

**CAPITAL REQUIREMENTS DIRECTIVE (GOVERNANCE AND
REMUNERATION) AMENDMENT
INSTRUMENT 2013**

Powers exercised

- A. The Prudential Regulation Authority 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); and
 - (3) section 137T (General supplementary powers);
- 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.

Commencement

- D. This instrument comes into force on 1 January 2014, except for Part 2 of Annex A which comes into force on 1 July 2014.

Amendments to the Handbook

- E. The Senior Management Arrangements, Systems and Controls sourcebook (SYSC) is amended in accordance with the Annex to this instrument.

Notes and Guidance

- F. In Annex B to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.
- G. The Prudential Regulation Authority gives as guidance each provision in the Annex marked with a G.

Citation

- H. This instrument may be cited as the Capital Requirements Directive (Governance and Remuneration) Amendment Instrument 2013.

By order of the Board of the Prudential Regulation Authority
16 December 2013

Annex

Amendments to the Senior Management Arrangements, Systems and Control manual (SYSC)

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

Part 1: Comes into force on the 1 January 2014.

SYSC 1 Annex 1 Detailed application of SYSC

Part 3	Tables summarising the application of the common platform requirements to different types of firm			
...				
Provision SYSC 4	COLUMN A Application to a common platform firm other than to a UCITS investment firm	COLUMN A+ Application to a UCITS management company	COLUMN A++ Application to a full-scope UK AIFM of an authorised AIF	COLUMN B Application to all other firms apart from insurers, managing agents the Society, and full-scope UK AIFMs of unauthorised AIFs
SYSC 4.1.1 R [FCA] [PRA]	Rule but SYSC 4.1.1R(2) applies only to a <i>BIPRU firm</i>	Rule but SYSC 4.1.1R(2) applies only to a <i>BIPRU firm</i>	Rule but SYSC 4.1.1R(2) applies only to a <i>BIPRU firm</i>	Rule but SYSC 4.1.1R(2) applies only to a <i>third country BIPRU firm</i>
...				
SYSC 4.1.3 R [FCA] [PRA]	Rule applies only to a BIPRU firm [deleted]	Rule for a UCITS investment firm; otherwise not applicable [deleted]	Not applicable [deleted]	Not applicable [deleted]
...				
<u>SYSC 4.3A.1R</u> [FCA] [PRA]	Rule <u>applicable to CRR firms</u>	Rule for a <u>CRR firm</u> that is a <u>UCITS investment firm</u>	Not applicable	Not applicable
<u>SYSC 4.3A.2R</u> [FCA]	Rule <u>applicable to CRR firms</u>	Rule for a <u>CRR firm</u> that is a <u>UCITS</u>	Not applicable	Not applicable

[PRA]		<i>investment firm</i>		
<u>SYSC 4.3A.3R</u> [FCA] [PRA]	<u>Rule applicable to CRR firms</u>	<u>Rule for a CRR firm that is a UCITS investment firm</u>	<u>Not applicable</u>	<u>Not applicable</u>
<u>SYSC 4.3A.4R</u> [FCA] [PRA]	<u>Rule applicable to CRR firms</u>	<u>Rule for a CRR firm that is a UCITS investment firm</u>	<u>Not applicable</u>	<u>Not applicable</u>
<u>SYSC 4.3A.5R</u> [FCA] [PRA]	<u>Rule applicable to CRR firms</u>	<u>Rule for a CRR firm that is a UCITS investment firm</u>	<u>Not applicable</u>	<u>Not applicable</u>
...				
<u>SYSC 4.3A.7R</u> [FCA] [PRA]	<u>Rule applicable to CRR firms</u>	<u>Rule for a CRR firm that is a UCITS investment firm</u>	<u>Not applicable</u>	<u>Not applicable</u>
<u>SYSC 4.3A.8R</u> [FCA] [PRA]	<u>Rule applicable to CRR firms</u>	<u>Rule for a CRR firm that is a UCITS investment firm</u>	<u>Not applicable</u>	<u>Not applicable</u>
<u>SYSC 4.3A.9R</u> [FCA] [PRA]	<u>Rule applicable to CRR firms</u>	<u>Rule for a CRR firm that is a UCITS investment firm</u>	<u>Not applicable</u>	<u>Not applicable</u>
<u>SYSC 4.3A.10R</u> [FCA] [PRA]	<u>Rule applicable to CRR firms</u>	<u>Rule for a CRR firm that is a UCITS investment firm</u>	<u>Not applicable</u>	<u>Not applicable</u>
<u>SYSC 4.3A.11R</u> [FCA] [PRA]	<u>Rule applicable to CRR firms</u>	<u>Rule for a CRR firm that is a UCITS investment firm</u>	<u>Not applicable</u>	<u>Not applicable</u>
...				

