**Prudential Regulation Authority**

# **Solvency II**

# **Own funds permissions when not in compliance with the SCR**

In accordance with the Own Funds part of the PRA Rulebook, a firm may apply to the PRA for the following own funds permissions when not in compliance with the SCR, to be granted pursuant to section 138BA of FSMA 2000:

* in accordance with Own Funds 3B.14(2), 3E.6(2), and 3G.6(2), a firm may apply to the PRA for prior permission to waive suspension of repayment or redemption[[1]](#footnote-1) of an own funds item when not in compliance with the SCR or when the repayment or redemption of the item would lead to non-compliance with the SCR. This permission allows a firm to proceed with repayment or redemption of a Tier 1 own funds, Tier 2 own funds or Tier 3 own funds item (as the case may be) under these circumstances only where certain criteria is met;
* in accordance with Own Funds 3B.14(3) and 3E.6(3), a firm may apply to the PRA for permission to waive the cancellation or deferral of distributions under the terms of an own funds item where there is non-compliance with the SCR, or where the distribution would result in non-compliance with the SCR. This permission allows a firm to provide for distributions to be made under the terms of a Tier 1 own funds, Tier 2 own funds or Tier 3 own funds item (as the case may be) under these circumstances only where certain criteria are met; or
* in accordance with the Own Funds 3B.16, a firm may apply to the PRA for prior permission to waive the triggering of a principal loss absorbency mechanism events that representing significant non-compliance with the SCR. This permission allows the principal loss absorbency mechanism, for restricted Tier own funds items, not to be triggered on the occurrence of a trigger event only where certain criteria are met.

Firms wishing to apply for any permission listed above should submit a [**section 138BA permission application form**](https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/authorisations/solvency-ii-approvals/s138ba-rule-permission-application-form.doc)**,** available on the insurance rule permissions and notifications page, together with the firm’s assessment and supporting documentary evidence as indicated in the relevant part of chapter 7 of Statement of Policy (SoP) - Solvency II: The PRA’s approach to insurance own funds permissions.[[2]](#footnote-2) Applications should be made to [**PRA-Waivers@bankofengland.co.uk**](mailto:PRA-Waivers@bankofengland.co.uk)and to the firm’s usual supervisory contact.

Firms should refer to chapter 1 and relevant section in chapter 7 of this SoP in full prior to application.

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1. All references to repayment or redemption include the repayment, redemption, repurchase or buyback of a basic own funds item or any other arrangement that has the same economic effect. This includes share buybacks, tender operations, repurchase plans and repayment of the principal at maturity for dated items as well as repayment or redemption following the exercise of an issuer call option. [↑](#footnote-ref-1)
2. [Solvency II: The PRA’s approach to insurance own funds permissions | Bank of England](https://www.bankofengland.co.uk/prudential-regulation/publication/2024/november/solvency-ii-approach-to-insurance-own-funds-permission-sop) [↑](#footnote-ref-2)