

# CP12/33<sup>★★</sup>

Financial Services Authority

## A new capital regime for Self-Invested Personal Pension (SIPP) operators



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The Financial Services Authority invites comments on this Consultation Paper.  
Comments should reach us by 22 February 2013.

Comments may be sent by electronic submission using the form on the FSA's  
website at: [www.fsa.gov.uk/Pages/Library/Policy/CP/2012/cp12-33-response.shtml](http://www.fsa.gov.uk/Pages/Library/Policy/CP/2012/cp12-33-response.shtml).

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It is the FSA's policy to make all responses to formal consultation available for public inspection unless the respondent requests otherwise. A standard confidentiality statement in an email message will not be regarded as a request for non-disclosure.

A confidential response may be requested from us under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Tribunal.

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Copies of this Consultation Paper are available to download from our website – [www.fsa.gov.uk](http://www.fsa.gov.uk). Alternatively, paper copies can be obtained by calling the FSA order line: 0845 608 2372.

# Abbreviations used in this paper

<b>AUA</b>	Assets under Administration
<b>CBA</b>	Cost Benefit Analysis
<b>CS</b>	Capital Surcharge
<b>FCA</b>	Financial Conduct Authority
<b>FSA</b>	Financial Services Authority
<b>FSMA</b>	Financial Services & Markets Act
<b>HMRC</b>	Her Majesty's Revenue & Customs
<b>ICR</b>	Initial Capital Requirement
<b>IPRU (INV)</b>	Interim Prudential sourcebook for Investment Businesses
<b>NSA</b>	Non-standard Assets
<b>PRA</b>	Prudential Regulation Authority
<b>SIPP</b>	Self-Invested Personal Pensions
<b>WACC</b>	Weighted Average Cost of Capital



# 1

## Overview

### Why are we consulting?

- 1.1 We began regulating Self-Invested Personal Pensions (SIPP) in 2007, as a result of the Government's decision to bring all personal pension schemes within our scope.
- 1.2 We set the prudential requirements for SIPP operators ('operators') to be broadly equivalent to those (where relevant) for investment managers and operators of collective investment schemes. Operators are required to hold an amount of capital, which is the higher of £5,000, six weeks of expenditure or 13 weeks of expenditure if they hold client money.<sup>1</sup>
- 1.3 The SIPP market has grown substantially since 2007, both in terms of assets under administration (AUA) and the range of assets held. Since 2007, a number of operators have failed and several others have been close to failure. In many cases this has caused, or significantly increased the risk of, harm to consumers. These experiences have led us to conclude that our current prudential requirements are no longer sufficient to support the orderly wind-down of an operator.<sup>2</sup>

### Timetable and next steps

- 1.4 Send us your comments by 22 February 2013. We will review all the responses and publish a Policy Statement, including final rules, in the second half of 2013. We are proposing a one-year transitional period between publishing the Policy Statement and the date on which the rules are implemented.

1 Where a firm holds client assets and does not disclose them on its balance sheet, there are additional requirements to mitigate position risk, counterparty risk, foreign exchange risk, and an 'other asset' requirement.

2 Our proposed changes relate to operators who are subject to IPRU (INV), principally Chapter 5, but also a small number of firms who may be subject to Chapters 3 and 13. They do not apply to operators who may be insurers, or operators who are subject to other prudential regimes, e.g. the Prudential Sourcebook for Banks, Building Societies and Investment Firms.

## Equality and diversity

- 1.5 We have considered the equality and diversity issues that may arise from the proposals in this CP. We have concluded that the proposals do not give rise to discrimination and are of low relevance to the equality agenda.
- 1.6 We would welcome your comments on any equality and diversity issues that you believe arise from our proposals.

## Who should read this Consultation Paper?

- 1.7 This Consultation Paper will be of interest to:
- firms holding the establishing/operating/winding up a personal pension FSA permission;
  - consumers who own, or are considering buying a personal pension;
  - trade bodies representing members who operate personal pensions; and
  - financial advisers.

### CONSUMERS

This paper focuses on meeting our consumer protection objective by ensuring that operators have sufficient financial resources to facilitate a more orderly wind-down, if they choose or need to exit the market.

Where operators do not have sufficient financial resources, it may harm consumers if the wind-down is funded by a charge on clients' assets. Clients may also be subject to a tax charge by HMRC to realise their assets within the SIPP.

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# 2

## Our proposed approach

### Introduction

- 2.1 We have identified two significant weaknesses in our current prudential framework for Self-Invested Personal Pension operators ('operators'):
- the level of operators' expenditure is not necessarily aligned to the size and nature of the assets they administer; and
  - some asset types are significantly more difficult and costly to transfer during a wind-down scenario than others.
- 2.2 We are, therefore, proposing to update our current framework to address these weaknesses and to ensure that operators hold enough capital of sufficient quality to facilitate an orderly wind-down if they choose or need to exit the market (and to update our reporting requirements for operators to reflect this).

### Background

- 2.3 Some operators have a large number of underlying schemes and substantial Assets Under Administration (AUA), but the expenditure booked in the regulated entity is lower than the actual cost of running the regulated business. This is sometimes as a result of expenditure being channelled through unregulated related entities, but is also due to different business models. As the current capital requirement is based on expenditure, it does not properly reflect the scale and complexity of operators' businesses.
- 2.4 We have also become increasingly aware that some asset types are significantly more difficult and costly to transfer during a wind-down scenario than more standard asset types. Informal consultation with market participants has confirmed that these processes can be lengthy and exceed the period that can be supported by our current prudential requirements. We have therefore concluded that the presence of these assets should be reflected in an operator's capital requirement.

- 2.5** We believe that the level of an operator's AUA is a more appropriate way of determining the costs that will be involved in winding it down than the operator's business expenditure. Also, moving towards a determinant based on the size of the operator's business rather than the expenditure incurred does not detach the capital requirement from the risks within the business. So we believe this approach better aligns a firm's capital requirement with the risk of harm to consumers if the operator no longer wishes to, or is able to, continue operating.

**Q1:** Do you agree that AUA is an appropriate measure of the risk of consumer harm posed by a SIPP operator?

- 2.6** We also propose to consider the proportion of underlying schemes that contain non-standard assets<sup>3</sup> within the calculation of capital requirement.

**Q2:** Do you agree that non-standard asset types can significantly increase the costs a SIPP operator would incur in a wind-down scenario (including meeting overheads as this process is completed)?

## Proposal

### Minimum capital requirement

- 2.7** As a first step we propose to increase the fixed minimum capital requirement in Interim Prudential Sourcebook for Investment Firms, IPRU (INV) 5.2.3(4) (a) from £5,000 to £20,000. We believe that this is a more appropriate minimum, as our supervisory experience suggests that the costs of winding down an operator are unlikely to be less than this.

**Q3:** Do you believe it is necessary to raise the fixed minimum capital requirement and, if so, do you feel that £20,000 is appropriate?

- 2.8** In addition to this updated minimum capital requirement, we propose that an operator's total capital requirement should be made up of two elements:
- an initial capital requirement based on the AUA; and
  - a capital surcharge based on the percentage of underlying schemes that contain non-standard asset types.