Provision SYSC 7	COLUMN A Application to a common platform firm other than to a UCITS investment firm	COLUMN A+ Application to a UCITS management company	COLUMN A++ Application to a full-scope UK AIFM of an authorised AIF	COLUMN B Application to all other firms apart from insurers, managing agents, the Society, and full-scope UK AIFMs of unauthorised AIFs
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...				
SYSC 7.1.8 G (1)(2) [FCA] [PRA]	(1) Guidance applies to a <i>BIPRU firm</i> (2) Guidance [deleted]	(1) Guidance for a <i>UCITS investment firm</i> ; otherwise not applicable (2) Guidance [deleted]	Not applicable [deleted]	(1) Not applicable (2) Guidance [deleted]
...				
SYSC 7.1.17R [FCA] [PRA]	Rule applies to a <i>CRR firm</i>	Rule for a <i>UCITS investment firm</i> that is a <i>CRR firm</i> , otherwise not applicable	Not applicable	Not applicable
SYSC 7.1.18R [FCA] [PRA]	Rule applies to a <i>CRR firm</i>	Rule for a <i>UCITS investment firm</i> that is a <i>CRR firm</i> , otherwise not applicable	Not applicable	Not applicable
SYSC 7.1.19R [FCA] [PRA]	Rule applies to a <i>CRR firm</i>	Rule for a <i>UCITS investment firm</i> that is a <i>CRR firm</i> , otherwise not applicable	Not applicable	Not applicable
SYSC 7.1.20R [FCA] [PRA]	Rule applies to a <i>CRR firm</i>	Rule for a <i>UCITS investment firm</i> that is a <i>CRR firm</i> , otherwise not applicable	Not applicable	Not applicable
SYSC 7.1.21R [FCA] [PRA]	Rule applies to a <i>CRR firm</i>	Rule for a <i>UCITS investment firm</i> that is a <i>CRR firm</i> , otherwise not applicable	Not applicable	Not applicable
SYSC 7.1.22R [FCA] [PRA]	Rule applies to a <i>CRR firm</i>	Rule for a <i>UCITS investment firm</i> that is a <i>CRR firm</i> , otherwise not applicable	Not applicable	Not applicable

4.1 General requirements

- 4.1.1 R (1) ...
- (2) ~~A BIPRU firm and a third country BIPRU firm must comply with the Remuneration Code. [deleted]~~

[~~Note: article 22(1) of the Banking Consolidation Directive~~ article 74 (1) of *CRD*, article 13(5) second paragraph of *MiFID*, article 12(1)(a) of the *UCITS Directive*, and article 18(1) of *AIFMD*]

- 4.1.2 R For a *common platform firm*, the arrangements, processes and mechanisms referred to in SYSC 4.1.1R must be comprehensive and proportionate to the nature, scale and complexity of the risks inherent in the business model and of the common platform firm's activities and must take into account the specific technical criteria described in SYSC 4.1.7R, SYSC 5.1.7R, SYSC 7 and (for a firm to which SYSC 19A applies) (for a BIPRU firm and a third country BIPRU firm) SYSC 19A.

[~~Note: article 22(2) of the Banking Consolidation Directive~~ article 74 (2) of *CRD*]

...

Mechanisms and procedures for a ~~BIPRU~~ firm

- 4.1.3 R ~~A BIPRU firm must ensure that its internal control mechanisms and administrative and accounting procedures permit the verification of its compliance with rules adopted in accordance with the Capital Adequacy Directive at all times.~~
- [~~Note: article 35(1) final sentence of the Capital Adequacy Directive~~]
[deleted]

...

- 4.1.15 R (1) A firm must have in place appropriate procedures for its employees to report breaches internally through a specific, independent and autonomous channel.
- (2) The channel in (1) may be provided through arrangements provided for by social partners.

[~~Note: article 71 (3) of *CRD*~~]

...

4.2 Persons who effectively direct the business

...

- 4.2.2 R A *common platform firm*, a *management company*, a *full scope UK AIFM* and the *UK branch of a non-EEA bank* must ensure that its management is undertaken by at least two persons meeting the requirements laid down in SYSC 4.2.1R and, for a *full-scope UK AIFM*,

SYSC 4.2.7R.

[**Note:** article 9(4) first paragraph of *MiFID*, article 7(1)(b) of the *UCITS Directive*, article 8(1)(c) of *AIFMD* and ~~11(1) first paragraph of the *Banking Consolidation Directive*~~ article 13(1) of *CRD*]

...

4.3A **CRR firms**

Management body

4.3A.1 R A CRR firm must ensure that the *management body* defines, oversees and is accountable for the implementation of governance arrangements that ensure effective and prudent management of the *firm*, including the segregation of duties in the organisation and the prevention of conflicts of interest. The *firm* must ensure that the *management body*:

- (1) has overall responsibility for the firm;
- (2) approves and oversees implementation of the *firm*'s strategic objectives, risk strategy and internal governance;
- (3) ensures the integrity of the *firm*'s accounting and financial reporting systems, including financial and operational controls and compliance with the *regulatory system*.
- (4) oversees the process of disclosure and communications;
- (5) has responsibility for providing effective oversight of *senior management*.
- (6) monitors and periodically assesses the effectiveness of the *firm*'s governance arrangements and takes appropriate steps to address any deficiencies.

[Note: article 88(1) of *CRD*]

4.3A.2 R A CRR firm must ensure that the chairman of the *firm*'s *management body* does not exercise simultaneously the *chief executive function* within the same *firm*.

[Note: article 88(1)(e) of *CRD*]

4.3A.3 R A CRR firm must ensure that the members of the *management body* of the *firm*:

- (1) are of sufficiently good repute;

- (2) possess sufficient knowledge, skills and experience to perform their duties;
- (3) possess adequate collective knowledge, skills and experience to understand the *firm's* activities, including the main risks;
- (4) reflect an adequately broad range of experiences;
- (5) commit sufficient time to perform their functions in the *firm*;
and
- (6) act with honesty, integrity and independence of mind to effectively assess and challenge the decisions of *senior management* where necessary and to effectively oversee and monitor management decision-making.

[Note: article 91(1)-(2) and (7)-(8) of the *CRD*]

4.3A.4 R A *CRR firm* must devote adequate human and financial resources to the induction and training of members of the *management body*.

[Note: article 91(9) of the *CRD*]

4.3A.5 R A *CRR firm* must ensure that the members of the *management body* of the *firm* do not hold more directorships than is appropriate taking into account individual circumstances and the nature, scale and complexity of the *firm's* activities.

[Note: article 91(3) of the *CRD*]

...

