



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Consultation Paper | CP4/18

Insurance Distribution Directive: change to commencement date

February 2018

Prudential Regulation Authority
20 Moorgate
London EC2R 6DA



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Responses are requested by Monday 12 February 2018.

Please address any comments or enquiries to:

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EC2R 6DA

Email: CP4_18@bankofengland.co.uk

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1 Overview

1.1 In this Consultation Paper (CP), the Prudential Regulation Authority (PRA) proposes to amend the effective dates of PRA rules related to the Insurance Distribution Directive (IDD) following a proposal by the European Commission to postpone the application date of the IDD.¹

1.2 This CP is relevant to UK Relevant Authorised Persons (RAPs), third country RAPs, Solvency II firms, small non-Directive insurers, and large non-Directive insurers.

1.3 In Chapter 7 of Occasional Consultation Paper (OCP) 18/17, the PRA consulted on proposals to update the necessary forms and Parts of the PRA Rulebook to take account of the changes to requirements brought about by the IDD.² The final rules for these proposals were published in Policy Statement (PS) 31/17.³

1.4 After publication of the final rules, the European Commission announced a proposal to postpone the application date of the IDD from Friday 23 February 2018 to Monday 1 October 2018. The proposal will need to be agreed by the European Parliament and the Council in an accelerated legislative procedure. As a result the PRA is proposing to update the IDD-related rules made in PS31/17 to be effective from the updated application date of Monday 1 October 2018. Minor, non-IDD-related editorial changes will still be made on Friday 23 February.

1.5 The PRA also proposes to include the criminal records check question found in 5.05.4 of Short Form A for insurers and 5.05.3 in Long Form A for RAPs: 'Has the firm undertaken a criminal records check in accordance with the requirements of the FCA or PRA?' in Short Form A for RAPs Section 5 (Fitness and Propriety). This amendment is identical to the change consulted on by the PRA in Chapter 8 of CP18/17.

1.6 The changes outlined above will affect the following forms:

- Short Form A: UK Relevant Authorised Persons and Third Country Relevant Authorised Persons only;
- Long Form A: Large non-Directive Insurers; and
- Form E: Large Non-Directive Insurers; Small Non-Directive Insurers.

1.7 The PRA is also using this opportunity to consult on the inclusion of four additional questions in the Passporting Forms: Branch Notification Form; and Cross-Border Notification Form.

1.8 The questions will be in sections 6.2-6.6 of the Cross Border Notification Form and sections 3.2-3.6 of the Branch Notification Form. The questions are: 'Intermediary's details; Please indicate the firm's category of intermediary; If this form is in respect of one or more Appointed Representative(s) of the firm then; please list below the name(s) and firm reference number(s) of those Appointed Representatives; Please give the name of any insurer or reinsurer

1 December 2017, https://ec.europa.eu/info/law/insurance-distribution-directive-2016-97-eu/upcoming_en.

2 CP18/17 is available on page 3 of 3 of the webpage: www.bankofengland.co.uk/prudential-regulation/publication/2017/occasional-consultation-paper-18-2017.

3 'Responses to CP18/17 Occasional Consultation Paper – Chapters 7 and 8', December 2017: www.bankofengland.co.uk/prudential-regulation/publication/2017/occasional-consultation-paper-18-2017.

represented; Please list the relevant classes of insurance in relation to which insurance distribution is carried on (if applicable).'

1.9 These Passporting Form changes will align the respective forms with those of the Financial Conduct Authority (FCA), once the IDD is implemented. The questions were consulted on by the FCA in CP17/33.¹ The FCA received no responses in regard to including these questions on the form. The FCA has since published the questions in final form, as part of PS18/1.²

1.10 The proposed changes do not represent a change in PRA policy, and the PRA does not consider that they will impact adversely on the firms to which they will apply.

1.11 The draft instrument to make these changes is included in the appendix to this CP.

Response and next steps

1.12 This consultation closes on Monday 12 February 2018. The PRA invites feedback on the proposals set out in this consultation. While the PRA recognises that this is a relatively short period for consultation, the PRA made its IDD rules prior to the European Commission proposal to amend the implementation date for firms. In order to prevent these IDD rules coming into force on Friday 23 February 2018 the PRA is consulting on this new rule instrument. Member States are still required to transpose IDD into national law by the original date of Friday 23 February 2018.