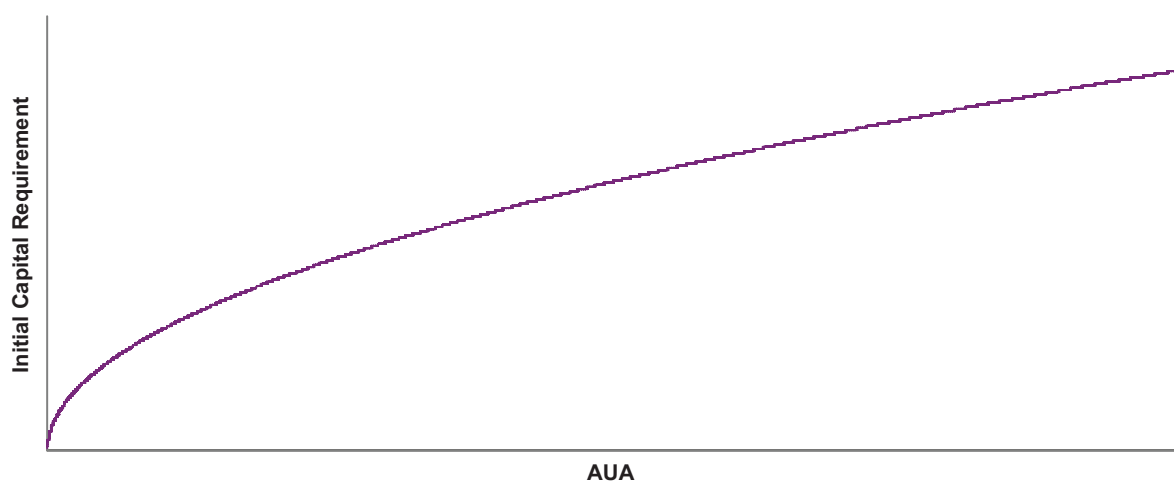
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<sup>3</sup> That is, asset types which would incur additional time and cost should they need to be transferred to another operator.

## Initial capital requirement

- 2.9 We have concluded, through modelling different approaches and industry engagement, that the relationship between AUA and capital requirement should not be linear.
- 2.10 While higher AUA does mean a greater potential for consumer detriment in a wind-down scenario, higher AUA also offers economies of scale and the ability to transfer schemes containing the same asset types in bulk. Therefore, a curved model is proposed:

**Figure 1: Proposed Initial Capital Requirement for SIPP Operators**



- 2.11 The initial capital requirement represents the capital that all operators will need to hold against the standard asset types held within their schemes. If an operator only holds standard asset types, this amount will equal their total capital requirement.
- 2.12 It is derived from a formula that is designed to produce a capital holding better able to support the transfer of standard assets, given the scale of the operator's AUA. The parameters of the formula have been derived from our ongoing experience of SIPP wind-downs. We considered a number of alternative approaches, before concluding that this formula is appropriate. We believe that building in additional complexity would incur significant extra compliance costs without providing any measurable benefit.

## Capital surcharge

- 2.13 The capital surcharge represents the additional capital to be held by operators that hold non-standard asset types within their underlying schemes. It is derived via a formula that explicitly allocates capital against non-standard assets to reflect the additional costs that will be incurred in transferring these assets.
- 2.14 As a scheme containing any non-standard asset types will take longer to transfer – regardless of the level or value of these assets – the formula also takes explicit account of the number of schemes containing non-standard assets.

- 2.15** Finally, linking this calculation to the scale of the AUA ensures that the additional capital required reflects the scale of the business. The underlying assumption is that the number of schemes grows broadly in line with AUA. We have concluded that this assumption is reasonable through informal consultation with industry participants.

**Q4:** Do you agree with the capital surcharge as a concept and/or feel that it is an appropriate component of the capital requirement? If not, how else would you ensure that SIPP operators hold sufficient capital to wind-down a SIPP book containing non-standard asset types?

**Q5:** Do you have any comments on this approach, or evidence to support an alternative approach?

### Non-standard assets

- 2.16** We propose to define non-standard assets by reference to a list of standard assets. All assets that do not appear on this list should be categorised as non-standard.
- 2.17** This approach results in a definition of non-standard assets that is generally broader than that used in the recent publication ‘GC12/12: Self Invested Personal Pensions operators – A report on the findings of a thematic review’.

Standard assets	
<ul style="list-style-type: none"> <li>• Cash</li> <li>• Cash funds</li> <li>• Corporate bonds</li> <li>• Exchange traded commodities</li> <li>• Government and local authority bonds and other fixed interest stocks</li> <li>• Investment notes (structured products)</li> <li>• Investment trusts</li> </ul>	<ul style="list-style-type: none"> <li>• Managed pension funds</li> <li>• Open-ended investment companies</li> <li>• Permanent interest bearing shares</li> <li>• Real estate investment trusts</li> <li>• Shares listed on: the Alternative Investment Market; the London Stock Exchange; and recognised overseas stock exchanges</li> <li>• Unit trusts</li> </ul>
<b>Criteria</b> ‘Standard assets must be capable of being accurately and fairly valued on an ongoing basis, readily realised whenever required (up to a maximum of 30 days), and for an amount that can be reconciled with the previous valuation.’	

**Q6:** Do you think that this list covers all of those asset types that would **not** incur additional costs if they need to be transferred to another provider? Do you think there are any other asset types that should be included in this list? And, if so, why?

## Summary of approach

<b>STAGE 1</b>	$ICR = \sqrt{AUA \times K1}$ Where: ICR = Initial capital requirement AUA = Assets under administration K1 = Constant, proposed to be 20
<b>STAGE 2</b>	$CS = p\% \times K2 \times ICR$ Where: CS = Capital surcharge p% = percentage of plans containing non-standard asset types K2 = Constant, proposed to be 5
<b>STAGE 3</b>	Total capital requirement = initial capital requirement + capital surcharge

## Financial resources

- 2.18** One of the primary drivers for capital requirements is to ensure that there are sufficient funds available to allow an orderly wind-down of a regulated business. However, there is a risk that operators may hold their capital in ways that mean it cannot be realised within a reasonable time scale. This risk is currently mitigated by rules in other chapters within IPRU (INV), such as IPRU (INV) Chapter 13 (which only affects a very small number of operators), but not IPRU (INV) Chapter 5.
- 2.19** We therefore propose to include a rule that proceeds of capital must be held in a form that is realisable within one year. Also, the amount of capital required explicitly through the capital surcharge must be more easily realisable, within a time period up to a maximum of 30 days.
- Q7:** Do the timescales set out above appropriately reflect the time needed to access capital in a wind-down scenario?
- Q8:** Would this rule change incur significant costs to your business? If so, please explain/quantify these costs.  
This question is only applicable to operators.
- 2.20** In addition to this, we propose to use the Own Funds definition in IPRU (INV) Chapter 5 as the measure of financial resources. This is because we do not believe that all the existing components of liquid capital, which include the use of Tier 3 items ('net trading book profits' and 'short-term qualifying subordinated loans') are relevant to SIPP operators.

- Q9:** Do you agree that not all of the existing components of Liquid Capital are relevant to SIPP operators and that Own Funds is a more appropriate form of financial resources?