4.3A.7 R For the purposes of SYSC 4.3A.5R and SYSC 4.3A.6R:

- (1) directorships in organisations which do not pursue predominantly commercial objectives shall not count; and
- (2) the following shall count as a single directorship:
 - (a) executive or non-executive directorships held within the same *group*; or
 - (b) executive or non-executive directorships held within:
 - (i) *firms* that are members of the same institutional protection scheme provided that the conditions set out in Article 113(7) of the *CRR* are fulfilled; or
 - (ii) *undertakings* (including non-financial entities) in which the *firm* holds a *qualifying*

holding.

[**Note:** article 91(4) and (5) of the *CRD*]

Nomination Committee

- 4.3A.8 R A *CRR firm* that is significant must:
- (1) establish a nomination committee composed of members of the *management body* who do not perform any executive function in the *firm*;
 - (2) ensure that the nomination committee is able to use any forms of resources the nomination committee deems appropriate, including external advice; and
 - (3) ensure that the nomination committee receives appropriate funding.

[**Note:** article 88(2) of the *CRD*]

4.3A.8A G In SYSC 4.3A.8R a ‘*CRR firm that is significant*’ means a deposit-taker or designated investment firm whose size, interconnectedness, complexity and business type gives it the capacity to cause some disruption to the UK financial system (and through that to economic activity more widely) by failing or by carrying on its business in an unsafe manner.

- 4.3A.9 R A *CRR firm* that has a nomination committee must ensure that the nomination committee:
- (1) engage a broad set of qualities and competences when recruiting members to the *management body* and for that purpose puts in place a policy promoting diversity on the *management body*;
 - (2) identifies and recommends for approval, by the *management body* or by general meeting, candidates to fill *management body* vacancies, having evaluated the balance of knowledge, skills, diversity and experience of the *management body*;
 - (3) prepares a description of the roles and capabilities for a particular appointment, and assesses the time commitment required;
 - (4) decides on a target for the representation of the underrepresented gender in the *management body* and prepares a policy on how to increase the number of the underrepresented gender in the *management body* in order to meet that target;

- (5) periodically, and at least annually, assesses the structure, size, composition and performance of the *management body* and makes recommendations to the *management body* with regard to any changes;
- (6) periodically, and at least annually, assesses the knowledge, skills and experience of individual members of the *management body* and of the *management body* collectively, and reports this to the *management body*;
- (7) periodically reviews the policy of the *management body* for selection and appointment of *senior management* and makes recommendations to the *management body*;
- (8) in performing its duties, and to the extent possible, on an ongoing basis, takes account of the need to ensure that the *management body*'s decision making is not dominated by any one individual or small group of individuals in a manner that is detrimental to the interest of the *firm* as a whole;

[Note: article 88(2) and article 91(10) of the *CRD*]

4.3A.10 R A *CRR firm* that does not have a nomination committee must engage a broad set of qualities and competences when recruiting members to the *management body*. For that purpose a *CRR firm* that does not have a nomination committee must put in place a policy promoting diversity on the *management body*.

[Note: article 91(10) of the *CRD*]

Website

4.3A.11 R A *CRR firm* that maintains a website must explain on the website how it complies with the requirements of *SYSC* 4.3A.1R to *SYSC* 4.3A.3R and *SYSC* 4.3A.4R to *SYSC* 4.3A.11R.

[Note: article 96 of the *CRD*]

...

7.1 Risk control

...

7.1.4 R The ~~*senior personnel*~~ *management body* of a *common platform firm* must approve and periodically review the strategies and policies for taking up, managing, monitoring and mitigating the risks the *firm* is or might be exposed to, including those posed by the macroeconomic environment in which it operates in relation to the status of the business cycle.

[~~Note: annex V paragraph 2 of the *Banking Consolidation Directive* article 76(1) of *CRD*~~]

...

7.1.7B G In setting the method of determining the *remuneration of employees* involved in the risk management function, ~~*BIPRU firms*~~ *firms that SYSC 19A applies to* will also need to comply with the *Remuneration Code*.

7.1.8 G (1) ~~*SYSC 4.1.3R* requires a *BIPRU firm* to ensure that its internal control mechanisms and administrative and accounting procedures permit the verification of its compliance with *rules* adopted in accordance with the *Capital Adequacy Directive* at all times. In complying with this obligation, a *BIPRU firm* should document the organisation and responsibilities of its risk management function and it should document its risk management framework setting out how the risks in the business are identified, measured, monitored and controlled.~~ [deleted]

...

Credit and counterparty risk

7.1.9 R ~~A *BIPRU firm* must base credit granting on sound and well defined criteria and clearly establish the process for approving, amending, renewing, and re-financing credits.~~
[~~Note: annex V paragraph 3 of the *Banking Consolidation Directive*~~]
[deleted]

7.1.10 R ~~A *BIPRU firm* must operate through effective systems the ongoing administration and monitoring of its various credit risk bearing portfolios and exposures, including for identifying and managing problem credits and for making adequate value adjustments and provisions.~~
[~~Note: annex V paragraph 4 of the *Banking Consolidation Directive*~~]
[deleted]

7.1.11 R ~~A *BIPRU firm* must adequately diversify credit portfolios given its target market and overall credit strategy.~~
[~~Note: annex V paragraph 5 of the *Banking Consolidation Directive*~~]
[deleted]

7.1.12 G ~~The documentation maintained by a *BIPRU firm* under *SYSC 4.1.3R* should include its policy for credit risk, including its risk appetite and provisioning policy and should describe how it measures, monitors and controls that risk. This should include descriptions of the systems used to ensure that the policy is correctly implemented.~~ [deleted]

Residual risk

7.1.13 R ~~A *BIPRU firm* must address and control by means of written policies and procedures the risk that recognised credit risk mitigation techniques~~

used by it prove less effective than expected.

