A new UK prudential regime for MiFID investment firms

Consultation Paper
CP20/24***

December 2020
How to respond

We are asking for comments on this Consultation Paper (CP) by 5 February 2021.

You can send them to us using the form on our website at: www.fca.org.uk/cp20-24-response-form

Or in writing to:
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London E20 1JN

Telephone:
020 7066 1000

Email:
cp20-24@fca.org.uk

Contents

1 Summary 3
2 Categorisation of investment firms 9
3 Prudential consolidation and the group capital test 13
4 Own funds – definition and composition of capital 28
5 Own funds requirements 37
6 Own funds requirements – transitional provisions 53
7 Concentration risk monitoring and K-CON 62
8 Reporting requirements 71
9 Our approach to the FS Bill and compatibility with our duties and principles 74

Annex 1
Questions in this paper 86

Annex 2
Cost benefit analysis 89

Annex 3
Other legal duties 102

Annex 4
Abbreviations used in this paper 103

Appendix 1
Draft Handbook text

How to navigate this document

returns you to the contents list
[i] takes you to helpful abbreviations
 takes you to the previous page
 takes you to the next page
 prints document
 email and share document

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1 Summary

Why we are consulting

1.1 We are seeking views on the first tranche of our proposed rules to introduce the UK Investment Firm Prudential Regime (IFPR), a new prudential regime for UK firms authorised under the Markets in Financial Instruments Directive (MiFID). This is the first in a programme of Consultation Papers (CPs) and Policy Statements (PSs) that we will issue to introduce the regime, subject to progress and amendments to the Financial Services Bill (FS Bill), on 1 January 2022.

1.2 The new regime will streamline and simplify the prudential requirements for solo-regulated investment firms in the UK (FCA investment firms). In line with FCA objectives and our Mission, it will refocus prudential requirements and expectations away from risks the firm faces, to also consider and look to mitigate the potential for harm the firm can pose to consumers and markets.

1.3 The new regime represents a major change for FCA investment firms. It is critical that firms adequately prepare for the regime. We are keen to receive feedback from stakeholders through this and later consultations. Your feedback will allow us to draft final rules that achieve our and Parliamentary objectives for the regime, but that are also workable for FCA investment firms.

Who this applies to

1.4 The draft rules will apply to:

- any MiFID investment firm authorised and regulated by the FCA that is currently subject to any part of the Capital Requirements Directive (CRD) and the Capital Requirements Regulation (CRR) including:
  - investment firms that are currently subject to BIPRU and GENPRU
  - ‘full scope’, ‘limited activity’ and ‘limited licence’ investment firms currently subject to IFPRU and CRR
  - ‘local’ investment firms
  - matched principal dealers
  - specialist commodities derivatives investment firms that benefit from the current exemptions on capital requirements and large exposures including:
    - oil market participants (OMPs)
    - energy market participants (EMPs)
  - ‘exempt-CAD’ firms
  - investment firms that would be exempt from MiFID under Article 3 but have ‘opted-in’ to MiFID

- regulated and unregulated holding companies of groups that contain an investment firm authorised and regulated by the FCA and that is currently authorised under MiFID and/or a Collective Portfolio Management Investment (CPMI)
1.5 We will explain how our draft rules will apply to CPMI firms in a subsequent consultation, but these firms may wish to provide feedback on our proposals in this Consultation Paper (CP) to help inform our future work in this area.

1.6 Our proposals on capital requirements for the activities of trading firms may also be of broader interest to exchanges, central counterparties and clearing members. We would welcome feedback from these entities.

1.7 Prudential Regulation Authority (PRA) designated investment firms may also be impacted and so we also welcome comments on our proposals from these firms.

The wider context of this consultation

1.8 This CP follows the Discussion Paper ‘DP20/2: Prudential Requirements for MiFID Investment Firms’ we issued in June 2020. That set out our initial views on introducing the IFPR, as well as technical details on the European Union’s (EU) Investment Firm Directive (IFD) and the Investment Firm Regulation (IFR). It requested feedback to support our development of a UK version of the EU’s proposed regime. We have taken this feedback into account when developing this, and subsequent consultations.

1.9 The EU IFD and IFR came into force on 26 December 2019 and will enter into effect on 26 June 2021. When the UK was a member of the EU, we strongly advocated introducing such a regime, and we were heavily involved in policy discussions on creating the regime that took place through the EU and European Banking Authority (EBA) papers and consultations.

1.10 We support the aims of the IFD/IFR. We propose that the IFPR will achieve the same overall outcomes. We believe that this is consistent with our statutory objectives and our Mission. However, as we are introducing the regime after the UK has exited the EU, we believe it is right that we also consider what amendments are appropriate to account for the specifics of the UK market, and our duties to have regard to certain factors, including those set out in the Government’s recently introduced FS Bill. We explain in more detail how we approach the new duties in the FS Bill in Chapter 9 of this CP.

1.11 This CP is the first in a series of consultations on the IFPR. We plan to publish two further consultations in 2021. After each one, we will produce a PS and near-final rules.