## Transitional

**2.21** As this proposal requires some operators to raise significant levels of capital, we feel that it is appropriate to allow a transitional period between publishing any Policy Statement on this policy initiative and the date on which those rules are implemented. We believe that a transitional period of one year will allow operators sufficient time to decide how they wish to respond, i.e. choosing to:

- raise the additional capital (where necessary);
- adjust their business model; or
- exit the market.

**Q10:** Do you believe that a transitional period of one year is appropriate?

**Q11:** In your opinion, would this proposal lead to a significant reduction in the level of competition within the SIPP sector?

## Annex 1

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# Cost benefit analysis

1. It is our expectation that the proposals set out in this CP will be made by the Board of the Financial Conduct Authority (FCA), rather than by the FSA. As a result, the relevant cost benefit analysis (CBA) requirements are those set out in sections 138I and 138J of the revised version of FSMA rather than those in section 155 of the original version of FSMA.
2. The FCA will be required to carry out and publish a CBA when proposing draft rules and when making rules which are significantly different from the draft consulted on. In particular, they will be required to publish an analysis of the costs together with an analysis of the benefits and an estimate of those costs and of those benefits.
3. However, if the FCA believes that these costs or benefits cannot reasonably be estimated or it is not reasonably practicable to produce an estimate, an estimate need not be provided. In this case the FCA must explain why it is of that opinion. Finally, no CBA is required if the FCA considers that there will be no increase in costs or there will be a cost increase of minimal significance.
4. We consider that the CBA set out below meets the draft revised FSMA CBA requirements. Sections 138I and 138J of the revised version of FSMA are currently before Parliament and we will review the CBA in the event that those requirements change.

### **Affected population**

5. The proposed capital framework will apply to operators holding the ‘establishing/operating/winding up a personal pension scheme’ permission who are subject to IPRU (INV) Chapter 5 of the FSA handbook and those caught by the same permission who are not covered by other prudential regimes (a small number of operators subject to IPRU (INV) Chapter 3 and 13 of the FSA handbook).

## Market/regulatory failure analysis

6. Our experience since 2007 has shown that the current capital framework is no longer suitable for this sector, which has grown substantially, both in terms of assets under administration (AUA) and the range of assets held. A number of operators have failed and others have got into financial difficulty. Many of these incidences have caused, or raised a significant risk of consumer detriment.
7. Based on our supervisory experience, we believe that the current level of capital being held by many operators would be insufficient to meet the cost required to facilitate a more orderly wind-down. The alternative to these costs being met by the operator is that they are met by realising individual consumers' investments. This would cause significant harm to consumers, and it is likely that a tax charge would be imposed on the scheme by HMRC as a result of the assets being removed from the tax-protected pension wrapper, further reducing the value of individual consumers' income in retirement.
8. Also, as consumers cannot assess the risk posed to them as a result of operators not holding sufficient levels of capital (for example, to mitigate the risk that an operator administering high proportions of non-standard assets may find it difficult to transfer them if it fails), they cannot exert sufficient market discipline on operators to ensure that they do. A more risk-based approach assures consumers that operators are more likely to be able to fund the cost of wind-down without affecting the consumer significantly, for the reasons described above.
9. The existing requirements are not sufficiently risk based, as they do not consider the types of assets which operators administer, and the costs involved in transferring certain asset types in a wind-down scenario. Further, the existing rules have led to arbitrage, with a small but significant number of operators channelling expenditure through unregulated companies. A result of this their capital requirement is lower than needed given their risk profiles, and in many cases the level of capital held is inappropriate for the scale of their operations.
10. The policy change is summarised in Table 1.
11. It takes the square root of AUA, multiplies this by a constant, and then where an operator holds non-standard assets multiplies the initial calculation by the percentage of plans containing these assets, and totals these numbers. It also removes Tier 3 capital from the components of capital currently allowed, and adds a rule stating that all capital must be held in assets realisable within one year, and the capital explicitly held against non-standard assets must be readily realisable.
12. This framework better aligns capital requirements to the bespoke risks within the industry, and raises requirements for the section of the industry that we believe is undercapitalised and not holding sufficiently liquid capital, given our experience of SIPP wind-downs. This decreases the likelihood of harm to consumers when operators leave the market, as it increases the likelihood they will be able to meet the substantial costs involved in winding down their business.



Table 1

	Current capital requirement	New capital requirement
Capital requirement (methodology explained)	5,000 or 6 weeks of expenditure or 13 weeks of expenditure if the operator holds client assets And, for an operator who does not disclose client assets on its balance sheet, a calculation for: <ul style="list-style-type: none"> <li>• Position risk</li> <li>• Counterparty risk</li> <li>• Foreign exchange risk</li> <li>• Other assets</li> </ul>	20,000 or $\sqrt{\text{AUA}} \times 20$ (= ICR) + $\% \text{ NSA} \times 5 \times \text{ICR}$ (= CS)
Quality of capital required	Liquid capital requirement in IPRU (INV) Chapter 5 No restrictions regarding how capital must be held regarding availability of assets	Own Funds requirement in IPRU (INV) Chapter 5 ICR must be held in assets realisable within 12 months CS must be held in readily realisable assets (30 days)

13. We believe that operators who cannot raise capital to meet these new requirements will increase the risk of harm to consumers if they leave the market. By dealing with this problem now as opposed to allowing the risk to increase, we believe that costs to the FSA and consumers are ultimately reduced.

## Benefits

14. As discussed in the market/regulatory failure analysis, by having capital levels that enable the operator to fund a more orderly wind-down, the risk posed to individual consumers having to fund this process is reduced. This is a significant benefit, working towards our consumer protection objective. The size of this benefit will depend on the number of operators that are wound down and the size of these operators, hence we cannot provide a reliable estimate
15. By allocating capital explicitly against asset types which incur additional costs to transfer, often due to idiosyncratic complexity, we provide an incentive for operators to undertake appropriate due diligence on these asset types. While this is not a primary driver of the policy, and cannot be applied retrospectively, we anticipate that it will help increase the quality of understanding and record keeping of assets within operators with weaker systems and controls as they acquire new business.

## Direct costs to the FSA

16. Additional monitoring and supervisory resource may be required if operators administering complex, illiquid asset types choose to leave the market as a result of this proposal, or experience difficulty transferring the schemes containing these assets to another provider. Our expectation is that this resource will come from within existing business as usual limits.
17. In this scenario we would likely be involved in the closure of the operator's regulated business. However, operators that cannot afford the new levels of capital are more likely to already be undercapitalised and/or struggling to continue to operate.<sup>1</sup> It is therefore likely that they will at some point leave the market as a result of this. By managing a wind-down now, FSA resources can be allocated more efficiently reducing the incremental costs in the long run.

