERATION AND CERTIFICATION INSTRUMENT 2021

Powers exercised

- A. The Prudential Regulation Authority (“PRA”) 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 137G (The PRA’s general rules);
 - (2) section 137H (General rules about remuneration);
 - (3) section 137T (General supplementary powers);
 - (4) section 192V (Rules imposing consolidated requirements); and
 - (5) section 192XA (Rules applying to holding companies)
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instrument) of the Act.

Pre-conditions to making

- C. In accordance with section 138J of the Act (Consultation by the PRA), the PRA consulted the Financial Conduct Authority. After consulting, the PRA published a draft of proposed rules and had regard to representations made.
- D. In accordance with sections 144C(3) and 144E of the Act, the PRA consulted the Treasury about the likely effect of the rules on relevant equivalence decisions within the meaning of section 144C (4) of the Act.

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- E. The PRA makes the rules in the Annexes to this instrument.

Commencement

- F. Annex A comes into force on 30 December 2021.
- G. Annex B comes into force on 1 March 2022.

Citation

- H. This instrument may be cited as the PRA Rulebook: CRR Firms: Remuneration and Certification Instrument 2021.

By order of the Prudential Regulation Committee

14 December 2021

Annex A

Amendments to the Remuneration Part

In this Annex new text is underlined and deleted text is struck through.

...

1 APPLICATION AND DEFINITIONS

...

1.3 (1) In this Part, the following definitions shall apply:

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business unit

means any separate organisational or legal entities, business lines, or geographical locations.

...

control functions

~~has the meaning provided in Article 3 of the *Material Risk Takers Regulation*~~means a function that is independent from the *business units* it controls and that is responsible for providing an objective assessment of the *firm's* risks or to review or report on those and which includes (but is not limited to) the risk management function, the compliance function and the internal audit function.

core business line

means business lines and associated services which represent material sources of revenue, profit or franchise value for a *firm* or for its *group*.

...

managerial responsibility

~~has the meaning provided in Article 2 of the *Material Risk Takers Regulation*~~means a situation in which an *employee*:

- (1) heads a *business unit* or a *control function* and is directly accountable to the *management body* as a whole or to a member of the *management body* or to the *senior management*,
- (2) heads one of the functions set out in 3.2A(1); or
- (3) heads a subordinated *business unit* or a subordinated *control function* in a *large institution* and reports to an *employee* that has the responsibilities referred to in (1).

material business unit

~~has the meaning provided in Article 4 of the *Material Risk Takers Regulation*~~means a *business unit* that meets either of the following criteria:

- (a) it has allocated internal capital of at least 2% of the internal capital of the *firm* as set out in Internal Capital Adequacy Assessment 3.1(1) or is otherwise assessed by the *firm* as having a material impact on the *firm's* internal capital; or
- (b) it is a *core business line*.

...

Material Risk Takers Regulation

means the draft regulatory technical standards on criteria to define managerial responsibility and control functions, a material business unit and a significant impact on its risk profile, and categories of staff whose professional activities have a material impact on an institution's risk profile published by the EBA on 18 June 2020.

...

significant impact on the relevant business unit's risk profile

has the meaning provided in Article 5 of the *Material Risk Takers Regulation*.

...

3 MATERIAL RISK TAKERS

3.1 A firm must, save where otherwise stated, apply the requirements of this Part in relation to a person (a "material risk taker") who is:

(1) an *employee* of a *CRR firm* whose professional activities have a material impact on the firm's risk profile, including:

...

(c) *employees* entitled to a significant total *remuneration* in the preceding financial year, where:

...

(ii) the *employee* performs the professional activity within a *material business unit* and the activity is a kind that has a ~~*significant impact on the relevant business unit's risk profile*~~ significant impact on the risk profile of a *material business unit*,

(d) *employees* whose professional activities are deemed to have a material impact on the firm's risk profile under ~~Articles 6 and 7 of the *Material Risk Takers Regulation*~~ 3.2A and 3.3A; or

...

[Note: Article 92 of the *CRD* and the *Material Risk Takers Regulation*]

3.1A For the purposes of 3.1(1)(c) and (d), a firm must calculate all amounts of variable and fixed remuneration on a gross and full-time equivalent basis.

3.1B For the purposes of 3.1(1)(c)(i):

(1) a firm must calculate the average total remuneration of all members of the firm's management body and senior management by taking into account the total of the fixed and variable remuneration of all members of the firm's management body in its management function and supervisory function as well as all members of senior management, and

(2) a firm must value variable remuneration that has been awarded but has not yet been paid as at the date of the award without taking into account the application of the discount rate referred to in 15.13 or reductions in pay-outs through clawback, malus or otherwise.

3.1C For the purposes of 3.1(1)(c)(ii), in determining whether the professional activity of an employee has a significant impact on the risk profile of a material business unit a firm must apply all of the following criteria within its remuneration policies, practices and procedures:

- (1) the risk profile of the material business unit;
- (2) the distribution of internal capital to cover the nature and level of the risks, as referred to in Internal Capital Adequacy Assessment 3.1(1);
- (3) the risk limits of the material business unit;
- (4) the risk and performance indicators used by the firm to identify, manage and monitor risks of the material business unit in accordance with General Organisational Requirements 2.1;
- (5) the relevant performance criteria set by the firm in accordance with 15.4 and 15.6; and
- (6) the duties and authorities of employees or categories of employee in the material business unit concerned.

