

**PRA RULEBOOK: CRR FIRMS, NON-CRR FIRMS AND NON-AUTHORISED PERSONS:
DEPOSITOR PROTECTION (NO. 2) INSTRUMENT 2023**

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) section 213(1) (the Compensation Scheme);
 - (4) section 214(1)(g) (limitation to specified kinds of claim);
 - (5) section 214(1)(h) (the procedure to be followed);
 - (6) section 214(1)(j) (limitation to the amount payable on a claim); and
 - (7) section 214 (General).
- 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.

PRA Rulebook: CRR Firms, Non-CRR Firms and Non-Authorised Persons: Depositor Protection (No. 2) Instrument 2023

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

| Part | Annex |
|----------------------|-------|
| Glossary | A |
| Depositor Protection | B |

Commencement

- E. This instrument comes into force on 1 July 2023.

Citation

- F. This instrument may be cited as the PRA Rulebook: CRR Firms, Non-CRR Firms and Non-Authorised Persons: Depositor Protection (No. 2) Instrument 2023.

By order of the Prudential Regulation Committee

6 June 2023

Annex A

Amendments to the Glossary Part

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

...

temporary high balance

means, ~~in relation to a depositor who is an individual,~~ that part of an *eligible deposit* in excess of the coverage level set out in Depositor Protection 4.2 which meets the additional criteria set out in Depositor Protection 10.2.

[Note: Art. 2(1)(6) of the *DGSD*]

...

Annex B

Amendments to the Depositor Protection Part

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

1 APPLICATION AND DEFINITIONS

...

1.4 Unless otherwise stated, in this Part, the following definitions shall apply:

...

THB person

has the meaning given in 10.1A.

...

unavailable deposit

means a *deposit* that is due and payable but has not been paid by a *DGS member* (or, in the case of 3.2(2), a *PRA-authorised person*) under the applicable legal or contractual conditions where either:

- (1) (in accordance with the *deposit guarantee scheme regulations*) the *PRA*, or the *FSCS* in the case of a *credit union* or a *Northern Ireland credit union*, has determined that in its view the *DGS member* or *PRA-authorised person* appears to be unable for the time being, for reasons which are directly related to its financial circumstances, to repay the *deposit* and has no current prospect of being able to do so; or
- (2) a judicial authority has made a ruling for reasons which are directly related to the *DGS member's* or *PRA-authorised person's* financial circumstances and the ruling has had the effect of suspending the rights of *depositors* to make claims against it.

[Note: Art. 2(1)(8) of the *DGSD*]

...

2 ELIGIBILITY

...

2.2 The provisions in this rule determine whether a *deposit* is an *eligible deposit*:

...

- (3) A *deposit* is, subject to the other rules in this Chapter, an *eligible deposit* if it is held by a *UK* or *Gibraltar* establishment of a *PRA-authorised person*~~firm~~ which:

...

3 CIRCUMSTANCES IN WHICH THE FSCS PAYS COMPENSATION IN RESPECT OF ELIGIBLE DEPOSITS

...

3.2 The *FSCS* must pay compensation in accordance with this Part in respect of an *eligible deposit* if it is satisfied that the *eligible deposit* is a *deposit* with either:

- (1) a *DGS member* which is *in default*; or

(2) a PRA-~~authorised person~~firm which is in default and which:

...

4 LIMITS ON COMPENSATION PAYABLE

...

4.2 The maximum compensation sum payable for the aggregate *eligible deposits* of each *depositor* is £85,000, save that additional compensation may be payable in cases to which 4.3 or 4.4 applyapplies.

[Note: Art. 6(1) of the *DGSD*]

[Note: Regulation 7A of the deposit guarantee scheme regulations provides for a transitional maximum compensation level of £85,000 until 31 December 2015 for depositors who were, or would have been, eligible for compensation before 3 July 2015 and are eligible for compensation on and after 3 July 2015.]

4.3 Subject to 4.4, ~~t~~The maximum compensation sum payable for a *temporary high balance* is £1,000,000, save that no limit shall apply to the compensation payable for a *temporary high balance* arising from a payment in connection with personal injury or incapacity.