## Compliance costs to firms

18. We anticipate that there will be limited one-off costs to familiarise operators with the policy, and potentially minor system changes to collect data. Operators should already be aware of the need to collect this data.<sup>2</sup>
19. We therefore assume two hours of review time per firm by a manager, assuming an average salary of £40,000pa, and therefore £25 per hour. For the 75 affected operators, this amounts to £3,750 additional one off cost.
20. Our estimates of capital impact are based on internal data. We do not currently collect data regarding AUA for the majority of operators, or request a breakdown of the types of assets under administration. However, we do have AUA data for some operators via our supervisory work. We have tested this model using a sample compiled of the 41 firms for which we have data, equating to 55% of the affected operator population. Using the categories below, we have calculated the average capital impact for small, medium and large operators. Small, medium and large has been defined as follows:

Assets under Administration (£)	Number of operators in sample	Operator category
0-100m	18	Small
100m-500m	18	Medium
>500m	5	Large

21. It is expected that as a result of these proposals, operators' capital requirements will increase by between £12m and £54m to meet our requirements, depending on the proportion of non-standard assets (NSA) held by SIPP operators (e.g. the lower bound assumed 0% NSA and upper bound 40% NSA).

<sup>1</sup> That is, meet their liabilities without relying on future business.

<sup>2</sup> [www.fsa.gov.uk/library/policy/guidance\\_consultations/2012/1212](http://www.fsa.gov.uk/library/policy/guidance_consultations/2012/1212)

22. Our estimated cost of capital impact assumes a weighted average cost of capital (WACC) of 6% for SIPP operators. This is based on the estimated WACC for investment firms determined using CP06/3.<sup>3</sup> We have estimated our industry-wide cost by scaling-up the capital impact on operators from our sample to include the whole operator population.<sup>4</sup> The affected operators, capital impact and ongoing costs are summarised in Table 2.

Table 2

Firms size (AUA by £million)	Estimated number of operators (extrapolating from sample of 41 firms)	% of operators affected by the new capital requirement (i.e. those that will increase their capital)		Total capital increase from existing requirement		Estimated ongoing capital cost		Average capital requirement as % of AUA	
		0% NSA	40% NSA	0% NSA	40% NSA	0% NSA	40% NSA	0% NSA	40% NSA
Small (0 to 100)	33	24	33	£2.5m	£11m	£0.2m	£0.7m	0.3%	0.9%
Medium (100 to 500)	33	27	33	£6m	£22m	£0.3m	£1.3m	0.2%	0.5%
Large (greater than 500)	9	7	9	£3.5m	£21m	£0.2m	£1.3m	0.1%	0.2%
<b>TOTAL</b>	<b>75</b>	<b>58</b>	<b>75</b>	<b>£12m</b>	<b>£54m</b>	<b>£0.7m</b>	<b>£3.3m</b>		

23. The ongoing capital compliance cost to the industry is likely to range from £700,000 to £3.3m depending on the proportion of non-standard assets (NSA) held by operators, using the same upper and lower bounds as above. There may be additional ongoing costs to operators of changing the quality of the capital that they currently hold to meet our requirement.
24. In estimating the capital impact on operators, we calculated the difference between existing requirements and our proposed requirements. This is a conservative estimate, as it assumes that operators will want to maintain the same amount of capital above their capital requirement as they do currently. However, in practice they may use this surplus to meet the new requirement, so would not need to raise this amount as additional capital.
25. The new prudential standards are likely to mean that some operators will have to raise a significant amount of capital. This is likely the case for the following:

<sup>3</sup> [www.fsa.gov.uk/pubs/cp/cp06\\_03.pdf](http://www.fsa.gov.uk/pubs/cp/cp06_03.pdf)

<sup>4</sup> We have assumed that our sample is broadly representative of the industry. Therefore, we have used the result of our impact assessment on the sample, and scaled the relevant numbers up so that they are expanded to cover 100% of the affected population. This assumes that the operators that we did not sample have similar characteristics and are a similar spread by size.

- Operators with low expenditure, but high AUA – Currently operators base their capital requirement calculations on expenditure. Basing their calculations on AUA will have a significant capital impact for these operators.
  - Smaller operators – The framework is built to increase the capital requirement of smaller operators (in terms of AUA) at a steeper gradient than larger operators. Smaller operators will, therefore, be required to hold a greater proportion of capital to AUA than larger operators.
  - Operators that hold a large percentage of non-standard asset types – These operators may see a significant increase in their capital requirement through the capital surcharge, possibly exceeding their existing requirements.
26. These types of operators in particular are identified as not having a sufficient level of capital that reflects their risks and the costs to them of increasing their capital is necessary to protect consumers and reduce costs to the FSA, and therefore operators, of facilitating a wind-down.
27. It is expected that operators will fund the additional capital they will be required to hold through capital instruments such as debt (subordinated or business borrowing) or by injecting capital from private investors or directors.
28. We note that some operators may be able to reallocate group capital to meet the requirement. Analysis of the most significantly affected operators has shown that some have substantial levels of capital within their group companies, both regulated and unregulated (where regulated, only capital surplus has been considered). Due to many group companies not being regulated by the FSA, we have limited data regarding this, but some of the affected operators could meet these additional costs through reallocation, if this capital is not used for other purposes.
29. Our proposal to require operators to hold capital in a form that must be realised within 12 months, or 30 days for capital explicitly required through the capital surcharge, may impose additional costs, as operators may have to invest in assets with a shorter maturity. We do not have sufficient data on how operators currently use their capital to assess whether the effect of this will be significant.<sup>5</sup> However, it is likely that the majority of operators currently use their capital in a way that already satisfies this rule.
30. We have proposed a transition period of one year to allow operators to raise capital to comply with this policy. While we believe that this should allow sufficient time for those operators who choose not to leave the market, we have explicitly sought feedback from operators on this point in Question 10.

<sup>5</sup> We have explicitly asked for feedback on this point in Question 8 and will analyse the effects in light of any responses we receive.

## Market impact

31. Based on our knowledge of individual operators through supervisory monitoring and prudential analysis, we believe it is likely that a number will choose to leave the market as a result of this policy, seeing it as incompatible with the economic viability of their business model.
32. We believe operators that cannot afford to meet the requirements in this framework are not holding enough capital to leave the market in an orderly fashion, and by facilitating these exits we believe that the risk of harm to consumers is ultimately minimised. As this is a business decision depending on access to capital and other factors, we cannot reliably predict the number of operators who will choose to exit the market. However, we estimate that this may be in the region of 14% to 18% of the operators affected by this policy.<sup>6</sup>
33. We have also identified a small but significant number of operators that have the permission to establish/operate/wind-up a personal pension scheme, but do not appear to be using it, or do not need it. It is likely that these operators would surrender their permission. This is not perceived to have any significant costs.
34. There could be implications for competition as this proposal may reduce the number of SIPP operators in the market. Not only because of operators potentially leaving the market, but also as a result of barriers to entry due to the proposal.
35. Our analysis suggests that there are an adequate number of market participants with a sufficient range of sizes to maintain a healthy level of competition within the market if some operators leave. We have asked if our proposals will lead to a significant reduction in the level of competition within the SIPP industry (Question 11).
36. As this policy proposes a new regime as opposed to updating the current regime, some of the data required to calculate the impact of the policy has been estimated, and assumptions have been made. These have been alluded to throughout this CBA. Where we have made assumptions regarding data, we are keen for respondents to provide any relevant evidence that they may have.

**Q12:** Can you provide any evidence or data that might further inform our analysis of the likely impact of our proposal?

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<sup>6</sup> This is not all firms providing a SIPPs, it is a percentage of the firms directly affected by these proposals. This does not cover firms subject to BIPRU or insurance regulations.