1.12 As set out in the consultation map (see Table 1), our approach is to stagger the topics on which we consult. We are consulting earlier on those topics that we think investment firms require the most time to prepare for. This approach has the benefit of allowing firms to absorb and respond to our proposals in a more manageable way.
Table 1: Our consultation map*

<table>
<thead>
<tr>
<th>CP1 – December 2020</th>
<th>CP2 – start Q2 2021</th>
<th>CP3 – start Q3 2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>MIFIDPRU1: Application (aspects of)</td>
<td>MIFIDPRU1: Application (remainder)</td>
<td>MIFIDPRU8 – Disclosure &amp; ESG</td>
</tr>
<tr>
<td>MIFIDPRU2: Prudential consolidation and the group capital test</td>
<td>MIFIDPRU4 – Own funds requirements (remainder)</td>
<td>OTHER – Consequential amendments to Handbook and CRR technical standards</td>
</tr>
<tr>
<td>MIFIDPRU3 – Own funds resources</td>
<td>MIFIDPRU6 – Liquidity</td>
<td>OTHER – Approach to existing BRRD and FICOD provisions</td>
</tr>
<tr>
<td>MIFIDPRU4 – Own funds requirements (aspects of)</td>
<td>MIFIDPRU7 – Risk Mngt &amp; Governance, ICARA and SREP</td>
<td>OTHER – Final overall application provisions</td>
</tr>
<tr>
<td>MIFIDPRU5 – Concentration risk</td>
<td>MIFIDPRU9 – Regulatory reporting (remainder)</td>
<td></td>
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<tr>
<td>MIFIDPRU9 – Regulatory reporting (aspects of)</td>
<td>OTHER – Remuneration requirements</td>
<td></td>
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<td></td>
<td>OTHER – Interaction between MIFIDPRU and other prudential sourcebooks</td>
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<td></td>
<td>OTHER – Permissions and application forms</td>
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</tbody>
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* Please note that this is a provisional plan and subject to change based on feedback received to this CP, progress of the FS Bill, and other factors.

1.13 By the time we publish our second PS next summer, we intend that stakeholders will have seen near-final rules setting out the key points of the new regime. We intend for the third consultation and the subsequent PS to address final points of the regime, consequential amendments to the Handbook, and any gaps or issues identified through our consultation process.

1.14 A consequence of this approach is that in this and the next consultation, our cost-benefit analysis (CBA) and our approach to our new accountability measures as set out in the FS Bill will only cover the draft rules we are publishing in that consultation. We intend in the third consultation to present our view on the impact of our rules and the basis on which we have drafted them over all three consultations.

Equality and diversity considerations

1.15 We have considered the equality and diversity issues that may arise from the proposals in this CP.

1.16 Overall, we do not consider that the proposals have a differential impact on any group sharing one of the characteristics protected under the Equality Act 2010. But we will continue to consider the equality and diversity implications of the proposals during the consultation period, and will revisit them when making the final rules.

1.17 In the meantime, we welcome your feedback to this CP.
What we want to change

1.18 There are approximately 3,200 FCA investment firms in the UK. Many people will have products with investment firms, ranging from workplace or personal pensions and investment ISAs to those who use a platform to trade stocks themselves or who use spreadbetters. This means it is important that FCA investment firms minimise the harm they could cause for consumers. This could be directly, such as a portfolio manager incorrectly carrying out its mandate, or a platform being unavailable for customers to manage their stocks. Or it could be indirectly, such as a proprietary trader who makes an error with a trade and affects market prices or liquidity.

1.19 The current prudential regime for FCA investment firms is based on requirements designed for globally active systemically important banks. The main aim of this regime is to protect depositors by ensuring that it is difficult for a bank to fail. Investment firms do not have depositors that need to be protected. This means that the current requirements are not designed to address the potential harm posed by FCA investment firms, to their clients and the markets in which they operate.

1.20 By contrast, the IFPR considers the harm an FCA investment firm can cause to others based on the activities that the firm carries out. It also considers the amount of capital and liquid assets the FCA investment firm should hold so that if it does have to wind down, it can do so in an orderly manner.

1.21 Introducing the IFPR means that there will be a single prudential regime for all FCA investment firms, simplifying the current approach. It should reduce barriers to entry and allow for better competition between investment firms. Some FCA investment firms will have meaningful capital and liquidity requirements for the first time, commensurate with the potential harm they can cause.

Specific changes to the existing prudential regime for FCA investment firms

Categorisation of investment firms

1.22 We are proposing that all the current definitions of FCA investment firms, such as BIPRU, IFPRU, exempt-CAD, will cease to exist. There will instead be two broad categories of FCA investment firm. Firms will either be a ‘small and non-interconnected’ (SNI) investment firm, or they will not. The prudential requirements in the IFPR are designed to scale with the size and complexity of the firm.

1.23 More detail is provided in Chapter 2 of this CP.

Prudential consolidation

1.24 We are proposing that prudential consolidation will apply to investment firm groups, except if the FCA has granted permission to a group to use the alternative of the group capital test. How requirements should be calculated on a consolidated basis will differ from the current regime.

1.25 We are proposing to introduce a group capital test for FCA investment firm groups that do not wish to be subject to prudential consolidation and meet certain specified conditions. This is to ensure that parent entities hold appropriate amounts of capital to support their investments in subsidiaries.

1.26 More detail is provided in Chapter 3 of this CP.
**Own funds**

1.27 We are proposing that the own funds of FCA investment firms should be made up solely of common equity tier 1 capital, additional tier 1 capital and tier 2 capital. We believe that using this higher quality of capital for all FCA investment firms will lead to them being more resilient and having an increased capacity to absorb losses.

1.28 More detail is provided in Chapter 4 of this CP.

**Own funds requirements**

1.29 We are proposing to introduce a new permanent minimum requirement as one of the floors below which its own funds must not fall. This will be based on the activities that an FCA investment firm undertakes. We are also proposing to increase the initial capital that required for a firm to become authorised as an FCA investment firm. This will be to the same level and quality of capital as for its ongoing permanent minimum requirement once authorised.