[Note: Art. 6(2) of the *DGSD*]

4.4

(1) The maximum compensation sums in 4.2 and/or 4.3 are temporarily increased if, following the death of a holder of a *joint account* in which an *eligible deposit* is held:

(a) the deceased's share passes automatically to at least one other *depositor*; and

(b) at least one *person* is:

(i) an individual absolutely entitled to the whole or part of the *eligible deposit* (including under a trust an individual with a vested beneficial interest in the *eligible deposit* as at the *compensation date*); or

(ii) a trustee holding the *eligible deposit* on behalf of individuals who do not have a vested beneficial interest in it as at the *compensation date* (treating co-trustees as a single *person*, in accordance with 6.5);

(2) the temporary increase under (1) is calculated by dividing each maximum compensation sum that would have been attributable to the deceased between each *person* referred to in (1)(b);

(3) in the absence of contrary provision, such division shall be made equally to the nearest penny;

(4) where more than one holder of the *joint account* dies, the provisions of this rule are cumulative; and

(5) any increase in a maximum compensation sum under this rule applies for a period of six *months*, beginning with the relevant date of death.

...

10 TEMPORARY HIGH BALANCES

10.1 This Chapter applies only to the FSCS.

10.1A For the purposes of evaluating *temporary high balances*, a '*THB person*' is:

- (1) an individual absolutely entitled to the whole or part of the *eligible deposit* (including under a trust an individual with a vested beneficial interest in the *eligible deposit* as at the *compensation date*); or
- (2) a trustee holding the *eligible deposit* on behalf of individuals who do not have a vested beneficial interest in it as at the *compensation date* (treating co-trustees as a single *person*, in accordance with 6.5).

10.2 In order to qualify as a *temporary high balance*, a part of an *eligible deposit* in excess of the coverage limit provided for in 4.2 must meet at least one of the following additional criteria:

- (1) it comprises:
 - (a) monies deposited in preparation for the purchase of a *private residential property* (or an interest in a *private residential property*) by or on behalf of the *THB person* depositor;
 - (b) monies which represent the proceeds of sale of a *private residential property* (or an interest in a *private residential property*) of or on behalf of the *THB person* depositor; or
 - (c) monies which represent the proceeds of an equity release by or on behalf of the *THB person* depositor in a *private residential property*;
- (2) it comprises sums paid to or for the benefit of the *THB person* depositor in respect of:

...
- (3) it comprises sums paid to or for the benefit of the *THB person* depositor in respect of:

...
- (5) it otherwise serves a social purpose provided for, or of the type provided for, in the law of a part of the *United Kingdom*, which is linked to the marriage, civil partnership, divorce, dissolution of civil partnership, retirement, incapacity, death of an individual, or to the buying or selling of a *THB person's* depositor's only or main residence that is not freehold, heritable or leasehold property.

10.3 ~~Following the *compensation date*, the FSCS must review the *single customer view* of each *depositor* with the *DGS member* and provide written notice to an individual with aggregate *eligible deposits* in excess of the coverage levels set out in 4.2 of the following:~~

- ~~(1) that the *depositor* may be entitled to additional compensation if all or part of the *eligible deposit* in excess of the coverage levels provided for in 4.2 qualifies as a *temporary high balance*;~~
- ~~(2) that in order to claim such additional compensation, the *depositor* must provide the FSCS with a written application and evidence supporting the *depositor's claim* that all or part of the *eligible deposit* in excess of the coverage levels provided for in 4.2 qualifies as a *temporary high balance*;~~
- ~~(3) that the *depositor* may make more than one *claim* for a *temporary high balance* if there are multiple events giving rise to a *temporary high balance*; and~~
- ~~(4) the date by which such written application and supporting evidence should be submitted to the FSCS. [Deleted.]~~

10.3A

- (1) Following the *compensation date*, the *FSCS* must review the *single customer view* and any *exclusions view* of each *depositor* with the *DGS member*, and
- (2) where an *eligible deposit* is held by or on behalf of a *THB person*, the *FSCS* must give written notice to the *depositor* in respect of any aggregate *eligible deposits* in excess of the coverage levels set out in 4.2 of the following:
- (a) that the *THB person* may be entitled to additional compensation if all or part of the *eligible deposit* in excess of the coverage levels provided for in 4.2 qualifies as a *temporary high balance*;
- (b) that in order to claim such additional compensation, the *depositor* must provide the *FSCS* with a written application and evidence supporting the *claim* that all or part of the *eligible deposit* in excess of the coverage levels provided for in 4.2 qualifies as a *temporary high balance*;
- (c) that the *depositor* may make more than one *claim* for a *temporary high balance* if there are multiple events giving rise to a *temporary high balance* and/or more than one *THB person* with a *claim*; and
- (d) the date by which such written application and supporting evidence should be submitted to the *FSCS*.