## Annex 2

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# Compatibility statement

### Introduction

1. It is envisaged that the final changes will be made by the Board of the FCA rather than by the FSA. We are therefore commenting on the compatibility of our proposals with:
  - our general duties under section 2 of the Financial Services and Markets Act (FSMA);
  - the principles of good regulation – as set out in section 2 of FSMA; and
  - the statutory and regulatory objectives of the Financial Conduct Authority (FCA) – as proposed by the Financial Services Bill 2012.
2. The requirement for a compatibility statement is set out in section 155 (2) c of FSMA.

### Compatibility with the FSA's general duties

#### Market confidence

3. These proposals maintain confidence by ensuring that when operators exit the market, they can do so in an orderly manner with minimal impact on other market participants.
4. They ensure that operators are well capitalised, reassuring the market that those operating within it are long-term stakeholders who are able to meet the costs of participating in and exiting the market.

#### Consumer protection

5. These proposals reduce the risk of operators exiting the market without sufficient resources to do so in an orderly fashion. This in turn reduces the risk of consumer harm resulting from these costs being met by realising the operator's remaining assets, such as individual consumers' assets and, potentially, incurring a tax charge from HMRC.

6. As consumers cannot assess the risk posed to them as a result of operators not holding sufficient levels of capital, they cannot exert sufficient market discipline on operators to ensure that they do. Our proposals ensure that operators are more able to fund the cost of wind-down without affecting the consumer significantly.

### **Reduction of financial crime**

7. By explicitly allocating capital against non-standard asset types, our proposals provide an incentive for operators to ensure that these assets are legitimate, and are not linked to criminal activity.
8. Operators are more likely to carry out due diligence and ensure that these assets are legitimate, as they will face a direct and immediate cost associated with holding that asset. This is likely to reduce the level of fraudulent investments within SIPPs.

### **Financial stability**

9. Our proposals contribute to financial stability through reducing the risk of operators exiting the market without sufficient resources to do so in an orderly fashion.

### **Principles of good regulation**

10. Under section 2 (3) of FSMA we are required to have regard to the following additional matters, which we refer to as ‘principles of good regulation’.

### **Efficiency and economy**

11. By updating capital requirements for operators to be more appropriate and better calibrated we believe that operators will, over time, be better placed to fund a more orderly wind-down.
12. More risk-based requirements will ultimately reduce the level of disorderly wind-downs of operators, which have absorbed a substantial level of FSA resources since operators entered our regulation.

### **Role of management**

13. Our proposals encourage operators and their managements to carry out proper due diligence on the assets they accept, require them to hold appropriate levels of capital against these assets and to accurately report their capital position in a timely fashion.



**Proportionality**

14. While the costs of these proposals will be substantial to some operators, we believe that the risks of a disorderly wind-down, as discussed in the CBA, are substantial, and that our proposals will reduce these risks substantially. Moreover, our risk-based proposals should lead to the risks of holding non-standard assets being more accurately reflected.
15. Operators may opt to increase charges to consumers to fund any additional costs of capital. However, we believe that this cost is far outweighed by the potential harm to consumers should the operator wind-down in a disorderly way.

**Innovation**

16. While our proposals might constrain some operators from investing in non-standard assets, they won't prevent them from doing so.

**International character**

17. We do not believe that our proposals will have any impact on the international character of financial services and markets or the competitive position of the UK.

**Competition**

18. Our proposals will raise the barrier to entry to this market, and may result in some operators choosing to exit the market. However, we believe that this is necessary as the risk currently posed to consumers by operators is significant.
19. While these proposals raise the barrier to market entry, we believe that this increases the quality and sustainability of participants within the market.

**Public awareness**

20. These proposals are not intended to promote public awareness.

**Compatibility with the proposed FCA statutory and regulatory objectives**

21. In discharging its general functions the FCA must, so far as is reasonably possible, act in a way which (a) is compatible with its strategic objective, and (b) advances one or more of its operational objectives (section 1B(1) FSMA, as proposed to be amended by the Financial Services Bill).

**Ensuring that the relevant markets function well**

22. We would expect our proposals to improve the functioning of the market by reducing the possibility of operators exiting the market in a disorderly fashion and the possibility of consumers being unable to realise and/or transfer their investments.

**Consumer protection objective**

23. Please refer to paragraphs 5 and 6 regarding consumer protection under the FSA objectives.

**Integrity objective**

24. We would expect our proposals to improve the general level of integrity in the market as operators will have to complete proper due diligence on the assets that they invest in, ensuring that these assets are legitimate, and are not linked to criminal activity.

**Competition objective and duty**

25. In designing this proposal we have had regard to competition. The impact of this proposal is likely to be a reduction in the number of operators (as it may prompt operator exit and increase barriers to entry). However, we expect that by ensuring operators have adequate capital, both the quality of operators competing in the market will improve and consumers will be protected in the event of an operator failing.
26. The consumer protection objective and integrity objectives are such that the barriers to entry are not undue barriers; moreover, the duty is to promote competition in the interests of consumers, not in the interests of firms.

## Annex 3

# List of questions

- Q1:** Do you agree that AUA is an appropriate measure of the risk of consumer harm posed by a SIPP operator?
- Q2:** Do you agree that non-standard asset types can significantly increase the costs a SIPP operator would incur in a wind-down scenario (including meeting overheads as this process is completed)?
- Q3:** Do you believe that it is necessary to raise the fixed minimum capital requirement and, if so, do you feel that £20k is appropriate?
- Q4:** Do you agree with the capital surcharge as a concept and/or feel that it is an appropriate component of the capital requirement? If not, how else would you ensure that SIPP operators hold sufficient capital to wind-down a SIPP book containing non-standard asset types?
- Q5:** Do you have any comments on this approach, or evidence to support an alternative approach?
- Q6:** Do you think that this list covers all of those asset types that would **not** incur additional costs should they need to be transferred to another provider? Do you think there are any other asset types that should be included in this list? And, if so, why?

- Q7:** Do the timescales set out above appropriately reflect the time needed to access capital in a wind-down scenario?
- Q8:** Would this rule change incur significant costs to your business? If so, please explain/quantify these costs.  
This question is only applicable to operators.
- Q9:** Do you agree that not all of the existing components of Liquid Capital are relevant to SIPP operators and that Own Funds is a more appropriate form of financial resources?
- Q10:** Do you believe that a transitional period of one year is appropriate?
- Q11:** In your opinion, would this proposal lead to a significant reduction in the level of competition within the SIPP sector?
- Q12:** Can you provide any evidence or data that might further inform our analysis of the likely impact of our proposal?

## Appendix 1

---

# Draft Handbook text

**PERSONAL PENSION SCHEME OPERATORS (CAPITAL REQUIREMENTS)  
INSTRUMENT 2013**

**Powers exercised**

- A. The Financial Services Authority 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 138 (General rule-making power);
  - (2) section 156 (General supplementary powers); and
  - (3) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on [*date*].

**Amendments to the Handbook**

- D. The Interim Prudential Sourcebook for Investment Businesses (IPRU(INV)) is amended in accordance with Annex A to this instrument.
- E. The Supervision manual (SUP) is amended in accordance with Annex B to this instrument.

**Citation**

- F. This instrument may be cited as the Personal Pension Scheme Operators (Capital Requirements) Instrument 2013.