1.30 We are proposing to introduce a new approach to calculating capital requirements – 'K-factors'. This is a capital calculation based on the activities that an FCA investment firm undertakes. In this CP, we are providing more information on the K-factors that will only apply to FCA investment firms with permission to deal in investments as principal. We are setting out our rules for these K-factors first as they are generally the more complex to calculate.

1.31 More detail is provided in Chapter 5 of this CP.

1.32 Chapter 6 sets out the transitional provisions we are proposing to put in place to allow FCA investment firms time to move towards their new own funds requirements.

**Concentration risk monitoring and related own funds requirements**

1.33 We are proposing new monitoring requirements for general concentration risk that will apply to all FCA investment firms. This includes the entities with which FCA investment firms place their client assets and their own cash. Non-SNI firms will also be required to report on this general concentration risk.

1.34 For FCA investment firms that trade in their own name we are introducing K-CON. This is an additional K-factor for assessing concentration risk that could lead to an increased own funds requirement.

1.35 We also set out rules on maximum levels of concentration risk permitted for trading book exposures.

1.36 See Chapter 7 of this CP for more detail.

**Reporting requirements**

1.37 Through the IFPR, FCA investment firms will be required to assess and hold financial resources against the potential for harm that they present to markets and consumers. We will need different information from FCA investment firms to support this, and we are proposing an appropriate and proportionate data collection to capture this information. We are also intending to remove reporting requirements that are no longer necessary or appropriate.

1.38 The reporting on remuneration requirements will be included in our second consultation, along with our proposals for the new remuneration regime.
See Chapter 8 of this CP for more detail.

**Currency**

Respondents to DP20/2 asked us to provide clarity on the functional currency of various requirements now covered by this CP. For all the changes proposed above which have fixed amounts, we use the absolute amounts used in the IFR but in Sterling.

**Outcome we are seeking**

The three consultations we plan to publish will each address different topics in the proposed regime. Across the consultations, the outcomes we are seeking are as follows:

- The prudential regime for FCA investment firms is more aligned to the way that investment firms run their business. The regime will take account of the different business models of FCA investment firms, and better protect consumers and markets from the harm these may pose.
- All FCA investment firms are subject to meaningful and consistent prudential requirements, not just those subject to the current CRR regime. This will help reduce the potential harm to consumers and markets, and ensure a more level playing field between FCA investment firms.
- FCA investment firms spend less time on complex capital requirement calculations that do little to help them to manage risk. This will free up management time to focus on running the business and managing and mitigating any harm and risk. The FCA will also be able to focus on how a firm is managing itself.
- The relevant prudential rules for FCA investment firms are understandable and accessible, with most rules brought into a new single prudential sourcebook (MIFIDPRU).

**Next steps**

We want your feedback on our proposed rules and other issues discussed in this CP. Please send your answers to the questions in this CP by Friday 5 February 2021 using one of the methods in the ‘How to respond’ section on page 2. We are particularly interested in any suggestions for making the IFPR work better for different business models.

We plan to publish two further consultations in 2021, as set out in Table 1 above. Following each consultation, we will consider your feedback, and publish a PS and near final rules. The final rules will be published once the FS Bill has passed through Parliament and all the consultations are complete.
2 Categorisation of investment firms

2.1 In this chapter, we set out the criteria that we are proposing an FCA investment firm needs to meet to be treated as an SNI. FCA investment firms that meet these criteria will be able to use additional proportionality in the IFPR. We also cover procedures for transitioning between the SNI and non-SNI categories.

2.2 The proposed rules are in MiFIDPRU 1.

Small and non-interconnected FCA investment firms (SNIs)

2.3 The IFPR already contains some proportionality as the prudential requirements scale with the size and complexity of the firm. However, in line with our regulatory principles, we also believe that the smallest and least complex FCA investment firms should be provided additional proportionality. This additional proportionality is not just related to the calculation of prudential requirements, but also applies to other areas of the IFPR such as disclosure and remuneration. Further details on the differences in requirements will be included in the relevant chapters of this and subsequent consultations.

2.4 To qualify as an SNI, an FCA investment firm:
   - must not carry out activities that have the greatest potential to cause harm to its customers or to the markets in which it operates, and
   - must not carry out any activities on such a scale that would cause significant harm to customers or to the markets in which it operates

Activities with the potential to cause particular harm to traded markets

2.5 We consider that an FCA investment firm that has permission to deal on its own account, whether for itself or on behalf of clients, has the potential to cause particular harm to traded markets. We proposed that these firms cannot be considered an SNI. We believe that, for this activity, using permissions is the simplest way of making the distinction.

2.6 This will include FCA investment firms that are currently able to take advantage of the matched principal exemption and organised trading facility (OTFs) that are not restricted from conducting the activities set out in MAR 5A.3.5R (dealing on own account and matched principal trading).

2.7 Operational failure by these FCA investment firms can cause harm to markets. Such failures can also affect the firm’s own balance sheet and, potentially, its viability, if miscalculations are large enough.

Scale of activities

2.8 The larger the FCA investment firm, the greater the potential harm that any operational failure will have and the larger the number of customers that could be adversely affected.
2.9 To take account of the scale of activities the FCA investment firm carries out, we are proposing quantitative thresholds. This will prevent those FCA investment firms with potential to cause greater harm from being able to take advantage of the less onerous requirements. We are also proposing balance sheet and revenue thresholds to account for firms that do not exceed the other thresholds but, due to the overall combination of activities, have the potential to cause consumer detriment if they had to wind down.

2.10 Table 2 shows the quantitative thresholds that we are proposing an FCA investment firm must be below to be considered an SNI.