~~[Note: annex V paragraph 6 of the *Banking Consolidation Directive*]
[deleted]~~

Market risk

- 7.1.14 R ~~A *BIPRU firm* must implement policies and processes for the measurement and management of all material sources and effects of market risks.
[Note: annex V paragraph 10 of the *Banking Consolidation Directive*]
[deleted]~~

Interest rate risk

- 7.1.15 R ~~A *BIPRU firm* must implement systems to evaluate and manage the risk arising from potential changes in interest rates as they affect a *BIPRU firm's* non-trading activities.
[Note: annex V paragraph 11 of the *Banking Consolidation Directive*]
[deleted]~~

Operational risk

- 7.1.16 R ~~A *BIPRU firm* must implement policies and processes to evaluate and manage the exposure to operational risk, including to low frequency high severity events. Without prejudice to the definition of *operational risk*, *BIPRU firms* must articulate what constitutes operational risk for the purposes of those policies and procedures.
[Note: annex V paragraph 12 of the *Banking Consolidation Directive*]
[deleted]~~

- 7.1.16A G ~~In meeting the general standard referred to in SYSC 7.1.16R, a *BIPRU firm* that undertakes market related activities should be able to demonstrate to the *appropriate regulator*:~~
- ~~(1) in the case of a *BIPRU firm* calculating its *ORCR* using the *basic indicator approach* or *standardised approach*, that it has considered; or~~
 - ~~(2) in the case of a *BIPRU firm* with an *AMA permission*, compliance with~~

~~the Committee of European Banking Supervisors Guidelines on the management of operational risk in market related activities, published in October 2010. These can be found at [http://www.eba.europa.eu/documents/Publications/Standards—Guidelines/2010/Management-of-op-risk/CEBS-2010-216-\(Guidelines-on-the-management-of-op.aspx](http://www.eba.europa.eu/documents/Publications/Standards—Guidelines/2010/Management-of-op-risk/CEBS-2010-216-(Guidelines-on-the-management-of-op.aspx) [deleted]~~

- 7.1.16B G ~~In meeting the general standards referred to in SYSC 7.1.16R, a *firm* with *AMA approval* should be able to demonstrate to the *appropriate regulator* that it has considered and complies with Section III of the European Banking Authority's Guidelines on the Advanced~~

Measurement Approach (AMA) – Extensions and Changes published in January 2012. These can be found at [http://eba.europa.eu/cebs/media/Publications/Standards%20and%20Guidelines/2012/EBA_BS_2011_209_final_\(EBA_GL_on_AMA_extensions_and_changes\).pdf](http://eba.europa.eu/cebs/media/Publications/Standards%20and%20Guidelines/2012/EBA_BS_2011_209_final_(EBA_GL_on_AMA_extensions_and_changes).pdf) [deleted]

Additional rules for CRR firms

- 7.1.17 R (1) The *management body* of a *CRR firm* has overall responsibility for risk management. It must devote sufficient time to the consideration of risk issues.
- (2) The *management body* of a *CRR firm* must be actively involved in and ensure that adequate resources are allocated to the management of all material risks addressed in the *rules* implementing the *CRD* and in the *CRR* as well as in the valuation of assets, the use of external ratings and internal models related to those risks.
- (3) A *CRR firm* must establish reporting lines to the *management body* that cover all material risks and risk management policies and changes thereof.

[Note: article 76(2) of *CRD*]

- 7.1.18 R (1) A *CRR firm* that is significant must establish a risk committee composed of members of the *management body* who do not perform any executive function in the *firm*. Members of the risk committee must have appropriate knowledge, skills and expertise to fully understand and monitor the risk strategy and the risk appetite of the *firm*.
- (2) The risk committee must advise the *management body* on the institution's overall current and future risk appetite and assist the *management body* in overseeing the implementation of that strategy by *senior management*.
- (3) The risk committee must review whether prices of liabilities and assets offered to clients take fully into account the *firm's* business model and risk strategy. Where prices do not properly reflect risks in accordance with the business model and risk strategy, the risk committee must present a remedy plan to the *management body*.

[Note: article 76(3) of *CRD*]

- 7.1.18A G In SYSC 7.1.18R a '*CRR firm* that is *significant*' means a deposit-taker or designated investment firm whose size, interconnectedness, complexity and business type gives it the capacity to cause some

disruption to the UK financial system (and through that to economic activity more widely) by failing or by carrying on its business in an unsafe manner.

- 7.1.19 R (1) A CRR firm must ensure that the *management body* in its supervisory function and, where a risk committee has been established, the risk committee have adequate access to information on the risk profile of the *firm* and, if necessary and appropriate, to the risk management function and to external expert advice.
- (2) The *management body* in its supervisory function and, where one has been established, the risk committee must determine the nature, the amount, the format, and the frequency of the information on risk which it is to receive.
- [Note: article 76 (4) of CRD]
- 7.1.20 R In order to assist in the establishment of sound remuneration policies and practices, the risk committee must, without prejudice to the tasks of the remuneration committee, examine whether incentives provided by the remuneration system take into consideration risk, capital, liquidity and the likelihood and timing of earnings.
- [Note: article 76 (4) of CRD]
- 7.1.21 R (1) A CRR firm's risk management function (SYSC 7.1.6R) must be independent from the operational functions and have sufficient authority, stature, resources and access to the *management body*.
- (2) The risk management function must ensure that all material risks are identified, measured and properly reported. It must be actively involved in elaborating the *firm's* risk strategy and in all material risk management decisions and it must be able to deliver a complete view of the whole range of risks of the *firm*.
- (3) A CRR firm must ensure that the risk management function is able to report directly to the *management body* in its supervisory function, independent from *senior management* and that it can raise concerns and warn the *management body*, where appropriate, where specific risk developments affect or may affect the *firm*, without prejudice to the responsibilities of the *management body* in its supervisory and/or managerial functions pursuant to the CRD and the CRR.
- [Note: article 76(5) of CRD]
- 7.1.22 R The head of the risk management function must be an independent senior manager with distinct responsibility for the risk management function. Where the nature, scale and complexity of the activities of the CRR firm do not justify a specially appointed person, another senior person within the *firm* may fulfil that function, provided there is no conflict of interest. The head of the risk management function must not

be removed without prior approval of the *management body* and must be able to have direct access to the *management body* where necessary.

