

# Update: the Senior Insurance Managers Framework

On 23 March 2015, the PRA unveiled its new accountability regime for insurers by publishing the final rules implementing the Senior Insurance Managers Regime ("SIMR").

The new rules apply to all insurers that come under the Solvency II regime and will replace the PRA's APER and FIT current sourcebooks.

This note highlights the key changes made by the PRA following the consultation on the draft rules in [CP26/14 Senior insurance managers regime: a new regulatory framework for individuals](#).

To ensure timely compliance with the new requirements, the PRA advise firms to read the final rules as set out in PRA policy statement [PS3/15 'Strengthening individual](#)

## Checklist for insurers

### Identification

- Identify Senior Insurance Management Functions ("SIMFs") – does the existing approved person map across to new SIMFs? If so, consider grandfathering and submit notification form before 8 February 2016.
- Identify 'key functions and "key function holders' – submit necessary forms.
- Identify senior insurance managers, who will perform 'Prescribed Responsibilities' as specified by PRA rules – early identification is key especially if senior managers may be unwilling to take on additional responsibilities.
- Identify FCA Significant Influence Functions ("SIFs") – does the existing approved person map across to new SIFs? If so, consider grandfathering.

### PRA/FCA approval

- Prepare to seek PRA pre-approval for new SIMFs.
- Prepare to seek FCA pre-approval for new SIFs - see our [previous briefing for FCA SIF proposals](#).

### Notification

- Long Form A must be submitted to the PRA/FCA for new SIMFs/SIFs, respectively, who have not previously been approved by the PRA or FCA, otherwise a Short Form A can be used.
- A key function holder form must be submitted to the PRA where the 'key function holder' is not a SIMF.
- A firm must submit a scope of responsibilities form to the PRA/FCA for each approved person, with each grandfathering notification (Form K).

### Assessment

- Organise and undertake a fit and proper assessment of 'key function holders'.
- Ensure 'ongoing monitoring' (i.e. appraisals, performance reviews) is undertaken and that notifications are made if there are concerns about an individual's fitness and propriety.

### Documentation

- Create and maintain a governance map.
- Revise compliance manuals or internal documents to reflect the new conduct rules which apply to senior insurance managers and 'key function holders'.

### Grandfathering

- The regulators intend that grandfathering will apply to all approved persons to whom all of the following conditions apply:
  - he or she is performing the corresponding role under the existing regime immediately prior to 7 March 2016;
  - that function, or part thereof, will become a PRA SIMF or FCA SIF under the reformed regime on 7 March 2016; and
  - the person has complied with the notification requirements.

[accountability in banking and insurance](#). Our previous [briefing note on the SIMR](#) sets out the PRA proposals and their impact.

Firms are also advised to read [FCA CP15/16/ PRA CP13/15 - Changes to the Approved Persons Regime for Solvency II firms](#). This paper contains proposals for the relevant forms, consequential changes and transitional arrangements. Grandfathering and notification advice in this note is based on the draft rules contained in the consultation paper and so may be subject to change.

## Timing

The new rules will come into force on 7 March 2016, although some aspects of the SIMR will apply from the beginning of 2016, when Solvency II comes into effect.

## Key changes

The majority of the proposals and draft rules set out in CP26/14 were retained. However following feedback from respondents, the PRA made changes in the following areas:

- identification of key functions;
- preparation of governance maps;
- application of fit and proper assessments; and
- scope of group entity SIMF.

### Key functions

The Solvency II Directive requires firms to 'have in place an effective system of governance...'<sup>1</sup> which includes the following functions<sup>2</sup>:

- risk-management function;
- compliance function;
- internal audit function; and
- actuarial function.

Solvency II fit and proper requirements apply to 'all persons who effectively run the undertaking or have other key functions'.<sup>3</sup> In our last briefing on the SIMR, we identified the high level language used by the PRA to implement these provisions (i.e. the requirement to identify 'those performing a key function') as a source of potential confusion.

