

Appendix 1.1

PRA RULEBOOK: PASSPORTING INSTRUMENT 2015

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 137T (General supplementary powers);
 - (3) paragraphs 19(10) and 20(4C) of Schedule 3 (EEA Passport Rights) Part III (Exercise of Passport Rights by UK firms); and
 - (4) paragraph 5 (4) of Schedule 4 (Treaty Rights: Notice to UK regulator)
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instruments) 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.

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- D. The PRA makes the rules in Annexes A and B to this instrument.

Commencement

- E. This instrument comes into force on 3 August 2015.

Citation

- F. This instrument may be cited as the PRA Rulebook: Passporting Instrument 2015.

By order of the Board of the Prudential Regulation Authority

31 July 2015

Annex A

In this Annex, the text is all new and is not underlined.

Part

PASSPORTING

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1 APPLICATION AND DEFINITIONS

- 1.1 Unless otherwise stated, this Part applies to a *UK firm* that is a *PRA-authorised person*.
- 1.2 In this Part, the following definitions shall apply:

EEA Passport Rights Regulations

means the Financial Services and Markets Act 2000 (EEA Passport Rights) Regulations 2001.

EEA right

includes Article 4 (3) of the Financial Services and Markets Act (2000) (Gibraltar) Order 2001.

financial institution

has the meaning in Article 4 (26) of the *CRR*.

pure reinsurer

means an *insurer* whose *insurance business* is restricted to reinsurance.

UK firm

includes a *financial institution* that fulfils the conditions in Article 34 *CRD*.

2 NOTICE OF INTENTION TO ESTABLISH A BRANCH

- 2.1 This chapter applies to a *UK firm* other than a *pure reinsurer*.
- 2.2 A *UK firm* wishing to establish a *branch* within the territory of another *EEA State* for the first time under an *EEA right* other than derived from the *CRD* must notify the *PRA* of its intention by submitting the form referred to in 10.1 (Branch Notification Form).
- 2.3 A *UK firm* wishing to establish a *branch* within the territory of another *EEA State* for the first time under an *EEA right* derived from the *CRD* must comply with the information requirements set out in Commission Delegated Regulation (EU) 1151/2014 and notify the *PRA* of its intention by submitting the form in Annex I of Commission Implementing Regulation (EU) 926/2014 and the form referred to in 10.3 (CRD Declaration).

3 UK PURE REINSURERS ESTABLISHING A BRANCH

- 3.1 This chapter applies to a *pure reinsurer*.
- 3.2 A *pure reinsurer* establishing a *branch* within the territory of another *EEA state* for the first time under an *EEA right* must notify the *PRA* by submitting the form referred to in 10.1 (Branch notification form). Whenever possible, this notification must be made as soon as the information specified in that form is known by the *firm*.

4 NOTICE OF INTENTION TO PROVIDE CROSS BORDER SERVICES

- 4.1 A *UK firm* intending to provide *cross border services* within the territory of another *EEA State* for the first time under an *EEA right* other than derived from the *CRD* must notify the *PRA* of its intention by submitting the form referred to in 10.2 (Cross Border Services Notification Form).
- 4.2 A *UK firm* intending to provide *cross border services* within the territory of another *EEA State* for the first time under an *EEA right* derived from the *CRD* must comply with the information requirements set out in Commission Delegated Regulation (EU) 1151/2014 and notify the *PRA* of its intention by submitting the form in Annex V of Commission Implementing Regulation 926/2014 and the form referred to in 10.3 (CRD Declaration).