[Note: Article 76(5) of CRD]

12.1 Application

...

~~BIPRU firms and other firms to which BIPRU 8 applies~~ CRR firms and non-CRR firms that are parent financial holding companies in a Member State

12.1.13 R If this *rule* applies under SYSC 12.1.14R to a *firm*, the *firm* must:

...

- (2) ensure that the risk management processes and internal control mechanisms at the level of any *UK-consolidation group* or non-*EEA sub-group* of which it is a member comply with the obligations set out in the following provisions on a consolidated (or sub-consolidated) basis:
 - (a) SYSC 4.1.1R and SYSC 4.1.2R;
 - (b) SYSC 4.1.7R;
 - (bA) SYSC 4.3A;
 - (c) SYSC 5.1.7 R;
 - (d) SYSC 7
 - (dA) the *Remuneration Code*;
 - (e) BIPRU 12.3.4R, BIPRU 12.3.5R, BIPRU 12.3.7A R, BIPRU 12.3.8R-(3), BIPRU 12.3.22AR, BIPRU 12.3.22BR, BIPRU 12.3.27R, BIPRU 12.4.-2R, BIPRU 12.4.-1R, BIPRU 12.4.5AR, BIPRU 12.4.10R, and BIPRU 12.4.11R and BIPRU 12.4.11A R;
 - (f) ~~BIPRU 2.3.7 R (1);~~[deleted];
 - (g) ~~BIPRU 9.1.6 R and BIPRU 9.13.21 R (Liquidity Plans);~~ [deleted];
 - (h) ~~BIPRU 10.12.3 R (Concentration risk policies);~~ [deleted].

[Note: ~~article 73(3) of the Banking Consolidation Directive~~ article 109(2) of CRD]

- (3) ensure that compliance with the obligations in (2) enables the consolidation group or the non-EEA sub-group to have arrangements, processes and mechanisms that are consistent and well integrated and that any data relevant to the purpose of supervision can be produced.

[**Note:** article 109(2) of CRD]

12.1.14 R SYSC 12.1.13R applies to a *firm* that is:

...

- (2) ~~a BIPRU firm~~ a CRR firm; or
- (3) ~~a non-BIPRU firm~~ non-CRR firm that is a *parent financial holding company in a Member State* and is a member of a *UK consolidation group*.

12.1.15 R In the case of a *firm* that:

- (1) is a ~~BIPRU firm~~ CRR firm; and

...

...

19A.1 General application and purpose

...

- 19A.1.1 R (1) The *Remuneration Code* applies to: ~~BIPRU firm~~ and a *third country BIPRU firm*.
- (a) a building society;
- (b) a bank;
- (c) an investment firm;
- (d) an overseas firm that;
- (i) is not an EEA firm;
- (ii) has its head office outside the EEA; and
- (iii) would be a firm referred to in (a), (b) or (c) if it had been a UK domestic firm, had carried on all of its business in the United Kingdom and had obtained whatever authorisations for doing so as are required under the Act.
- (2) In relation to a ~~third country BIPRU firm~~ firm that falls under

(1)(d), the *Remuneration Code* applies only in relation to activities carried on from an establishment in the *United Kingdom*.

...

...

19A.1.3 R (1) A firm must apply the remuneration requirements in SYSC 19A.3 other than SYSC 19A.3.44R(3) and SYSC 19.3.44AR in relation to:

(a)(4) ...

(b)(2) ...

(c)(3) ...

[**Note:** article 3(2) of the Third Capital Requirements Directive (Directive 2010/76/EU)]

(2) A firm must apply the remuneration requirements in SYSC 19A.3.44R(3) and SYSC 19.3.44AR in relation to remuneration awarded for services provided or performance from the year 2014 onwards, whether due on the basis of contracts concluded before, on or after 31 December 2013.

[**Note:** article 162(3) of CRD]

...

19A.1.6 G (1) ...

(2) The *Remuneration Code* implements the main provisions of the ~~Third Capital Requirements Directive (Directive 2010/76/EU) CRD~~ which relate to *remuneration*. The Committee of European Banking Supervisors published Guidelines on Remuneration Policies and Practices on 10 December 2010. ~~Provisions of the Third Capital Requirements Directive relating to Pillar 3 disclosures of information relating to remuneration have been implemented through amendments to BIPRU 11 (specifically the rules and guidance in BIPRU 11.5.18R to BIPRU 11.5.21G).~~ Provisions of the Capital Requirements (Amendment) Regulations 2012 (SI 2012/917) together with the European Banking Authority's Guidelines to article 22(3) and (5) of the *Banking Consolidation Directive* relating to the collection of *remuneration* benchmarking information and *high earners* information have been implemented through SUP 16 Annex 33AR and SUP 16 Annex 34AR. The Guidelines can be found at <http://www.eba.europa.eu/cebs/media/Publications/Standards%20and%20Guidelines/2012/EBA-GL-2012-04---GL-4-on->

remuneration-benchmarking-exercise-.pdf and
<http://www.eba.europa.eu/cebs/media/Publications/Standards%20and%20Guidelines/2012/EBA-GL-2012-05---GL-5-on-remuneration-data-collection-exercise-.pdf>.

...

19A.2 General requirement

19A.2.1 R ...

[~~Note: Article 22(1) of the *Banking Consolidation Directive*~~ article 74(1) of *CRD*]

...

19A.3 Remuneration principles for banks, building societies and investment firms

19A.3.1 R (1) ...

(2) ...