By order of the Board  
[*date*]

## Annex A

**Amendments to the Interim Prudential sourcebook for Investment Businesses  
(IPRU(INV))**

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

**3 Chapter 3: Financial resources for Securities and Futures Firms which are not MiFID Investment Firms or which are Exempt BIPRU Commodities Firms**

...

**3-60 FIRMS TO WHICH RULES 3-61 TO 3-182 APPLY**

...

*Dematerialised instruction transmitters*

...

3-60(7) R (a) Subject to (b), Rules rules 3-61 to 3-182 apply to a firm whose permission includes establishing, operating or winding up a a personal pension scheme.

...

(b) Such a firm must also have and maintain at all times financial resources calculated in accordance with the applicable rules in Chapter 5 at least equal to the relevant requirement set out in that chapter.

...

**5 Chapter 5: Financial Resources**

...

**5.2.2 FINANCIAL RESOURCES**

*Own funds*

5.2.2(1) R (a) A firm must calculate its *own funds* in accordance with Table 5.2.2(1).

(b) In addition to the above, a firm whose permitted business includes establishing, operating or winding up a personal pension scheme must adhere to the requirements in relation to the realisability of own funds found in Note 1 of Table 5.2.3(3)(a).

...

- 5.2.3(2) R The *financial resources requirement* is an *own funds requirement* determined in accordance with paragraph (a) of rule 5.2.3(3) for a *firm* ~~if its permitted business does not include establishing, operating or winding up a personal pension scheme and which~~ in A or B below:

A     The firm's permitted business does not include establishing, operating or winding up a personal pension scheme; and

(i)     ...

(ii)    ...

B     The firm's permitted business includes establishing, operating and winding up a personal pension scheme.

*Own funds requirement*

- 5.2.3(3)(a) R The *own funds requirement* for a *firm* subject to rule 5.2.3(2) is:

(i)     ...

(ii)    for a firm whose permitted business includes establishing, operating or winding up a personal pension scheme, the higher of £20,000 and the resultant calculation from Table 5.2.3(3)(a);

~~(ii)~~    £5,000 for any other *firm*.

(iii)

...



The following table is new, and should be inserted between Table 5.2.2(1) and Table 5.2.3(3)(b). The text is not underlined.

Table 5.2.3(3)(a)	Own Funds Requirement for firms whose permitted business includes establishing operating or winding up a personal pension scheme.
Own Funds Requirement = Initial Capital Requirement + Capital Surcharge	
Calculation of Initial Capital Requirement	
Where	
ICR	means Initial Capital Requirement
AUA	means Assets Under Administration as defined below.
K1	is set at 20
$ICR = \sqrt{AUA} \times K1$	
Assets Under Administration	For the purposes of the calculation in this Table, this is defined as the sum of all the values of the <i>personal pension schemes</i> administered by the <i>firm</i> .
Calculation of Capital Surcharge	
Where	
CS	Is Capital Surcharge
P%	Is the percentage of <i>personal pension schemes</i> administered by the <i>firm</i> which contain one or more asset types which <b>do not</b> appear in the list of Standard Assets below.
K2	Is set at 5.
ICR	Is Initial Capital Requirement calculated as above.
$CS = P\% \times K2 \times ICR$	
Standard Assets	<p>Note: a Standard Asset must be capable of being accurately and fairly valued on an ongoing basis, readily realised whenever required (up to a maximum of 30 days) and for an amount that can be reconciled with the previous valuation.</p> <p>The List of Standard Assets is as follows:</p> <ul style="list-style-type: none"> <li>Cash</li> <li>Cash funds</li> <li>Corporate bonds</li> <li>Exchange Traded Commodities</li> <li>Government &amp; local authority bonds and other fixed interest stocks</li> <li>Investment Notes (structured products)</li> <li>Investment Trusts</li> <li>Managed pension funds</li> <li>Open-Ended Investment Companies</li> </ul>

Permanent Interest Bearing Shares (PIBs)

Real Estate Investment Trusts (REITs)

Shares listed on:

- the Alternative Investment Market;
- the London Stock Exchange; and
- *recognised overseas investment exchanges*

Unit Trusts

**NOTE 1:** In addition to complying with the provisions of Table 5.2.2(1), in accordance with *rule 5.2.2(1)(b)*, a *firm* calculating its *own funds* requirement under *rule 5.2.3(3)(a)(ii)* must hold its *own funds* in financial resources as follows:

ICR	realisable within 12 months
CS	realisable within 30 days

Amend the following as shown.

### 13 Chapter 13: Financial Resource Requirements for Personal Investment Firms

...

13.9.1A G Table 13B is a summary of the financial resources test for a *Category B firm*.

Table 13B This table forms part of *rule 13.9.1*

SUMMARY OF FINANCIAL RESOURCES FOR <i>CATEGORY B FIRMS</i>				
Type of <i>firm</i>	Financial Resources Test 1 <i>Own funds</i> Test	Financial Resources Test 1A Adjusted <i>Net current assets</i> Test	Financial Resources Test 2 Expenditure-based Test	<i>Rule/section</i> References
...				
All <i>Category B firms</i> that do not hold <i>client money</i> or assets, but are <i>permitted</i> to establish, operate or wind up a <i>personal</i>	£10,000	Adjusted <i>net current assets</i> of £1	Adjusted capital equal to the highest of 6/52 of relevant annual expenditure, £400 per adviser, £10,000 and any other	13.10 13.11 13.12.1 13.12.2 to 13.12.5A

<i>pension scheme. [See Note 1]</i>			expenditure-based requirement set out in 13.12.1 applicable to the <i>firm</i> .	
All Category B firms that hold <i>client money</i> or assets and are <i>permitted to establish, operate or wind up a personal pension scheme. [See Note 1]</i>	£10,000	Adjusted <i>net current assets</i> of £1	Adjusted capital equal to the highest of 13/52 of relevant annual expenditure, £400 per adviser, and £10,000	13.10 13.11 13.12.1G 13.12.2 to 13.12.5A
<b>Note 1</b>	<b><u>A firm permitted to establish, operate or wind up a personal pension scheme must also have and maintain at all times financial resources calculated in accordance with the applicable rules in Chapter 5 at least equal to the relevant requirement set out in that chapter.</u></b>			

...

- 13.12.1G R A category B firm whose permission includes *establishing, operating or winding up a personal pension scheme* must have financial resources calculated in accordance with (1) or (2) as well as having and maintaining financial resources in accordance with the applicable rules in Chapter 5 at least equal to the relevant requirement set out in that chapter:

...

## Annex B

## Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

## 16.12 Integrated Regulatory Reporting

...