1.13 Please address any comments or enquiries to CP4_18@bankofengland.co.uk.

1 'Insurance Distribution Directive Implementation – Consultation Paper 3', September 2017: www.fca.org.uk/publication/consultation/cp17-33.pdf.

2 'Insurance Distribution Directive implementation– Feedback and near-final rules for CP17/23, CP17/32, CP17/33, CP17/39 and near-final rules for CP17/07', January 2018: www.fca.org.uk/publication/policy/ps-18-1.pdf.

2 The PRA's statutory obligations

2.1 The PRA considers that the cost of the proposals in this CP are minimal as they do not represent a change in policy from that published in PS31/17. The PRA received no responses to the consultation leading to those rules. The proposals are solely designed to move the effective date to align with EU legislation.

2.2 The PRA considers that the proposals in this CP are compatible with the PRA's statutory objectives to promote the safety and soundness of PRA-authorized firms. The proposed change to the effective date of the IDD-related rules will help ensure that relevant PRA-regulated firms comply with the standards set out in the IDD from the expected application date of that Directive, thereby reducing the risk that their benefits are not fully realised. The PRA does not expect the proposals to impose material incremental compliance costs on affected firms, as the substance of the rules have already been made.

2.3 The PRA considers that the proposals do not have an impact on effective competition.

2.4 In developing the proposals in this CP, the PRA has had regard to the regulatory principles. The regulatory principle of most relevance to these proposals is that a burden which is imposed on a person should be proportionate to the benefits which are expected to result from the imposition of that burden. The proposals in this CP would postpone the burden of compliance with the IDD to the date on which they are expected to apply.

2.5 The PRA does not consider that the impact of the proposals on mutual societies will be different from the impact on other firms.

2.6 The PRA has also had regard to the Government's economic policy. The aspects most relevant to these proposals are in encouraging trade and inward investment to the United Kingdom, by ensuring that PRA-regulated firms are compliant with common European standards.

2.7 The PRA has considered the equality and diversity issues that may arise from the proposals in this consultation; the PRA does not consider that the proposals in this consultation raise concerns with regards to equality and diversity issues.

Appendices

1 Draft Insurance Distribution Instrument

2 Form amendments

Appendix 1: Draft Insurance Distribution Instrument

Appendix 1: Draft PRA RULEBOOK: CRR FIRMS, NON CRR FIRMS, SOLVENCY II FIRMS, NON SOLVENCY II FIRMS: MIFID II PASSPORTING AND IDD CONSEQUENTIAL AMENDMENTS INSTRUMENT 2018

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 60 (Applications for approvals);
 - (2) section 137G (The PRA’s general rules); 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 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, SOLVENCY II FIRMS, NON SOLVENCY II FIRMS: MIFID II PASSPORTING AND IDD CONSEQUENTIAL AMENDMENTS COMMENCEMENT INSTRUMENT 2018

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

Commencement

- E. Annex [A] to this instrument comes into force on 23 February 2018 and ceases to be in force after 30 September 2018.
- F. Annex [B] to this instrument comes into force on 23 February 2018 and ceases to be in force after 30 September 2018.
- G. Annex [C] to this instrument comes into force on 23 February 2018 and ceases to be in force after 30 September 2018.
- H. Annex [D] to this instrument comes into force on 1 October 2018 immediately after Annex H to the 2017 Consequential Amendments Instrument (as defined below) comes into force.
- I. Annex [E] to this instrument comes into force on 1 October 2018 immediately after Annex B to the 2017 Passporting Amendment Instrument (as defined below) comes into force.
- J. Annex [F] to this instrument comes into force on 23 February 2018 and ceases to be in force after 30 September 2018.

Commencement of Annexes C, D, E, F, G and H to PRA Rulebook: CRR Firms, Non CRR Firms, Solvency II Firms, Non Solvency II Firms: MIFID II and IDD Consequential Amendments Instrument 2017

- K. Reference is made to PRA Rulebook: CRR Firms, Non CRR Firms, Solvency II Firms, Non Solvency II Firms: MIFID II and IDD Consequential Amendments Instrument 2017 (referred to in this instrument as the “**2017 Consequential Amendments Instrument**”).
- L. Annexes C to H to the 2017 Consequential Amendments Instrument do not come into force on 23 February 2018 but instead come into force on 1 October 2018.

