

Modification direction for IFPRU 11.6 (Contractual recognition of bail-in)

To: *[Insert Firm or QPU Name]* (the *["firm" or "qualifying parent undertaking"]*)

Ref: *[Insert Ref No.]*

Of: *[Insert Firm Address]*

Date: *[Insert Date of Consent]*

Handbook version as in force at the date this direction

Power

1. This direction is given by the *FCA* under section 138A of the *Act*.

Duration

2. (1) This direction takes effect on *[Insert date of consent]*
(2) This direction ends on 30 June 2017 (or earlier if the relevant *rule* is amended or revoked before then).

Rules Modified

3. The *FCA* directs that the *rule* listed below applies to the *[firm or qualifying parent undertaking]* with the modifications shown. Underlining indicates the insertion of new text; strikethrough indicates the deletion of existing *Handbook* text.

Rule	Modification
<p>IFPRU 11.6.3R (Contractual recognition of bail-in)</p>	<p>(1) If a liability meets the conditions in (2), a <i>firm</i> or <i>qualifying parent undertaking</i> must include a term in the contract governing the liability which states that the creditor or party to the agreement creating the liability:</p> <p>(a) recognises that the liability may be subject to <i>write-down and conversion powers</i>; and</p> <p>(b) agrees to be bound by any of the following actions of a <i>resolution authority</i> in relation to that liability:</p> <p>(i) reduction of principal or outstanding amount due; or</p> <p>(ii) conversion; or</p> <p>(iii) cancellation.</p> <p>(2) The contractual recognition of a bail-in requirement in (1) applies to a liability that is:</p> <p>(a) governed by the law of a third country;</p> <p>(b) issued or entered into after 1 January 2016;</p> <p>(c) of a type that is not excluded under article 44(2) of <i>RRD</i>;</p> <p>(d) not a deposit of a type referred to in point (a) of article 108 of <i>RRD</i>; and</p> <p>(e) not a liability which the <i>resolution authority</i> has determined can be subject to <i>write-down and conversion powers</i> by the <i>resolution authority</i> of an <i>EEA State</i> under:</p> <p>(i) the law of a <i>third country</i>; or</p> <p>(ii) a binding agreement concluded with that <i>third country</i>; <u>and</u></p> <p><u>(f) not an <i>eligible liability</i> where it would be impracticable for the <i>firm</i> or <i>qualifying parent undertaking</i> to comply with the contractual recognition of a bail-in requirement in (1) for that liability.</u></p> <p>[Note: article 55(1) of <i>RRD</i>]</p>

Interpretation

5. Interpretative provisions (including definitions) of the *Handbook* apply to this direction in the same way they apply to the *Handbook* with the following additional terms:

<i>debt instruments</i>	means any form of transferable debt security or instrument, whether registered or bearer, including commercial paper, bills of exchange, banker's acceptances, certificates of deposit and bonds, with the exception of debt securities or instruments which are <i>additional tier 1 instruments</i> or <i>tier 2 instruments</i> .
<i>eligible liability</i>	means a liability that is not: (a) a <i>debt instrument</i> which is an <i>unsecured liability</i> ; (b) an <i>additional tier 1 instrument</i> ; or (c) a <i>tier 2 instrument</i> .
<i>unsecured liability</i>	means a liability where the right of the creditor to payment or other form of performance is not secured by a charge, pledge, lien or mortgage, or collateral arrangements including liabilities arising from repurchase transactions and other title transfer collateral arrangements.

Waivers Team

Financial Conduct Authority