[~~Note: Paragraph 23 (final, unnumbered point) of Annex V to the *Banking Consolidation Directive*~~ article 92(1) of *CRD*]

19A.3.2 G SYSC 12.1.13R(2)(dA) requires the *firm* to ensure that the risk management processes and internal control mechanisms at the level of any *UK consolidation group* or *non-EEA sub-group* of which a *firm* is a member comply with the obligations set out in this section on a consolidated (or sub-consolidated) basis. In the *appropriate regulator's* view, the requirement to apply this section at *group*, *parent undertaking* and *subsidiary undertaking* levels (as provided for in SYSC 19A.3.1R(1)) is in line with the requirements in ~~article 73(3) of the *Banking Consolidation Directive*~~ article 109(2) of *CRD* article concerning the application of systems and controls requirements to *groups* (as implemented in SYSC 12.1.13R).

...

19A.3.3 R (1) ...

(2) ...

(3) ...

[~~Note: Paragraph 23 of Annex V to the *Banking Consolidation Directive*~~ article 92(2) of *CRD*]

...

[**Note:** In addition to the *guidance* in this section which relates to the

remuneration principles proportionality rule, the FSA gave guidance on the division of *firms* into categories for the purpose of providing a framework for the operation of the *remuneration principles proportionality rule*. ~~This guidance was published in Policy Statement 10/20 Revising the Remuneration Code and is available at www.fca.org.uk/your-fca. This guidance has been adopted by the FCA and is available in the FCA website at <http://www.fca.org.uk/firms/markets/international-markets/remuneration-code>.]~~

...

19A.3.4 R ...

[~~Note: paragraph 23 of Annex V to the *Banking Consolidation Directive* article 92(2) of CRD]~~

...

19A.3.7 R ...

[~~Note: Paragraph 23(a) of Annex V to the *Banking Consolidation Directive* article 92(2)(a) of CRD]~~

19A.3.8 R ...

[~~Note: Paragraph 23(b) of Annex V to the *Banking Consolidation Directive* article 92(2)(b) of CRD]~~

19A.3.9 R ...

[~~Note: Paragraph 23(b) of Annex V to the *Banking Consolidation Directive* Article 92(2)(b) of CRD]~~

19A.3.10 R

A *firm* must ensure that its *governing management body* in its *supervisory function* adopts and periodically reviews the general principles of the *remuneration policy* and is responsible for overseeing its implementation.

[~~Note: Paragraph 23(e) of Annex V to the *Banking Consolidation Directive* article 92(2)(c) of CRD and Standard 1 of the FSB Compensation Standards]~~

19A.3.11 R

A *firm* must ensure that the implementation of the *remuneration policy* is, at least annually, subject to central and independent internal review for compliance with policies and procedures for *remuneration* adopted by the *governing management body* in its *supervisory function*.

[~~Note: article 92(2)(d) of CRD Paragraph 23(d) of Annex V to the *Banking Consolidation Directive* and Standard 1 of the FSB~~

Compensation Standards]

- 19A.3.12 R (1) A *CRR* firm that is significant in terms of its size, internal organisation and the nature, the scope and the complexity of its activities must establish a *remuneration* committee.
- (2) ...
- (3) The chairman and the members of the *remuneration* committee must be members of the ~~*governing management*~~ *body* who do not perform any executive function in the *firm*.
- (4) The *remuneration* committee must be responsible for the preparation of decisions regarding *remuneration*, including those which have implications for the risk and risk management of the *firm* and which are to be taken by the ~~*governing management*~~ *body in its supervisory function*.
- (5) When preparing such decisions, the *remuneration* committee must take into account the long-term interests of shareholders, investors and other stakeholders in the *firm* and the public interest.

~~[Note: Paragraph 24 of Annex V of the *Banking Consolidation Directive* article 95 of *CRD* and Standard 1 of the *FSB Compensation Standards*]~~

...

- 19A.3.12A R A firm that maintains a website must explain on the website how it complies with the *Remuneration Code*.

[Note: article 96 of *CRD*]

...

- 19A.3.14 R ...

~~[Note: Paragraph 23(e) of Annex V to the *Banking Consolidation Directive* article 92(2)(e) of *CRD* and Standard 2 of the *FSB Compensation Standards*]~~

...

- 19A.3.16 R ...

~~[Note: Paragraph 23(f) of Annex V to the *Banking Consolidation Directive* article 92(2)(f) of *CRD*]~~

...

- 19A.3.18 R ...

[~~Note: Paragraph 23(i) of Annex V to the Banking Consolidation Directive~~ article 94(1)(c) of *CRD* and Standard 3 of the *FSB Compensation Standards*]

...

Remuneration Principle 7: Exceptional government intervention

- 19A.3.20 R A *firm* that benefits from exceptional government intervention must ensure that:
- (1) ...
 - (2) it restructures *remuneration* in a manner aligned with sound risk management and long-term growth, including when appropriate establishing limits to the *remuneration* of ~~senior personnel~~ members of its management body; and
 - (3) no variable *remuneration* is paid to members of its ~~senior personnel~~ management body unless this is justified.

[~~Note: Paragraph 23(k) of Annex V to the Banking Consolidation Directive~~ article 93 of *CRD* and Standard 10 of the *FSB Compensation Standards*]

- 19A.3.21 G The *appropriate regulator* would normally expect it to be appropriate for the ban on paying variable *remuneration* to ~~senior personnel~~ members of the management body of a *firm* that benefits from exceptional government intervention to apply only in relation to ~~senior personnel~~ members of the management body who were in office at the time that the intervention was required.

Remuneration Principle 8: Profit-based measurement and risk adjustment

- 19A.3.22 R (1) ...
- (2) ...

[~~Note: Paragraph 23(n) of Annex V to the Banking Consolidation Directive~~ article 94(1)(j), (k) of *CRD* and Standard 4 of the *FSB Compensation Standards*]

...

