

HANDBOOK (WHISTLEBLOWING) 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); and
 - (2) section 137T (General supplementary powers).
- 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.

Commencement

- D. This instrument comes into force on 7 September 2016.

Amendments

- E. The modules of the PRA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex B

Citation

- F. This instrument may be cited as the Handbook (Whistleblowing) Instrument 2015.

By order of the Board of the Prudential Regulation Authority
28 September 2015

Annex A

Amendments to the Glossary of definitions

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

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employee for the purposes of SYSC 4.15, means an individual:

(1) who is employed or appointed by a *person* in connection with that *person's* business, whether under a contract of service or for services or otherwise; or

(2) whose services, under an arrangement between that *person* and a third party, are placed at the disposal and under the control of that *person*.

...

protected disclosure a qualifying disclosure as defined in section 43B of the Employment Rights Act 1996 made by a *worker* in accordance with sections 43C to 43H of the Employment Rights Act 1996.

...

reportable concern means a concern held by any *person* in relation to the activities of a *firm*, including:

- (a) anything that would be the subject-matter of a *protected disclosure*, including a breach of any *rule*;
- (b) a failure to comply with the *firm's* policy and procedures; and
- (c) behaviour that has or is likely to have an adverse effect on the *firm's* reputation or financial well-being.

...

excluded credit union

for the purposes of SYSC 4.15, means a credit union which has average total gross assets of £250 million or less, determined on the basis of the annual average amount of gross assets calculated across a rolling period of five years or, if it has been in existence for less than five years, across the period during which it has existed (in each case, calculated with reference to the credit union's annual accounting reference date).

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worker

has the meaning as defined by section 230(3) of the Employment Rights Act 1996 and as extended under section 43K of the Employment Rights Act 1996.

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Annex B

Amendments to the Senior Management Arrangements, Systems and Controls sourcebook (SYSC)

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

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4.1 General requirements

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4.1.15 R (1) A firm other than a credit union must have in place appropriate procedures for its *employees* to report breaches internally through a specific, independent and autonomous channel.

...

R (3) A credit union other than an excluded credit union must establish, maintain and implement appropriate and effective arrangements for the disclosure of reportable concerns by a person, including a firm's employee, internally through a specific, independent and autonomous channel.

R (4) The channel in (3) may be provided through arrangements by third parties, including social partners, subject to any applicable requirement under SYSC 8.

R (5) A credit union other than an excluded credit union must inform all workers of the channel referred to in (3).

R (6) A credit union other than an excluded credit union must inform all workers:

(a) that they may disclose directly to the PRA or to the FCA anything that would be the subject-matter of a protected disclosure;

(b) of what would constitute a protected disclosure;

(c) that the PRA or the FCA are prescribed persons under the Employment Rights Act 1996 and the effect of making a protected disclosure to the PRA or to the FCA; and

(d) of the means available to make a protected disclosure to the PRA or the FCA.

R (7) A credit union other than an excluded credit union must

ensure that nothing in its arrangements prevents or discourages any worker from making any disclosure to the PRA or the FCA before making the disclosure through the channel referred to in (3).

R (8) A credit union other than an excluded credit union must ensure that nothing in any employment contract or settlement agreement, including any other related or ancillary documentation, between the credit union and a worker in relation to the worker's employment, entered into after the date on which these rules come into force, prevents or discourages the worker from:

(a) making a protected disclosure, including to the PRA;

(b) making a further protected disclosure connected to a protected disclosure already made under (a).

R (9) A reference in SYSC 4.1.15 to a provision of the Employment Rights Act 1996 includes a reference to the corresponding provision of the Employment Rights (Northern Ireland) Order 1996.

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