**Table 2: Quantitative criteria for being an SNI**

<table>
<thead>
<tr>
<th>Measure*</th>
<th>Threshold</th>
</tr>
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<tbody>
<tr>
<td>Assets under management</td>
<td>&lt; £1.2 billion</td>
</tr>
<tr>
<td>Client orders handled – cash trades</td>
<td>&lt; £100 million per day</td>
</tr>
<tr>
<td>Client orders handled – derivative trades</td>
<td>&lt; £1 billion per day</td>
</tr>
<tr>
<td>Assets safeguarded and administered</td>
<td>zero</td>
</tr>
<tr>
<td>Client money held</td>
<td>zero</td>
</tr>
<tr>
<td>On- and off-balance sheet total</td>
<td>&lt; £100 million</td>
</tr>
<tr>
<td>Total annual gross revenue from investment services and activities</td>
<td>&lt; £30 million</td>
</tr>
</tbody>
</table>

* These thresholds, with the exception of the on- and off-balance sheet total, only relate to the MiFID activities the firm undertakes. A firm may manage assets without undertaking portfolio management or ongoing investment advice under MiFID, or hold client money or client assets in relation to non-MiFID activities. These should be excluded from the threshold measurement.

2.11 These thresholds are in addition to the requirement that the FCA investment firm must not be permitted to deal on own account and (with the exception of the client money and client assets thresholds) should be assessed on a group basis, taking account of the MiFID activities of the following types of firm:

- FCA investment firms
- designated investment firms
- collective portfolio management investment firms
- third-country investment firms, but only for the investment services and activities they carry on in the UK

Gross revenues that are generated within the group may be excluded where this would lead to double counting.
2.12 **Figure 1** shows how an individual FCA investment firm can determine if it is an SNI.

**Figure 1: SNI or non-SNI investment firm**

Investment firm authorised under MiFID and subject to IFPR requirements

- Does the FCA investment firm have permission to undertake MiFID activities (3) and/or (6)?
  - Yes
  - No

- Does the FCA investment firm hold client money and/or safeguard client assets in the course of its MiFID business?
  - Yes
  - No

- Does the FCA investment firm have assets under management (AUM) ≥ £1.2b?\(^1\)
  - Yes
  - No

- Does the FCA investment firm handle client orders ≥ £100m/day (cash trades), or ≥ £1b/day (derivatives)?\(^1\)
  - Yes
  - No

- Is the FCA investment firm’s on- and off-balance sheet total ≥ £100m?\(^1\)
  - Yes
  - No

- Is the FCA investment firm’s total annual gross revenue from its investment services and activities ≥ £30m?\(^1\)
  - Yes
  - No

**Firm is an SNI\(^2\)**

\(^1\) These metrics are assessed on a combined/group basis.
\(^2\) Small and non-interconnected FCA investment firm.

Our proposal for transition from non-SNI to SNI FCA investment firm

2.13 A non-SNI FCA investment firm can become an SNI FCA investment firm if it:

- meets all the requirements for being an SNI FCA investment firm, and
- continues to meet all the requirements for being an SNI FCA investment firm for a continuous 6-month period, and
- has notified us that it has met all the conditions for being an SNI FCA investment firm for a continuous 6-month period

The more proportionate remuneration, governance and risk management requirements will apply once all the above criteria have been met.
Our proposal for transition from SNI to non-SNI FCA investment firm

2.14 A firm will no longer be an SNI FCA investment firm 3 months after the date on which the relevant threshold was first exceeded if it no longer meets the:

- assets under management threshold, or
- either or both of the client orders handled threshold, or
- the on- and off-balance sheet threshold, or
- the total annual gross revenue threshold

2.15 An SNI FCA investment firm that no longer meets any of the other criteria for being an SNI FCA investment firm will immediately become a non-SNI FCA investment firm. An FCA investment firm must notify us immediately if it no longer meets any of the SNI thresholds.

2.16 If an SNI FCA investment firm no longer meets the SNI thresholds (ie, it becomes a non-SNI firm), it must comply with the remuneration, governance and risk management provisions in full within 12 months. We will be consulting on which remuneration, governance and risk management provisions will be dis-applied for SNI FCA investment firms.

Q1: Do you agree that FCA investment firms with permission to deal on own account and/or underwrite or place financial instruments on a firm commitment basis (as indicated by a permission to deal as principal in financial instruments) should not be considered an SNI? If not, please include in your response what you consider to be a suitable quantitative threshold for these activities.

Q2: Do you agree with the quantitative thresholds, as set out in Figure 1, that we are proposing? If not, please include in your response what you consider to be suitable quantitative thresholds.

Q3: Do you think that any other criteria should be considered for determining if an FCA investment firm can be an SNI? Please provide examples and thresholds as appropriate.
3 Prudential consolidation and the group capital test

3.1 In this chapter, we cover our proposed prudential requirements for FCA investment firm groups.

3.2 For prudential consolidation, this section explains:

- the scope of application of prudential consolidation for FCA investment firms
- how prudential consolidation interacts under the IFPR and the UK CRR
- what the consolidated situation means
- how we treat tied agents included in the consolidated situation
- the main obligations for prudential consolidation
- methods of consolidation
- proportional consolidation of participations
- the UK parent as an SNI or non-SNI when applying prudential consolidation
- consolidated own funds and consolidated own funds requirements
- how to apply:
  - the consolidated fixed overheads requirement
  - the consolidated permanent minimum capital requirement
  - the consolidated K-factor requirement
- consolidated liquidity requirements
- other requirements that apply on a consolidated basis

3.3 For the group capital test, this section explains:

- how the group capital test is applied
- what an application for permission to use the group capital test should contain
- a transitional arrangement for the temporary use of the group capital test

3.4 Other requirements apply to investment holding companies, mixed financial holding companies and mixed activity holding companies.