- 19A.3.27 R A *firm* must ensure that its total variable *remuneration* is generally considerably contracted where subdued or negative financial performance of the *firm* occurs, taking into account both current *remuneration* and reductions in payouts of amounts previously earned, including through malus or clawback arrangements.

[~~Note: Paragraph 23(q) of Annex V to the Banking Consolidation Directive~~ article 94(1)(n) of *CRD* and Standard 5 of the *FSB*]

Compensation Standards]

...

Remuneration Principle 9: Pension policy

19A.3.29 R A *firm* must ensure that:

(1) ...

...

(3) ~~in the case of when~~ an *employee* ~~reaching~~ reaches retirement, *discretionary pension benefits* are paid to the *employee* in the form of instruments referred to in SYSC 19A.3.47R(1) and subject to a five-year retention period.~~[Note: Paragraph 23(r) of Annex V to the *Banking Consolidation Directive* article 94(1)(o) of *CRD*]~~

Remuneration Principle 10: Personal investment strategies

19A.3.30 R (1) ...

(2) ...

~~[Note: Paragraph 23(s) of Annex V to the *Banking Consolidation Directive* article 94(1)(p) of *CRD* and Standard 14 of the *FSB Compensation Standards*]~~

...

Remuneration Principle 11: ~~Avoidance of~~ Non-compliance with the Remuneration Code19A.3.32 R A *firm* must ensure that variable *remuneration* is not paid through vehicles or methods that facilitate ~~the avoidance of~~ non-compliance with the *Remuneration Code*.~~[Note: Paragraph 23(t) of Annex V to the *Banking Consolidation Directive* article 94(1)(q) of *CRD*]~~

...

19A.3.35A R A *firm* must ensure that the *remuneration* policy makes a clear distinction between criteria for setting:(1) basic fixed *remuneration* that primarily reflects an *employee*'s professional experience and organisational responsibility as set out in the *employee*'s job description and terms of employment; and

- (2) variable remuneration that reflects performance in excess of that required to fulfil the employee's job description and terms of employment and that is subject to performance adjustment in accordance with the Remuneration Code.

[Note: article 92(2)(g) of *CRD*]

...

Remuneration Principle 12(b): Remuneration structures – assessment of performance

19A.3.36 R A firm must ensure that where remuneration is performance-related:

(1) ...

(2) ...

[Note: Paragraph 23(g) of Annex V to the *Banking Consolidation Directive* article 94(1)(a) of *CRD* and Standard 6 of the *FSB Compensation Standards*]

...

19A.3.38 R ...

[Note: Paragraph 23(h) of Annex V to the *Banking Consolidation Directive* article 94(1)(b) of *CRD*]

...

19A.3.40 R A firm must ensure that guaranteed variable remuneration is not part of prospective remuneration plans. A firm must not award, pay or provide guaranteed variable remuneration unless it:

(1) it is exceptional;

(2) it occurs in the context of hiring new Remuneration Code staff; and

(3) the firm has a sound and strong capital base; and

(34) it is limited to the first year of service.

[Note: Paragraph 23(j) of Annex V to the *Banking Consolidation Directive* article 94(1)(d) and (e) of *CRD* and Standard 11 of the *FSB Compensation Standards*]

19A.3.40A R A firm must ensure that remuneration packages relating to compensation for, or buy out from, an employee's contracts in previous employment align with the long term interests of the firm and are subject to appropriate retention, deferral and performance and

clawback arrangements.

[Note: article 94(1)(i) of CRD]

...

- 19A.3.44 R A *firm* must set appropriate ratios between the fixed and variable components of total *remuneration* and ensure that:
- (1) fixed and variable components of total *remuneration* are appropriately balanced; ~~and~~
 - (2) the fixed component represents a sufficiently high proportion of the total *remuneration* to allow the operation of a fully flexible policy on variable *remuneration* components, including the possibility to pay no variable *remuneration* component; ~~and-~~
 - (3) subject to SYSC 19A.3.44AR, the ratio of the variable component of total *remuneration* to the fixed component does not exceed 1:1.

- 19A.3.44A R A *firm* may set a ratio between the fixed and the variable components of total *remuneration* that exceeds 1:1 provided the ratio:
- (1) does not exceed 1:2; and
 - (2) is approved by the shareholders or owners or members of the *firm* in accordance with SYSC 19A.3.44BR.

[Note: article 94(1)(g)(ii) of CRD]

- 19A.3.44B R A *firm* must ensure that any approval by the shareholders or owners or members of the *firm* of a ratio that exceeds 1:1 is carried out in accordance with the following procedure:
- (1) the *firm* must give reasonable notice to all shareholders or owners or members of the *firm* that the *firm* intends to seek approval of a ratio that exceeds 1:1;
 - (2) the *firm* must make a detailed recommendation to all shareholders or owners or members of the *firm* giving the reasons for, and the scope of, the approval sought, including the number of staff affected, their functions and the expected impact on the requirement to maintain a sound capital base;
 - (3) the *firm* must, without delay, inform the *appropriate regulator* of the recommendation to its shareholders or owners or members, including the proposed ratio and the reasons therefor and must demonstrate to the *appropriate regulator* that the proposed higher ratio does not conflict with the *firm's* obligations under the CRD and the CRR, having regard in

particular to the *firm's own funds* obligations:

- (4) the firm must ensure that employees who have an interest in the proposed higher ratio are not allowed to exercise, directly or indirectly, any voting rights they may have as shareholders or owners or members of the firm in respect of the approval sought; and
- (5) the higher ratio is approved by a majority of:
 - (a) at least 66% of shareholders or owners or members of the firm, provided that at least 50% of the shareholders or owners or members are represented; or
 - (b) at least 75% of shareholders or owners or members of the firm if less than 50% of the shareholders, members or owners are represented.