5 NOTICE OF CHANGE OF DETAILS TO A BRANCH

- 5.1 A *UK firm* other than a *pure reinsurer* exercising an *EEA right* other than derived from the *CRD* that is required by the *EEA Passport Rights Regulations* to submit a notice of a change to a *branch* to the *PRA* must notify the *PRA* by submitting the form referred to in 10.1 (Branch Notification Form).
- 5.2 A *pure reinsurer* exercising an *EEA right* to establish a *branch* in another *EEA State* must notify the *PRA* of any change in the information specified in the Branch Notification Form at 10.1. Whenever possible, this notification must be made as soon as the change in information is known by the *firm*.
- 5.3
- (1) A *UK firm* that has exercised an *EEA right* under the *CRD* and established a *branch* in another *EEA State* must comply with the information requirements set out in Commission Delegated Regulation (EU) 1151/2014 and notify the *PRA* of a change to the *branch* by submitting the form in Annex I of Commission Regulation 926/2014 and the form referred to in 10.3 (CRD Declaration) except where the change relates to a planned termination of the operation of the *branch*.
- (2) A *UK firm* that has exercised an *EEA right* under the *CRD* and established a *branch* in another *EEA State* and that plans to terminate the operation of the *branch* must comply with the information requirements set out in Commission Delegated Regulation (EU) 1151/2014 and notify the *PRA* by submitting the form in Annex IV of Commission Implementing Regulation 926/2014 and the form referred to in 10.3 (CRD Declaration).

6 NOTICE OF CHANGE OF DETAILS TO CROSS BORDER SERVICES

- 6.1 A *UK firm* that is required by the *EEA Passport Rights Regulations* to submit a notice of a change to *cross border services* must notify the *PRA* by submitting the form referred to in 10.2 (Cross Border Services Notification Form).

7 FORM AND METHOD OF NOTIFICATION

- 7.1 This Chapter applies to a *UK firm* other than a *credit union*.

- 7.2 A *UK firm* must submit any notice including a notice of changes under this Part or under the *EEA Passport Rights Regulations* by:
- (1) electronic mail to pra-passporting@bankofengland.co.uk; or
 - (2) post to the *PRA*: The Prudential Regulation Authority, 20 Moorgate, London, EC2R 6DA.

8 RECORD KEEPING

- 8.1 A *UK firm* which is exercising an *EEA right* must make a record of:
- (1) the services or activities it carries on from a *branch* in, or provides cross-border into, the territory of another *EEA State* under that *EEA right*; and
 - (2) the details relating to those services or activities as set out in the *EEA Passport Rights Regulations* or the Commission Delegated Regulation (EU) 1151/2014 and Commission Implementing Regulation (EU) 926/2014 as applicable.
- 8.2 A *UK firm* passporting under *MiFID* must retain the record under 8.1 for five years from the earlier of the date on which:
- (1) it was superseded by a more up-to-date record; or
 - (2) the *UK firm* ceased to have a *branch* in, or carry on *cross border services* into, the territory of any *EEA State* under an *EEA right*.
- 8.3 A *UK firm* passporting under any *EEA right* other than derived from *MiFID* must retain the record under 8.1 for three years from the earlier of the date on which:
- (1) it was superseded by a more up-to-date record; or
 - (2) the *UK firm* ceased to have a *branch* in, or carry on *cross border services* into, any *EEA State* under an *EEA right*.

9 TREATY FIRMS

- 9.1 The *PRA* directs that a written notice from a *Treaty firm* under paragraph 5 (2) of Schedule 4 to *FSMA* must be:
- (1) addressed to the attention of the authorisations team in the *PRA*; and
 - (2) delivered by one of methods set out in 9.2.
- 9.2 The *PRA* directs that the written notice referred to in 9.1 may be delivered by:
- (1) post to the *PRA*: The Prudential Regulation Authority, 20 Moorgate, London, EC2R 6DA; or
 - (2) leaving the application at the reception of the *PRA* at the address set out in (1).
- 9.3 Each direction in SUP 13A.3.7 of the *PRA Handbook* continues to have effect from the date the relevant direction was given to the date on which the direction in 9.1 and 9.2 has effect.

10 FORMS

- 10.1 The Branch Notification Form can be found here (see Appendix 1a).
- 10.2 The Cross Border Services Notification Form can be found here (see Appendix 1b).
- 10.3 The CRD Declaration can be found here (see Appendix 1c).