10.4 The *FSCS* must pay compensation to a ~~*depositor*~~ in respect of a *temporary high balance* in accordance with 4.3 if it is satisfied that there is a sufficient link between an event giving rise to a *temporary high balance* and the part of the *eligible deposit* in excess of the coverage levels provided for in 4.2, taking into account the following considerations:

...

10.5 The *FSCS* must pay compensation to a *person* entitled to receive compensation~~*depositor*~~ in accordance with 4.3 in respect of each *temporary high balance* that the ~~*person*~~~~*depositor*~~ has with any one *DGS member*.

...

10.7 The protection for *temporary high balances* under 4.3 shall, subject to 4.4, run for a period of six ~~*months*~~*months* from the later of:

- (1) the first date on which a *temporary high balance* is credited to a ~~*depositor's*~~*depositor's* account, ~~or to a client account on a person's behalf~~; and
- (2) the first date on which the *temporary high balance* becomes legally transferable to the ~~*depositor*~~*depositor* or, as the case may be, the *THB person*.

...

10.8 The *FSCS* must, pay compensation in respect of a *temporary high balance* within three ~~*months*~~*months* of the *compensation date*, ~~pay to the *depositor* a sum representing the amount due to the *depositor* in respect of the *temporary high balance*~~ unless one or more of 10.9 to 10.11 applies.

...

17 FIRMS' DISCLOSURE OBLIGATIONS – STATEMENT OF ACCOUNT

17.1 A *firm* must:

...

- (3) at least annually:
- (a) provide to the *depositor* of ~~eligible deposits~~*deposits* held by a *UK* or Gibraltar establishment of the *firm*;
 - (i) the *information sheet*; and
 - (ii) the *exclusions list*; ~~and~~
 - (b) ~~if applicable, inform the depositor of the exclusions from deposit guarantee scheme protection that fall within 2.2(4)(b) and 2.2(4)(k); and [deleted.]~~

...

17.3 A *firm* which was, immediately before *IP completion day*, a *credit institution* and an *incoming firm*, and which is a *DGS member* immediately after *IP completion day*, must, within two months after *IP completion day*:

- (1) ~~provide to the depositor of deposits held by a UK establishment of the firm:~~
 - (a) ~~the information sheet; and~~
 - (b) ~~the exclusions list; and~~
- (2) ~~if applicable, inform the depositor of the exclusions from deposit guarantee scheme protection that fall within 2.2(4)(b) and 2.2(4)(k). [Deleted.]~~

...

19 DISCLOSURE OF TRANSFER OF DEPOSITS

19.1 In the case of a merger, conversion of *subsidiaries* into *branches*, transfer or similar operations, a *firm* must:

- (1) inform *depositors* at least one ~~month~~*month* before the operation takes legal effect, save where the *PRA* allows a shorter deadline on grounds of commercial secrecy or financial stability; and
- (2) where a consequence of the operation will be a reduction in the aggregate amount of a depositor's coverage compared with what would have been the case if the operation had not occurred, give *depositors* a three ~~month~~*month* period following notification in accordance with (1), to withdraw or transfer to another *institution*, without incurring any penalty, such part of their *eligible deposits*, together with any accrued interest and other benefits, as exceed the coverage level pursuant to 4.2 at the time of the operation.

20 DISCLOSURE OF WITHDRAWAL OR EXCLUSION FROM DEPOSIT GUARANTEE SCHEME

...

20.3 A *firm* must inform *depositors* of *deposits* which:

- (1) ~~immediately prior to IP completion day, were eligible deposits; and~~
- (2) ~~on IP completion day, ceased to be eligible deposits by virtue of not being held at a UK or Gibraltar establishment,~~

~~that such deposits ceased to be eligible deposits on IP completion day, and must do so as soon as practicably possible after IP completion day and in any event within one month after IP completion day. [Deleted.]~~

20.4 An overseas firm must as soon as practically possible provide the information in (1) and (2) to depositors if deposits it holds will, within twelve months, cease to be eligible deposits by virtue of such deposits no longer being held at a UK establishment of the overseas firm:

(1) the date on which it is anticipated that deposits will cease to be eligible deposits;

(2) details of any compensation scheme that may cover the deposits in whole or in part from that date.

...