

PRA consultation on variable remuneration buy-outs

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PRA consultation on variable remuneration buy-outs

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The Prudential Regulation Authority is currently consulting on whether to change the rules in relation to buy-outs of variable remuneration.

The current position is that employers can “buy out” new employees’ deferred bonus awards which have not been paid by

the previous employer. The PRA is of the view that this arrangement allows individuals, simply by changing employers, to protect themselves against the possibility of their old employer clawing back bonus payments or recalculating them on the basis of conduct or risk relating to the bonus period only discovered after an award has been made, which is commonly referred to as 'malus'.

The PRA's proposal would make it possible for malus and clawback to be applied to the new employer's buy-out awards where the old employer determines it to be appropriate. The old employer would have to explain the reason(s) for proposing malus or clawback and allow the employee the opportunity to rebut those reasons. This exercise would presumably require old employers to disclose confidential information to an ex-employee's new employer, which may be a competitor.

The consultation is open until 13 April 2016, at which point the PRA will consider the responses received.

PRA Consultation Paper CP2/16

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