- 16.12.11 R The applicable *data items* referred to in SUP 16.12.4R are set out according to *firm* type in the table below:

Description of data item	Firms prudential category and applicable data items (note 1)							
	BIPRU firms (note 17)			Firms other than BIPRU firms				
	730K	125K and UCITS investment firms	50K	IPRU (INV) Chapter 3	IPRU (INV) Chapter 5	IPRU (INV) Chapter 9	IPRU (INV) Chapter 13	UPRU
...								
Capital adequacy	FSA003 (note 2)	FSA003 (note 2)	FSA003 (note 2)	FSA033 (note 18)	FSA034 or FSA035 or <u>FSA068</u> (note 14 )	FSA031	FSA032 or sections D1 and D2 RMAR (note 15 )	FSA036
...								
...								
Note 14	FSA034 must be completed by a <i>firm</i> not subject to the exemption in IPRU(INV) 5.2.3(2)R. FSA035 must be completed by a <i>firm</i> subject to the exemption in IPRU(INV) 5.2.3(2)R, <u>unless it calculates its own funds requirement in accordance with IPRU(INV) rule 5.2.3(3)(a)(ii), in which case FSA068 must be completed.</u>							
...								

...

- 16.12.12 R The applicable reporting frequencies for *data items* referred to in SUP 16.12.4R are set out in the table below according to *firm* type. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise.

<i>Data item</i>	<i>BIPRU 730K firm</i>	<i>BIPRU 125K firm and UCITS investment firm</i>	<i>BIPRU 50K firm</i>	<i>UK consolidation group or defined liquidity group</i>	<i>Firm other than BIPRU firms</i>
...					
FSA058	...				
<u>FSA068</u>					<u>Quarterly</u>
Section A RMAR	...				
...					

- 16.12.13 R The applicable due dates for submission referred to in SUP 16.12.4R are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period set out in SUP 16.12.12R, unless indicated otherwise.

<i>Data item</i>	Daily	Weekly	Monthly	Quarterly	Half yearly	Annual
...						
FSA058	...					
<u>FSA068</u>				<u>20 business days</u>		
Section A RMAR	...					
...						

...

- 16.12.15 R The applicable *data items* referred to in SUP 16.12.4R according to type of *firm* are set out in the table below:

Description of data item	<i>Firms prudential category and applicable data items (note 1)</i>							
	<i>BIPRU</i>			<i>Firms other than BIPRU firms</i>				
	730K	125K and UCITS investment firms	50K	IPRU (INV) Chapter 3	IPRU (INV) Chapter 5	IPRU (INV) Chapter 9	IPRU (INV) Chapter 13	UPRU
...								
Capital adequacy	FSA003 (note 2)	FSA003 (note 2)	FSA003 (note 2)	FSA033	FSA034 or FSA035 or FSA068 (note 14 )	FSA031	Section D1 and D2 RMAR or FSA032 (note 15 )	FSA036
...								
...								
Note 14	FSA034 must be completed by a <i>firm</i> not subject to the exemption in <i>IPRU(INV)</i> 5.2.3(2)R. FSA035 must be completed by a <i>firm</i> subject to the exemption in <i>IPRU(INV)</i> 5.2.3(2)R, <u>unless it calculates its own funds requirement in accordance with <i>IPRU(INV)</i> rule 5.2.3(3)(a)(ii), in which case FSA068 must be completed.</u>							
...								

- 16.12.16 R The applicable reporting frequencies for *data items* referred to in SUP 16.12.15R are set out in the table below according to *firm* type. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise.

<i>Data item</i>	<i>Firms prudential category</i>				
	<i>BIPRU 730K firm</i>	<i>BIPRU 125K firm and UCITS investment firm</i>	<i>BIPRU 50K firm</i>	<i>UK consolidation group or defined liquidity group</i>	<i>Firm other than BIPRU firms</i>
...					
FSA058	...				
<u>FSA068</u>					<u>Quarterly</u>
Section A RMAR	...				

...					
-----	--	--	--	--	--

- 16.12.17 R The applicable due dates for submission referred to in *SUP* 16.12.4R are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period set out in *SUP* 16.12.16R, unless indicated otherwise.

<i>Data item</i>	Daily	Weekly	Monthly	Quarterly	Half yearly	Annual
...						
FSA058	...					
<u>FSA068</u>				<u>20 business days</u>		
Section A RMAR	...					
...						

...

- 16.12.19A R The applicable *data items* referred to in *SUP* 16.12.4R are set out according to type of *firm* in the table below:

Description of <i>data item</i>	<i>Firms</i> prudential category and applicable <i>data item</i> (note 1)				
	<i>IPRU(INV)</i> Chapter 3	<i>IPRU(INV)</i> Chapter 5	<i>IPRU(INV)</i> Chapter 9	<i>IPRU(INV)</i> Chapter 13	<i>UPRU</i>
...					
Capital adequacy	FSA033	FSA034 or FSA035 or <u>FSA068</u> (note 4)	FSA031	FSA032 (note 5) or section D1 and D2 RMAR (note 7)	FSA036
...					
...					
Note 4	FSA034 must be completed by a <i>firm</i> not subject to the exemption in <i>IPRU(INV)</i> 5.2.3(2)R. FSA035 must be completed by a <i>firm</i> subject to the exemption in <i>IPRU(INV)</i> 5.2.3(2)R, <u>unless it calculates its own funds requirement in accordance with <i>IPRU(INV)</i> rule 5.2.3(3)(a)(ii), in which case FSA068 must be completed.</u>				
...					

...

- 16.12.20 R The applicable reporting frequencies for submission of *data items* referred to in SUP 16.12.4R are set out in the table. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise.

...	
FSA039	...
<u>FSA068</u>	<u>Quarterly</u>
Section A RMAR	...
...	

- 16.12.21 R The applicable due dates for submission referred to in SUP 16.12.4R are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period set out in SUP 16.12.20R.

<i>Data item</i>	Quarterly	Half yearly	Annual
...			
FSA040	...		
<u>FSA068</u>	<u>20 business days</u>		
Section A RMAR	...		
...			

...



16.12.25A R The applicable *data items* referred to in SUP 16.12.4R are set out according to type of *firm* in the table below:

Description of <i>data item</i>	<i>Firms prudential category and applicable data items (note 1)</i>							
	<i>BIPRU</i>			<i>Firms other than BIPRU firms</i>				
	730K	125K	50K	<i>IPRU (INV)</i> Chapter 3	<i>IPRU (INV)</i> Chapter 5	<i>IPRU (INV)</i> Chapter 9	<i>IPRU (INV)</i> Chapter 13	<i>UPRU</i>
...								
Capital adequacy	FSA003 (note 2)	FSA003 (note 2)	FSA003 (note 2)	FSA033	FSA034 or FSA035 or FSA068 (note 14 )	FSA031	Section D1 and D2 RMAR (note 17) or FSA032 (note 15 )	FSA036
...								
...								
Note 14	FSA034 must be completed by a <i>firm</i> not subject to the exemption in <i>IPRU(INV)</i> 5.2.3(2)R. FSA035 must be completed by a <i>firm</i> subject to the exemption in <i>IPRU(INV)</i> 5.2.3(2)R, <u>unless it calculates its own funds requirement in accordance with <i>IPRU(INV)</i> rule 5.2.3(3)(a)(ii), in which case FSA068 must be completed.</u>							
...								

16.12.26 R The applicable reporting frequencies for *data items* referred to in SUP 16.12.25AR are set out according to the type of *firm* in the table below. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise.

<i>Data item</i>	<i>BIPRU 730K firm</i>	<i>BIPRU 125K firm</i>	<i>BIPRU 50K firm</i>	<i>UK consolidation group or defined liquidity group</i>	<i>Firms other than BIPRU firms</i>
...					
FSA058	...				
<u>FSA068</u>					<u>Quarterly</u>

Section A RMAR	...				
...					