3.5 The proposed rules for all these requirements are in MiFIDPRU 2.

Scope of application of prudential consolidation

3.6 Under our proposed rules, prudential consolidation will apply where there is an investment firm group, except where the FCA has granted permission to that group to use the alternative of the group capital test.

3.7 An FCA investment firm group will comprise a UK parent undertaking and its relevant subsidiaries, where at least one entity is an FCA investment firm. The FCA investment firm may be the parent or a subsidiary entity. An investment holding company or a mixed financial holding company may also be the UK parent.
3.8 In the form in which it was introduced to Parliament, the FS Bill would give the FCA the power to make rules which apply directly to unregulated parent undertakings which are either incorporated in the UK or have a place of business in the UK. For the purposes of our rules on prudential consolidation, we consider that it is necessary to include a parent undertaking only where it is:

- incorporated in the UK, or
- has its registered office (or if it has no registered office, its head office) in the UK.

3.9 This will ensure that parent undertakings structured as bodies corporate, partnerships or unincorporated associations are included in the scope of consolidation where they have sufficient territorial connection to the UK.

3.10 The general definition of an FCA investment firm group also includes connected undertakings that are not subsidiaries. If one of the subsidiaries or connected undertakings is a UK credit institution then the group will not be an FCA investment firm group.

3.11 A relevant subsidiary and a connected undertaking is any of the following:

- an investment firm
- a financial institution
- an ancillary services undertaking
- a tied agent

3.12 The responsibility for complying with prudential consolidation (or the group capital test) will rest with the parent entity, whether or not it is an authorised firm.

**The types of relationship which may result in an entity being in scope**

3.13 The following sections outline our proposals for where an entity should be considered a subsidiary or a connected undertaking.

**Subsidiary**

3.14 A subsidiary undertaking is defined in section 1162 of the Companies Act 2006. This includes:

- where one entity holds a majority of voting rights in another entity
- where one entity is a shareholder of the other entity and can appoint or remove a majority of its board of directors
- an entity over which another entity has the power to exercise, or exercises, dominant influence or control
- where two entities are managed on a unified basis

3.15 The definition of a subsidiary includes subsidiaries of subsidiaries.

**Connected undertaking**

3.16 To explain this, consider two entities. An entity (CU) will be a connected undertaking of another entity (P1) and P1 will be a parent undertaking, where any of the following relationships apply:

- P1 and CU share majority common management
• P1 exercises significant influence over CU (without participation or capital ties). Indicators of this may be:
  - the ability to make appointments to the management body
  - being part of the policy-making process of CU, including on distributions
  - material transactions between P1 and CU
  - exchange of management between P1 and CU
  - having rights that could affect the management of decision-making of CU
  - having instruments that when converted increase P1’s voting power or decrease another party’s voting power over CU

• P1 and CU have been placed under single management (other than for a contract, clauses in memoranda or articles of association). The following are indicators that this may exist:
  - P1 and CU are controlled by:
    - the same natural person
    - the same group of natural persons
    - an entity or the same group of entities that do not otherwise belong to the FCA investment firm group
    - an entity or group of entities that are not established in the UK
    - The majority of the management bodies of P1 and CU have been appointed by the same natural person or the same group of natural persons, even if the same people are not appointed to each management body

• P1 holds a participation in CU. The following are indicators of this:
  - P1 has direct or indirect ownership of 20% or more of the voting rights in CU
  - P1 has rights in the capital of CU which create a durable link that is intended to contribute to the activities of CU

• CU is a subsidiary of a different parent undertaking (P2) and:
  - P2 and P1 share majority common management, or
  - P2 and P1 have been placed under single management (other than for a contract, clauses in memoranda or articles of association)

3.17 If there is an FCA investment firm group, all other relevant financial undertakings need to be identified that may form part of the group. These may be subsidiaries or connected undertakings.

How prudential consolidation interacts under the IFPR and the UK CRR

3.18 As previously stated, an FCA investment firm group cannot include a UK credit institution. Prudential consolidation for a group that includes a UK credit institution is set out in the UK CRR and the PRA Rulebook.

3.19 An investment firm group may be subject to consolidation under both the UK CRR and the IFPR if the group contains a PRA-designated investment firm and an FCA investment firm. These different prudential consolidations have different consolidated requirements, as each focuses on different types of risk or harm. This means that the group must satisfy both sets of consolidated requirements.
What the consolidated situation means

3.20 The application of prudential consolidation to an FCA investment firm group is based on the consolidated situation of a UK parent.

3.21 The consolidated situation is the result of treating the UK parent, along with all of the relevant entities within the investment firm group, as if it were a single FCA investment firm.

3.22 The relevant entities in the FCA investment firm group include:

- investment firms
- financial institutions
- ancillary services undertakings
- tied agents

3.23 A firm established outside the UK will also be a relevant entity where, were it established in the UK, it would meet the definition of one of those terms.

How we treat tied agents included in the consolidated situation

3.24 If a tied agent forms part of the consolidated situation of a UK parent (for example, as a subsidiary), we propose that the relevant activities and expenditure of that tied agent must be included to calculate the consolidated fixed overheads requirement (consolidated FOR) and the consolidated K-factor requirement (consolidated KFR). It does not matter whether the activities carried on by the tied agent are undertaken, or the expenses are incurred, on behalf of another entity included within the FCA investment firm group, or on behalf of a third-party that is not included in the FCA investment firm group.