Respondents to the consultation also picked up on the ambiguity in the requirements. For this reason, the policy statement clarifies that a 'key function' includes 'any function that is of specific importance to the sound and prudent management of the firm'. This clearly includes the four functions listed in the Solvency II Directive but may include additional functions. The policy statement does provide a non-exhaustive list of such additional 'key functions':

- Investment function;
- Claims management function (especially for general or health insurance firms);
- IT function; and
- Reinsurance functions (if separate from the risk management function identified in the Solvency II Directive).

The test the PRA has suggested is relevant in identifying a key function is whether it is a function whose operation, if not properly managed and overseen, could potentially lead

to significant losses being incurred or to a failure in the ongoing ability of the firm to meet its obligations to policyholders.

The PRA is unlikely to provide any further guidance, leaving it to firms to exercise their judgement in relation to 'key function holders'. It will then remain to be seen the extent to which the PRA challenges a firm's analysis of its 'key functions'.

### Governance maps

A governance map sets out the 'key functions' identified by a firm and the relevant individuals responsible for those functions, along with their responsibilities both within that insurer and any wider group.

The requirement to keep a single document up-to-date at all times, setting out the governance map was acknowledged by the PRA as being unduly burdensome.

The PRA will now allow a 'series of documents' to meet the purpose of a governance map. The map must also be updated on an 'at least quarterly basis' which appears to be a far more reasonable requirement.

### Fit and proper assessments

The PRA clarified that the requirement for 'ongoing' assessment to ensure that 'key function holders' were 'fit and proper' can be met through regular cycles of appraisals and performance reviews. These 'baseline' assessments can then be supplemented, where necessary, by additional checks. The PRA does not specify the nature of such checks although the PRA does refer to taking 'reasonable steps' when gathering information relevant to an individual's business conduct.

A firm should not, whilst following the PRA's 'reasonable steps' guidance on

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<sup>1</sup> Article 41 of Solvency II Directive  
<sup>2</sup> Recital 33 of the Solvency II Directive

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<sup>3</sup> Article 42 of Solvency II Directive

gathering information, conduct background checks without obtaining prior consent of the individual. Failure to do so would mean the firm runs the risk of breaching legal obligations protecting confidentiality, data protection and human rights.

### Group entity SIMF

Following feedback querying the scope of a Group Entity Senior Manager (SIMF7), including possible duplication of other EEA regulators 'fit and proper' requirements for an EEA group, the PRA clarified that a SIMF7 will only encompass those individuals who meet the senior management function criteria as set out in FSMA<sup>4</sup> and who are also deemed to be carrying out a 'key function'.

The PRA believes that this proposed definition is unlikely to encompass individuals who are either in a role with a predominately conduct focus, or are performing relatively junior managerial roles. Therefore, this should be limited to any individual within the group whose decisions and actions are regularly taken into account by the governing body of the firm.

### Outstanding rules

The PRA does not, in PS3/15, provide feedback or finalised rules for the following:

- Conduct Rules proposed in CP26/14
- Requirements for Non Executive Directors ("NEDs")

Feedback, final rules, and supervisory statement on the Conduct Rules are

likely to issued later in 2015. However, firms should look to the draft rules and prepare on the basis that they are unlikely to change substantially.

The rules applicable to NEDS are currently open to consultation in [CP7/15 'Approach to non-executive directors in banking and Solvency II firms'](#). The PRA expects to finalise the NED rules in the last half of 2015, but essentially the PRA propose requiring :

- prior approval of the Chairmen, Senior Independent Directors ("SIDs") and the Chairs of the Audit, Remuneration and Risk Committees in Solvency II firms.
- application of the same fitness and propriety standards for SIMFs on all NEDs.

### FCA rules

In [PS15/8 'Solvency II'](#), the FCA unhelpfully confirms that it will publish the Solvency II driven changes to its Approved Persons Regime in 'due course'.

The FCA does, however, confirm one guidance addition in its FIT sourcebook. This provision sets out 'fit and proper' test for senior insurance managers and confirms that, for an application for an FCA Controlled Function and which relates to 'key function', the FCA will have regard to the assessment made by the firm as required in article 273 of the Solvency II Regulation.

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<sup>4</sup> section 59ZA FSMA 2000

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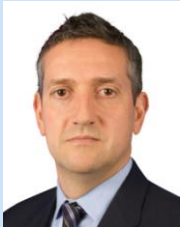
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