- 16.12.27 R The applicable due dates for submission referred to in *SUP* 16.12.4R are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period set out in *SUP* 16.12.26R, unless indicated otherwise.

<i>Data item</i>	Daily	Weekly	Monthly	Quarterly	Half yearly	Annual
...						
FSA058	...					
<u>FSA068</u>				<u>20 business days</u>		
Section A RMAR	...					
...						

In SUP 16 Annex 24R (Data items for SUP 16.12) insert the following new data item at the end of the annex. The text is not underlined.

...

**FSA068: Capital adequacy for firms with the permission of establishing, operating or winding up a personal pension scheme**

<b>Regulatory Capital</b>		<b>A</b>	<b>B</b>
<i>Tier 1</i>			
1	Paid up share capital (excluding preference shares)		
2	Eligible LLP member's capital		
3	Share premium account		
4	Reserves		
5	Non-cumulative preference shares		
6	Less: Investment in own shares		
7	Intangible assets		
8	Material current year losses		
9	Material holdings in credit and financial institutions		
10	Excess LLP member's drawings		
11	Total deductions		
12	Tier 1 Capital		
<i>Tier 2</i>			
13	Revaluation reserves		
14	Fixed term cumulative preference share capital		
15	Long term subordinated loans		
16	Other cumulative preference share capital and debt capital		
17	Qualifying arrangements		
18	Tier 2 Capital		
19	Own Funds		
<b>Regulatory capital test</b>			
20	Own funds		
21	Capital Requirement		
22	Surplus / Deficit of own funds		
<b>Capital requirement</b>			
23	Assets under Administration		
24	Number of plans		
25	Percentage of plans containing non-standard asset types		
26	Initial Capital Requirement		
27	Capital Surcharge		
28	Total Capital Requirement		

In SUP 16 Annex 25G (Guidance notes for data items in SUP 16 Annex 24R) insert the following new notes after FSA058. The text is not underlined.

## **FSA068 - Capital adequacy for firms with the permission of establishing, operating or winding up a personal pension scheme**

### **Introduction**

The purpose of reporting form FSA068 is to provide a framework for the collection of information required by the FCA as a basis for its supervision activities. It also has the purpose of helping the FCA monitor *firms'* capital adequacy and financial soundness. This data item is intended to reflect the underlying prudential requirements contained in *IPRU(INV)* 5.2.3(3)R(a)(ii) and allows monitoring against the requirements set out there.

### **Defined Terms**

Terms referred to in these notes where defined by the Companies Act 2006, or the provisions of the *firm's* accounting framework (usually UK GAAP or IFRS), shall bear that meaning for the purposes of this guidance and completing FSA068. The descriptions indicated in these notes are designed simply to repeat, summarise or amplify the relevant statutory or other definitions and terminology without departing from their full meaning or effect.

- The *data item* should comply with the principles and requirements of the *firm's* accounting framework, which will generally be UK GAAP (including relevant provisions of the Companies Act 2006 as appropriate) or IFRS.
- The *data item* should be unconsolidated.
- For a sole trader, only the assets and liabilities of the business should be included.
- The *data item* should be in agreement with the underlying accounting records.
- Accounting policies should be consistent with those adopted in the statutory annual accounts and should be consistently applied.
- Information required should be prepared in accordance with generally accepted accounting standards.
- The *data item* should not give a misleading impression of the *firm*. A *data item* is likely to give a misleading impression if a *firm* wrongly omits or includes a material item or presents a material item in the wrong way.

### **Currency**

You should report in the currency of your annual audited accounts i.e. in either Sterling, Euro, US dollars, Canadian dollars, Swedish Kroner, Swiss Francs or Yen. Figures should be reported in 000s.

### **Data Elements**

These are referred to by row first, then by column, so data element 2B will be the element numbered 2 in column B.

Description	Data Element	Guidance
<b>Regulatory Capital</b>		
	1 to 18	The figures entered in this section should be consistent with those entered in FSA029 submitted for the same reporting period.
<b>Regulatory Capital Test</b>		
Own funds	20 B	The amount of own funds in accordance with Table 5.2.2(1) in <i>IPRU(INV)</i> . This is the figure entered at 19B
Capital Requirement	21 B	This is the sum of 26B and 27B.

Surplus / deficit of own funds	22 B	This is 20B less 21B
<b>Capital Requirement</b>		
Assets under Administration	23 B	The sum of all values of the <i>personal pension schemes</i> administered by the <i>firm</i> , in accordance with Table 5.2.3(3)(a) in <i>IPRU(INV)</i> .
Number of Plans	24 B	The number of pension plans that the <i>firm</i> operates.
Percentage of plans containing non-standard asset types	25 B	The percentage of plans that the <i>firms</i> operate that contains non-standard assets, in accordance with Table 5.2.3(3)(a) in <i>IPRU(INV)</i> .
Initial Capital Requirement	26 B	A <i>firm</i> must calculate its Initial Capital Requirement in accordance with Table 5.2.3(3)(a) in <i>IPRU(INV)</i> .
Capital Surcharge	27 B	A <i>firm</i> must calculate its Capital Surcharge in accordance with Table 5.2.3(3)(a) in <i>IPRU(INV)</i> .
Total Capital Requirement	28 B	This is the sum of 26B and 27B, in accordance with Table 5.2.3(3)(a) in <i>IPRU(INV)</i> .



## Appendix 2

# Designation of Handbook Provisions

1. FSA Handbook provisions will be ‘designated’ to create a FCA Handbook and a PRA Handbook on the date that the regulators exercise their legal powers to do so. Please visit our website<sup>1</sup> for further details about this process.
2. We plan to designate the Handbook Provisions which we are proposing to create and/or amend within this Consultation Paper as follows. These designations are draft and are subject to change prior to the new regulators exercising their legal powers.

### IPRU(INV) Chapter 3

Handbook Provision	Designation
IPRU(INV) 3-60(7)	FCA

### IPRU(INV) Chapter 5

Handbook Provision	Designation
IPRU(INV) 5.2.2(1)	FCA
IPRU(INV) 5.2.3(2)	FCA
IPRU(INV) 5.2.3(3)(a)	FCA

### IPRU(INV) Chapter 13

Handbook Provision	Designation
IPRU(INV) 13.9.1.A	FCA
IPRU(INV) 13.12.1G	FCA

<sup>1</sup> One-minute guide <http://media.fsahandbook.info/latestNews/One-minute%20guide.pdf>

## A new capital regime for Self-Invested Personal Pension (SIPP) operators

**SUP**

Handbook Provision	Designation
SUP 16.12.11	FCA and PRA
SUP 16.12.12	FCA and PRA
SUP 16.12.13	FCA and PRA
SUP 16.12.15	FCA
SUP 16.12.16	FCA
SUP 16.12.17	FCA
SUP 16.12.19A	FCA
SUP 16.12.20	FCA
SUP 16.12.21	FCA
SUP 16.12.25A	FCA
SUP 16.12.26	FCA
SUP 16.12.27	FCA
SUP 16 Annex 24	FCA and PRA
SUP 16 Annex 25	FCA and PRA



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