[**Note:** article 94(1)(g)(ii) of *CRD*]

19A.3.44C R A firm must notify without delay the appropriate regulator of the decisions taken by its shareholders or members or owners including any approved higher maximum ratio.

[**Note:** article 94(1)(g)(ii) of *CRD*]

19A.3.44D R A firm may apply a discount rate to a maximum of 25% of an employee's total variable remuneration provided it is paid in instruments that are deferred for a period of not less than five years.

[**Note:** article 94(1)(g)(iii) of *CRD*]

Remuneration Principle 12(e): Remuneration structures - payments related to early termination

19A.3.45 R A firm must ensure that payments ~~related~~ relating to the early termination of a contract reflect performance achieved over time and are designed in a way that does not reward failure or misconduct.

[**Note:** ~~Paragraph 23(m) of Annex V to the Banking Consolidation Directive~~ article 94(1)(h) of *CRD* and Standard 12 of the *FSB Compensation Standards*]

...

19A.3.47 R (1) A firm must ensure that a substantial portion, which is at least 50%, of any variable remuneration consists of an appropriate balance of:

- (a) ...
- (b) where appropriate, ~~capital instruments which are~~

~~eligible for inclusion at stage B1 of the calculation in the *capital resources table*, where applicable that possible other instruments which are eligible as Additional Tier 1 instruments or are eligible as Tier 2 instruments or other instruments that can be fully converted to Common Equity Tier 1 instruments or written down, that in each case- adequately reflects the credit quality of the *firm* as a going concern and are appropriate for use as variable remuneration.~~

(2) ...

~~[Note: Paragraph 23(o) of Annex V to the *Banking Consolidation Directive* article 94(1)(l) of *CRD* and Standard 8 of the *FSB Compensation Standards*]~~

...

19A.3.49 R (1) ...

...

(5) ...

~~[Note: Paragraph 23(p) of Annex V to the *Banking Consolidation Directive* article 94(1)(m) of *CRD* and Standards 6 and 7 of the *FSB Compensation Standards*]~~

(6) ...

...

19A.3.51 R A *firm* must ensure that any variable *remuneration*, including a deferred portion, is paid or vests only if it is sustainable according to the financial situation of the *firm* as a whole, and justified according to ~~to~~ on the basis of the performance of the *firm*, the business unit and the individual concerned.

~~[Note: Paragraph 23(q) of Annex V to the *Banking Consolidation Directive* article 94(1)(n) of *CRD* and Standards 6 and 9 of the *FSB Compensation Standards*]~~

19A.3.51A R A *firm* must:

- (1) ensure that any of the total variable *remuneration* is subject to malus or clawback arrangements;
- (2) set specific criteria for the application of malus and clawback; and
- (3) ensure that the criteria for the application of malus and clawback in particular cover situations where the *employee*:

- (a) participated in or was responsible for conduct which resulted in significant losses to the firm;
- (b) failed to meet appropriate standards of fitness and propriety.

[Note: article 94(1)(n) of CRD and Standards 6 and 9 of the FSB Compensation Standards]

...

19A.3.54 R (1) ...

...

- (1B) Condition 1 is that the firm is a *UK bank, a building society, a designated investment firm*, or a relevant ~~BIPRU 730k firm~~ IFPRU 730k firm that has relevant total assets exceeding £50 billion.

...

- (1D) Condition 2 is that the firm:

- (a) is a *full credit institution, a relevant BIPRU 730k firm a designated investment firm, a relevant IFPRU 730k firm* or a relevant ~~third country BIPRU 730k firm~~ third country IFPRU 730k firm; and
- (b) is part of a *group* containing a *firm* that has relevant total assets exceeding £50 billion and that is a *UK bank, a building society, a designated investment firm* or a relevant ~~BIPRU 730k firm~~ IFPRU 730k firm.

- (1E) In this rule:

- (a) a "~~relevant BIPRU 730k firm~~ IFPRU 730k firm" is any ~~BIPRU 730k firm~~ IFPRU 730k firm that is not a *limited activity firm* or a *limited licence firm*;
- (b) a "~~relevant third country BIPRU 730k firm~~ IFPRU 730k firm" is any ~~third country BIPRU 730k firm~~ IFPRU 730k firm that is not a *limited activity firm* or a *limited licence firm*; and
- (c) ...

...

Part 2: Comes into force on 1 July 2014.

1 Annex 1 Detailed application of SYSC

...

Part 3	Tables summarising the application of the common platform requirements to different types of firm
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...

Provision SYSC 4	COLUMN A Application to a common platform firm other than to a UCITS investment firm	COLUMN A+ Application to a UCITS management company	COLUMN A++ Application to a full- scope UK AIFM of an authorised AIF	COLUMN B Application to all other firms apart from insurers, managing agents, the Society, and full-scope UK AIFMs of unauthorised AIFs
...				
<u>SYSC</u> <u>4.3A.6R</u> <u>[FCA]</u> <u>[PRA]</u>	<u>Rule applicable</u> <u>to CRR firms</u>	Rule for a <u>CRR firm</u> that is a <u>UCITS</u> <u>investment</u> <u>firm</u>	<u>Not</u> <u>applicable</u>	<u>Not</u> <u>applicable</u>
...				

4.3A.6 **R** (1) A CRR firm that is significant must ensure that the members of the management body of the firm do not hold more than one of the following combinations of directorship in any organisation at the same time:

- (a) one executive directorship with two non-executive directorships; and
- (b) four non-executive directorships.

(2) Paragraph (1) does not apply to members of the management body that represent the United Kingdom.

[Note: article 91(3) of the CRD]

4.3A.6A **G** In SYSC 4.3A.6AR a ‘CRR firm that is significant’ means a deposit-taker or designated investment firm whose size, interconnectedness, complexity and business type gives it the capacity to cause some disruption to the UK

financial system (and through that to economic activity more widely) by failing or by carrying on its business in an unsafe manner.