3.25 It is possible that a tied agent is included in the consolidated situation and incurs expenses and/or provides activities on behalf of an FCA investment firm that is also in the consolidated situation. If so, the tied agent’s contribution to the consolidated FOR and the consolidated KFR may be adjusted. This is to avoid double counting of any amounts already included through the contribution of the FCA investment firm. The FCA investment firm is required to capture the amount of such expenditure and/or activities as part of calculating its fixed overheads requirement and K-factor requirement on an individual basis.

The main obligations for prudential consolidation

3.26 We propose that a UK parent to which consolidation applies must comply, on the basis of its consolidated situation, with obligations in these areas:

- composition of own funds
- own funds requirements
- concentration risk
- liquidity
- disclosure
- reporting
3.27 It must also ensure that any subsidiaries that are not FCA investment firms have in place the necessary arrangements, processes and mechanisms so that the UK parent may comply with the consolidated requirements.

Methods of consolidation

3.28 The default consolidation method is that the UK parent carries out a full consolidation of all the relevant entities that form part of its investment firm group.

3.29 However, if an entity forms part of an FCA investment firm group due to being a participation, proportional consolidation may be appropriate (see below).

3.30 A UK parent may make an application to the FCA to apply an alternative method of consolidation (to full consolidation) in other cases. The FCA would generally expect any alternative method of consolidation to be proportional consolidation or consolidation of an appropriate alternative fixed percentage of the relevant metrics that are attributable to the relevant subsidiary or connected undertaking.

Proportional consolidation of participations

3.31 Under our proposals, a UK parent may only apply proportional consolidation when including an entity which is a participation within its consolidated situation where certain conditions are met, including:

- the parent’s liability is limited to the share of capital that it holds in the participation
- the liability of other shareholders or members of the participation is clearly established by means of a legally binding and enforceable contract. This does not result in the parent undertaking bearing losses disproportionately to its share in the capital of the participation, and there are no other agreements or arrangements that undermine this
- any participating undertakings that do not form part of the same FCA investment firm group are either subject to prudential supervision, or can reasonably be expected to have sufficient resources to fund any contribution for which they may be liable if the entity in which the participation is held is recapitalised
- the solvency of the participating undertakings is satisfactory and can be expected to remain so
- before applying proportional consolidation, the UK parent has notified the FCA that it intends to do so

3.32 If the conditions are not met, full consolidation should be applied.

3.33 If proportional consolidation is allowed, the relevant proportion would be the proportion of capital or voting rights that is held in the participation.
The UK parent as an SNI or non-SNI when applying prudential consolidation

3.34 It is possible that a UK parent could be considered as an SNI when applying the relevant requirements on a consolidated basis. Under our proposals, this could only happen if:

- none of the FCA investment firms in the investment firm group are non-SNIs (including on a combined basis, where that approach is required for assessing any of the criteria for being an SNI), and
- the UK parent satisfies all the criteria for being an SNI, when applied on the basis of the consolidated situation

3.35 In all other situations, the UK parent must apply the requirements to its consolidated situation as if it were a non-SNI FCA investment firm.

3.36 See Chapter 2 of this CP for the proposed criteria for being an SNI.

3.37 If any entity included in the consolidated situation is dealing on own account, the UK parent will apply the consolidated requirements as if it were a non-SNI.

3.38 When calculating the contribution of a CPMI firm to the consolidated situation, the UK parent would be required to include only amounts that are attributable to the investment services and/or activities that CPMI firm undertakes.

Consolidated own funds and consolidated own funds requirement

3.39 Under our proposals, the total consolidated own funds requirement of an FCA investment firm group must be met with consolidated own funds.

3.40 Consolidated own funds must satisfy the proposed requirements for own funds of an FCA investment firm as set out in Chapter 4 of this CP; the deductions from consolidated own funds must be applied as in that chapter as it applies on a consolidated basis. These proposals include treating minority interests and additional ‘Tier 1’ and ‘Tier 2’ own funds instruments issued by subsidiaries as set out in Title II of Part Two of the UK CRR to a UK parent entity, but modified to reflect the general application of the IFPR.

3.41 The consolidated own funds requirement of an FCA investment firm group will be the highest of:

- the consolidated fixed overheads requirement (consolidated fixed overhead requirement FOR)
- the consolidated permanent minimum capital requirement (consolidated PMR), or
- if the UK parent entity is treated as a non-SNI FCA investment firm, the consolidated K-factor requirement (consolidated KFR)

Consolidated fixed overheads requirement (consolidated FOR)

3.42 We would expect a UK parent to use audited consolidated annual financial statements after the distribution of profits, as the basis for arriving at the total of its fixed
overheads. It may use unaudited consolidated annual financial statements if audited financial statements are not available.

3.43 If neither of those are available, the consolidated fixed overheads are calculated as the sum of:

- the fixed overheads of the UK parent
- the total fixed overheads of each entity that is fully consolidated, and
- the relevant proportion of the fixed overheads of each entity that is consolidated on a proportional basis

3.44 To arrive at the total, the above sum can be adjusted to avoid double counting expenses between entities included.

3.45 Our proposed rules will require the UK parent to include any fixed expenses incurred by a third party, such as a tied agent, on behalf of itself or of any other entity included in the consolidated situation.

3.46 The UK parent will then calculate its consolidated FOR following the same approach an investment firm uses to calculate the FOR on an individual basis. We will consult on our proposals for the FOR as part of a subsequent consultation.

**Consolidated permanent minimum capital requirement (consolidated PMR)**

3.47 Generally, the consolidated PMR is calculated as the sum of:

- the individual PMRs of each FCA investment firm, and
- where relevant, the base own funds requirement or initial capital requirement of any other relevant financial undertaking that forms part of the FCA investment firm group. This includes any third-country entity that would be an FCA investment firm if it were established in the UK; the amount to be included should be what would apply if it were established in the UK.