Commencement of Annex B to the PRA Rulebook: MIFID II Passporting Amendment Instrument 2017

- M. Reference is made to PRA Rulebook: MIFID II Passporting Amendment Instrument 2017 (referred to in this instrument as the “**2017 Passporting Amendment Instrument**”).
- N. Annex B to the 2017 Passporting Amendment Instrument does not come into force on 23 February 2018 but instead comes into force on 1 October 2018.

Miscellaneous

- O. To the extent that there is any inconsistency between this instrument and either or both of the 2017 Consequential Amendments Instrument and/or the 2017 Passporting Amendment Instrument with respect to commencement, this instrument will prevail.

Citation

- P. This instrument may be cited as the PRA Rulebook: CRR Firms, Non CRR Firms, Solvency II Firms, Non Solvency II Firms: MIFID II Passporting and IDD Consequential Amendments Commencement Instrument 2018.

By order of the Prudential Regulation Committee

[DATE]

Annex A

Amendments to the Senior Managers Regime – Applications and Notifications Part

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

...

8 Forms

8.1 ...

(2) Form A (shortened form) may be found ~~here~~ here.

...

Annex B

Amendments to the Large Non-Solvency II Firms – Senior Insurance Managers Regime – Applications and Notifications Part

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

...

7 Forms

7.1 (1) Form A (long form) may be found ~~here~~ here

...

(6) Form E may be found ~~here~~ here.

...

Annex C

Amendments to the Non-Solvency II Firms – Senior Insurance Managers Regime – Applications and Notifications Part

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

...

7 Forms

7.1 ...

(6) Form E may be found ~~here~~ here.

...

Annex D

Amendments to the Glossary

(as amended by Annex H to PRA Rulebook: CRR Firms, Non CRR Firms, Solvency II Firms, Non Solvency II Firms: MIFID II and IDD Consequential Amendments Instrument 2017 which takes effect on 1 October 2018 pursuant to this instrument)

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

...

IDD insurance intermediary

has the meaning given in ~~article~~ Article 2(3) ~~2(1)(3)~~ of the *Insurance Distribution Directive*.

IDD reinsurance intermediary

has the meaning given in ~~article~~ Article 2(5) ~~2(1)(5)~~ of the *Insurance Distribution Directive*.

...

insurance distribution

has the meaning given in ~~article~~ Article 2(1) ~~2(1)(1)~~ of the *Insurance Distribution Directive*.

...

reinsurance distribution

has the meaning given in ~~article~~ Article 2(2) ~~2(1)(2)~~ of the *Insurance Distribution Directive*.

...

Annex E

Amendments to the Passporting Part

(as amended by Annex B to PRA Rulebook: MIFID II Passporting Amendment Instrument 2017 which takes effect on 1 October 2018 pursuant to this instrument)

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

...

10 Forms

10.1 The Branch Notification Form can be found ~~here~~ here.

10.2 The Cross Border Services Notification Form can be found ~~here~~ here.

Annex F

Amendments to the Change in Control Part

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

...

4 ONGOING NOTIFICATION REQUIREMENTS

4.1 A *firm* must notify the PRA as soon as ~~immediately~~ it becomes aware of any of the following matters in respect of one or more of its *controllers*:

- (1) if a *controller*, or any entity subject to ~~his~~ their *control*, is or has been the subject of any legal action or investigation which might put into question the integrity of the *controller*;
- (2) if there is a significant deterioration in the financial position of a *controller*;
- (3) if a corporate *controller* undergoes a substantial change or series of changes in its *governing body*;
- (4) if a *controller*, who is authorised in another *EEA State* as a MiFID investment firm, *CRD credit institution* or UCITS management company or under the ~~Insurance Directives~~ *Solvency II Directive* or the *Insurance Mediation Directive*, ceases to be so authorised (registered in the case of an *IMD insurance intermediary*).

...

Appendix 2: Form Amendments

Annex A

Amendments to Form A (shortened form)

New text is underlined and deleted text is struck through.

Short Form A – UK Relevant Authorised Persons and Third Country Relevant Authorised Persons only

...

5.2

Has the *firm* undertaken a criminal records check in accordance with the requirements of the FCA or PRA?

Please note that a *firm* is required to request the fullest information that it is lawfully able to obtain about the *candidate* under Part V of the Police Act 1997 (Certificates of Criminal Records, etc) and related subordinated legislation of the UK or any part of the

UK before making the application. (SUP 10C.10.16R and PRA Rulebook: Fitness and Propriety).

If yes, please enter date the check was undertaken

Date (dd/mm/yy):

Note: if date is more than 3 months prior to current date or 3 months prior to date of application submission or the check has not been undertaken, please provide details why in section 6.