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3.2A In addition to employees identified under the criteria set out in 3.1(1)(a) to (c), a firm must deem an employee to have a material impact on a firm's risk profile where one or more of the following qualitative criteria are met:

- (1) the employee has managerial responsibility for any of the following:
 - (a) legal affairs;
 - (b) the soundness of accounting policies and procedures;
 - (c) finance, including taxation and budgeting;
 - (d) performing economic analysis;
 - (e) the prevention of money laundering and terrorist financing;
 - (f) human resources;
 - (g) the development or implementation of the remuneration policy;
 - (h) information technology;
 - (i) information security; or
 - (j) managing outsourcing arrangements of a function, where a defect or failure in the performance of that function would materially impair the continuing compliance of the firm with the conditions and obligations of its authorisation, financial performance, or the soundness or continuity of its services and activities;
- (2) the employee has managerial responsibility for any of the risk categories set out in Internal Capital Adequacy Assessment 3.1(2) (a) to (g), (i) and (j) or is a voting member of a committee responsible for the management of such a risk category;
- (3) with regard to credit risk exposures of a nominal amount per transaction, representing 0.5% of the firm's common equity tier 1 capital and which is at least £4.5 million, the employee member meets either of the following criteria:
 - (a) the employee has the authority to take, approve or veto decisions on such credit risk exposures; or
 - (b) the employee is a voting member of a committee which has the authority to take the decisions as referred to in (a);

- (4) in relation to a firm for which the derogation for small trading book businesses set out in Article 94 of the CRR does not apply, the employee meets either of the following criteria:
- (a) the employee has the authority to take, approve or veto decisions on transactions on the trading book that in aggregate represent one of the following thresholds:
- (i) where the standardised approach is used, an own funds requirement for market risk that represents 0.5% or more of the firm's common equity tier 1 capital;
- (ii) where an internal model based approach is approved for regulatory purposes, 5% or more of the firm's internal value-at-risk limit for trading book exposures at a 99th percentile (one-tailed confidence interval level); or
- (b) the employee is a voting member of a committee that has the authority to take the decisions referred to in (a);
- (5) the employee heads a group of employees who have individual authorities to commit the firm to transactions and either of the following conditions is met:
- (a) the sum of those authorities equals or exceeds the threshold referred to in 3.2A(3)(a) or 3.2A(4)(a)(i); or
- (b) where an internal model based approach is approved for regulatory purposes, those authorities amount to 5% or more of the firm's internal value-at-risk limit for trading book exposures at a 99th percentile (one-tailed confidence interval level): where the firm does not calculate a value-at-risk at the level of that employee, the value-at-risk limits of employees under the management of that employee must be aggregated; or
- (6) the employee meets either of the following criteria with regard to decisions on approving or vetoing the introduction of new products:
- (a) the employee has authority to take such decisions; or
- (b) the employee is a voting member of a committee that has authority to take such decisions.

...

3.3A In addition to employees identified under the criteria set out in 3.1(1)(a) and (b), a firm must deem an employee to have a material impact on a firm's risk profile where either of the following quantitative criteria are met:

- (1) the employee, including an employee referred to in 3.1(1)(c), has been awarded in or for the preceding performance year a total remuneration that is equal to or greater than £660,000; or
- (2) where the firm has over 1,000 employees, the employee is within the 0.3% of employees within the firm (which is to be calculated on an individual entity basis only and rounded to the next higher integral figure) who have been awarded the highest total remuneration in or for the preceding performance year.

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6 REMUNERATION POLICIES

6.1 In this Chapter, 6.2 and 6.5 and 6.6 apply to firms in relation to firms' remuneration policies, practices and procedures generally, not only in relation to material risk takers.

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6.6 A firm must ensure that its remuneration policy sets out the reference year for the variable remuneration that it takes into account when calculating total remuneration and that reference year must be either:

- (1) the year preceding the financial year in which the variable remuneration is awarded; or
- (2) the year preceding the financial year for which the variable remuneration is awarded.

...

15 REMUNERATION STRUCTURES

...

15.17 ...

(2) A firm must not award, pay or provide a variable remuneration component to a higher paid material risk taker unless a substantial portion of it, which is at least 40%, is deferred over a period which is not less than:

(a) in the case of a higher paid material risk taker who does not perform a PRA senior management function, but;

(i) who meets the criteria in 3.1(1)(a) or (b); or

(ii) whose professional activities meet the qualitative criteria set out in ~~Article 6(1), 6(2) or 6(5) of the Material Risk Takers Regulation~~ 3.2A(1), 3.2A(2) or 3.2A(5)

five years vesting no faster than on a pro-rata basis; or

...

Annex B

Amendments to the Certification Part

In this Annex new text is underlined and deleted text is struck through.

1 APPLICATION AND DEFINITIONS

...

1.2 In this Part, the following definitions shall apply:

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~~*Material Risk Takers Regulation*~~

~~means Commission Delegated Regulation (EU) No 604/2014 of 4 March 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards with respect to qualitative and appropriate quantitative criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile.~~

significant risk taker

means

(1) an *employee* of a *CRR firm* whose professional activities have a material impact on the *firm's* risk profile, including any *employee* who ~~is deemed to have a material impact on the *firm's* risk profile in accordance with criteria set out in Articles 3 to 5 of the *Material Risk Takers Regulation*~~ falls within Remuneration 3.1(1);

...

(3) any *employee* of a *third country CRR firm* who would fall within (1) if it had applied in relation to him or her, ~~unless the *firm* has deemed the *employee* not to be a material risk taker under Remuneration 3.2.~~

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