3.48 If an entity is subject to proportional consolidation, the relevant proportion of the amount should be included.

3.49 See Chapter 5 of this CP for the levels of PMR.

**Consolidated K-factor requirement (consolidated KFR)**

3.50 Our proposed rules require that, generally, the consolidated K-factor requirement should be calculated on the basis of the ‘consolidated situation’ of a UK parent, ie as if all the entities in the investment firm group formed a single FCA investment firm.

3.51 As is the case when calculating the K-factor requirement on an individual investment firm basis, the K-factor metrics that are relevant to the consolidated situation will depend on the investment services and/or activities (or equivalent activities in the case of a third-country entity) that relevant entities in the FCA investment firm group undertake. The consolidated K-factor requirement should be calculated using the relevant proposals (see Chapter 5) applicable to those K-factor metrics, but on the basis of the consolidated situation.
3.52 The total consolidated K-factor requirement amount will be the sum of the amounts for each relevant K-factor that is relevant to the consolidated situation of the FCA investment firm group.

**Consolidated K-AUM, K-COH and K-DTF requirements**

3.53 To calculate consolidated K-AUM, K-COH, and K-DTF requirements, a UK parent must apply the rules for the metrics AUM, COH and DTF that will apply on an individual FCA investment firm basis. We will set out our proposals for AUM and COH in our next consultation.

3.54 The consolidated AUM, COH or DTF is the sum of the amount of the relevant metric of each FCA investment firm included in the consolidated situation. This will include any amount that would be attributable to a third-country entity if that entity were established in the UK.

3.55 If an entity is subject to proportional consolidation, the relevant proportion of the metric should be used.

3.56 Where the consolidated metric includes transactions between two or more entities included in the consolidation situation, it may be adjusted to avoid double counting these amounts.

**Consolidated K-CMH and K-ASA requirements**

3.57 To calculate consolidated K-CMH and consolidated K-ASA requirements, we propose that a UK parent must apply the rules for the metrics CMH and ASA that will apply on an individual FCA investment firm basis. We will consult on our proposals for CMH and ASA in a subsequent consultation.

3.58 The total CMH and ASA of the consolidated situation will comprise a contribution for any individual FCA investment firm and a contribution for any other entity in the FCA investment firm group. The contribution for any entity that is not an FCA investment firm should cover any money held that was received from clients and any assets held that belong to clients; this is for business which would be MiFID investment business if it were carried on in the UK by an FCA investment firm.

3.59 There may be situations where the UK parent cannot determine whether any money or assets are held or received by an entity within the FCA investment firm group are for business that would be treated as MiFID investment business if it were carried on in the UK by an FCA investment firm. If so, the UK parent must treat such amounts as if they are received or held for such business.

3.60 If the UK parent cannot determine that monies received by an entity within the FCA investment firm group are held in an account that meets the conditions to be classified as a segregated account, it must treat such monies as if they are non-segregated.

3.61 In some circumstances, an entity in the FCA investment firm group may invest client money in a fund (such as a money market fund) as a means of segregating that money. This could result in potential arbitrage of the consolidated K-ASA and K-CMH requirements because, if the resulting units in such a fund were treated as ASA, this would result in a lower coefficient than if they were treated as CMH. We are therefore proposing that if an entity receives client money and subsequently invests it in a fund
for the purposes of segregation (rather than to achieve the investment objectives under a mandate or a client order), that amount must be allocated to:

- ASA if, on the insolvency of that entity, the client would have a direct proprietary interest in the units of the fund, or
- CMH in any other circumstance

3.62 If the UK parent cannot determine that money received by an entity in the FCA investment firm group that has been placed into assets (for example, a money market fund) results in the client having a direct interest in that asset, that amount must be treated as if it were CMH (and not ASA).

**Consolidated K-NPR requirement**

3.63 Under our proposed rules, a UK parent entity must apply the relevant proposed rules for calculating the K-NPR requirement on an individual FCA investment firm basis to a position or exposure included in the consolidated situation. The exception is where the UK parent entity is permitted to include that position or exposure in the calculation of the consolidated K-CMG requirement, or where the proposed rules allow the position or exposure to be excluded from calculation of the consolidated K-NPR requirement.

3.64 The consolidated K-NPR requirement applies to all trading book positions, and to positions other than trading book positions where they give rise to foreign exchange risk or commodity risk.

3.65 When calculating the consolidated K-NPR requirement, the UK parent will not be able to automatically offset positions in one entity with those of another entity in the consolidation group. To do so it must obtain permission from the FCA, and in its application for permission must demonstrate to the satisfaction of the FCA that the conditions in article 325b of the UK CRR have been met.

**Consolidated K-CMG requirement**

3.66 We propose that if a UK parent entity has been granted permission to calculate a K-CMG requirement for a relevant portfolio of positions in its consolidated situation, it will not need to include that portfolio when it calculates the consolidated K-NPR requirement.

3.67 Either the UK parent entity or an FCA investment firm in the consolidated situation may apply for permission to calculate a consolidated K-CMG requirement. The application may cover portfolios of third-country entities in the consolidated situation. When calculating a consolidated K-CMG requirement, the proposed rules as for calculating K-CMG on an individual FCA investment firm basis will apply, except where expressly modified.

3.68 Under our proposals, where the FCA has already granted permission to an investment firm for a portfolio to calculate the K-CMG requirement on an individual basis, a UK parent does not need to seek additional permission to include that portfolio when it calculates its consolidated K-CMG.