...

YES NO

Annex B

Amendments to Form A

New text is underlined and deleted text is struck through.

Long Form A – Large non-directive insurers only

...

3.03 Job title

Insurance mediation

Will the *candidate* be responsible for Insurance mediation at the *firm*?

NO

YES

(Note: Yes can only be selected if the individual is applying for a governing function (other than *controlled functions*



I have supplied further information related to this page in Section 6[†]

YES

NO

CF2a and CF2b) (~~MIPRU~~ MIPRU 2.2.2))...

Annex C

Amendments to Form E

New text is underlined and deleted text is struck through.

Form E – Large non-directive insurers only

...

4.03 Job title

Insurance mediation

Will the *candidate* be responsible for Insurance mediation at the firm?

YES

NO

(Note: Yes can only be selected if the individual is applying for a governing function (other than *controlled functions* CF2a and CF2b) (~~MIPRU~~ MIPRU 2.2.2))

...

Annex D

Amendments to Form E

New text is underlined and deleted text is struck through.

Form E – Small non-directive insurers only

...

4.03 Job title

Insurance mediation

Will the *candidate* be responsible for Insurance mediation at the firm?

YES

NO

(Note: Yes can only be selected if the individual is applying for a governing function (other than *controlled functions* CF2a and CF2b) (~~MIPRU~~ MIPRU 2.2.2))

...

Annex E

Amendments to the Branch Notification Form

New text is underlined and deleted text is struck through.

Branch Notification Form

...

3.2 Intermediary's details

Name

Address

Registration number (if applicable)

3.3 Please indicate the firm's category of intermediary

<u>Insurance intermediary</u>	<input type="checkbox"/>
<u>Ancillary insurance intermediary</u>	<input type="checkbox"/>
<u>Reinsurance intermediary</u>	<input type="checkbox"/>

3.4 If this form is in respect of one or more Appointed Representative(s) of the firm then please list below the name(s) and firm reference number(s) of those Appointed Representatives:

<u>Firm Reference Number</u>	
<u>Name of Company</u>	
<u>Registration number (if applicable)</u>	
<u>Address Line 1</u>	
<u>Address Line 2</u>	
<u>Address Line 3</u>	
<u>Address Line 4</u>	
<u>County</u>	
<u>Town</u>	
<u>Postcode/ZIP</u>	
<u>EEA State</u>	
<u>Phone Number (incl STD code)</u>	
<u>Email Address</u>	
<u>Mobile Number</u>	
<u>Fax Number</u>	
<u>Category of intermediary</u>	<u>Insurance intermediary</u> <input type="checkbox"/>
	<u>Ancillary insurance intermediary</u> <input type="checkbox"/>
	<u>Reinsurance intermediary</u> <input type="checkbox"/>

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3.5 Please give the name of any insurer or reinsurer represented

3.6 Please list the relevant classes of insurance in relation to which insurance distribution is carried on (if applicable) (See Annex I and II of the Solvency II Directive).



...

Annex F

Amendments to the Cross Border Services Notification Form

New text is underlined and deleted text is struck through.

Cross Border Services Form

...

6.2 Intermediary's details

Name

Address

Registration number (if applicable)

6.3 Please indicate the firm's category of intermediary

<u>Insurance intermediary</u>	<input type="checkbox"/>
<u>Ancillary insurance intermediary</u>	<input type="checkbox"/>
<u>Reinsurance intermediary</u>	<input type="checkbox"/>

6.4 If this form is in respect of one or more Appointed Representative(s) of the firm then please list below the name(s) and firm reference number(s) of those Appointed Representatives:

Firm Reference Number	
Name of Company	
<u>Registration number (if applicable)</u>	
Address Line 1	
Address Line 2	
Address Line 3	
Address Line 4	
County	
Town	
Postcode/ZIP	
EEA State	
Phone Number (incl STD code)	
Email Address	
Mobile Number	
Fax Number	
<u>Category of intermediary</u>	<u>Insurance intermediary</u> <input type="checkbox"/>
	<u>Ancillary insurance intermediary</u> <input type="checkbox"/>
	<u>Reinsurance intermediary</u> <input type="checkbox"/>

6.5 Please give the name of any insurer or reinsurer represented

6.6 Please list the relevant classes of insurance in relation to which insurance distribution is carried on (if applicable) (See Annex 1 and 2 of the Solvency II Directive)

...