3.69 We will not give permission for the portfolio of an FCA investment firm to use K-CMG solely for consolidated purposes. If a portfolio of an FCA investment firm is to be included in the consolidated K-CMG requirement, permission must have been sought and the K-CMG applied to that portfolio on an individual basis. This reflects the FCA’s view that the choice of whether to calculate a K-NPR requirement or a K-CMG
requirement for a specific portfolio must be applied consistently on both an individual and consolidated level.

**Consolidated K-TCD requirement**

3.70 We propose that, to calculate a consolidated K-TCD requirement for a UK parent, the relevant proposed rules for calculating K-TCD on an individual FCA investment firm basis must be applied to all transactions included in the consolidated situation.

3.71 If a transaction occurs between two counterparties that are both included in the consolidated situation, it may be disregarded for the purposes of consolidated K-TCD.

3.72 If a transaction occurs between one or more entities in the consolidation group and a third-party counterparty, the transaction may be netted in certain circumstances when calculating the consolidated K-TCD requirement. Any netting agreement or contract must cover all the entities included in the consolidated situation whose transactions with that third-party are being netted.

**Consolidated K-CON requirement**

3.73 See Chapter 7 of this CP on concentration risk for our proposals on how to calculate a K-CON requirement on an individual investment firm level.

3.74 When the UK parent entity is calculating a consolidated K-CON requirement, the exposure value to an individual client or a group of connected clients should be calculated using all relevant exposures in the consolidated situation. To the extent that K-NPR or K-TCD are relevant to calculating an exposure value and K-CON, the UK parent entity must apply the methods for calculating consolidated K-NPR and consolidated K-TCD (outlined earlier in this chapter).

3.75 The amount of own funds used for calculating the concentration risk limits on a consolidated basis will be the consolidated own funds of the FCA investment firm group.

**Consolidated liquidity requirements**

3.76 Our proposals on the consolidated liquidity requirement will require the consolidation group to hold an amount of liquid assets equal to or greater than one third of the amount of the consolidated FOR, plus 1.6% of the guarantees provided to clients by entities in the consolidation group.

3.77 The required amount of consolidated liquid assets must be held by UK entities in the consolidation group.

3.78 What will count as a liquid asset will follow in a subsequent consultation to be consulted on as part of individual firm liquidity requirements.

3.79 Note that there is no consolidated liquidity requirement for FCA investment firm groups that use the GCT, rather than prudential consolidation. Individual liquidity requirements will still apply.

3.80 A UK parent may apply to be exempted from consolidated liquidity requirements. An application to the FCA must demonstrate that all FCA investment firms in the consolidation group meet the liquidity requirement on an individual basis. The exemption must also be appropriate, taking into account the nature, scale and complexity of the FCA investment firm group.
Consolidated disclosure requirements

3.81 Our proposals for consolidated disclosure requirements will follow in a subsequent consultation, to be consulted on alongside individual firm disclosure requirements.

Consolidated reporting requirements

3.82 We are proposing that a UK parent to which prudential consolidation applies must comply with reporting requirements on the basis of its consolidated situation. The same type of information will be required from an FCA investment firm group as from an individual FCA investment firm, but for its consolidated situation. See Chapter 8 of this CP for further information on our proposals for reporting.

Consolidated governance and remuneration requirements

3.83 Our proposals for consolidated governance and remuneration requirements will follow in a subsequent consultation to be consulted on alongside individual firm governance and remuneration requirements.

Application of the Individual Capital and Risk Assessment (ICARA) process on a consolidated basis

3.84 Our proposals for how the ICARA process will work on a consolidated basis will be consulted on alongside the ICARA process for an individual FCA investment firm in our next consultation.

The Group Capital Test (GCT)

3.85 The group capital test (GCT) is an alternative to prudential consolidation for an FCA investment firm group. The GCT’s purpose is to ensure that a parent entity holds sufficient regulatory capital to support its capital investment in its subsidiaries, and therefore to create a stable group capital structure.

3.86 We propose that to be able to use the alternative of the GCT, either the ultimate UK parent of the investment firm group, or an investment firm in that group, must apply to the FCA for permission. The application must satisfy the FCA that:

- the investment firm group has a sufficiently simple structure to justify applying the group capital test, and
- there is no significant risk of harm to others that means that the investment firm group should be supervised on a consolidated basis

3.87 The GCT uses the same terms and concepts as prudential consolidation to identify an investment firm group and its constituent parts.

3.88 The actual application of the GCT does not, however, include group entities that are ‘connected undertakings’ (see under prudential consolidation above for an explanation of what is a connected undertaking). The presence of material connected undertakings in an FCA investment firm group means that it is therefore unlikely that the investment firm group will have a sufficiently simple structure to justify the use of the GCT.
3.89 Under the GCT, we propose that a UK parent must hold enough own funds to cover at least:

- the sum of the full book value of their holdings, subordinated claims and instruments in subsidiaries, and
- the total amount of their contingent liabilities in the investment firm group

3.90 The GCT has a modified definition of ‘own funds instruments’. The difference from the definition used by an individual investment firm is that any significant investments in common equity tier 1, additional tier 1 and tier 2 capital instruments of financial sector entities in the investment firm group do not need to be deducted by a parent undertaking when applying the GCT. This is to avoid any ‘double counting’ of the same amount.

3.91 The proposed rules on the required overall composition of own funds instruments when applying the GCT are set out in MIFIDPRU 3. These are summarised in Chapter 4 of this CP.

3.92 If an investment firm group contains more than one parent entity, each parent entity in that group must satisfy its own GCT, ie a separate GCT applies to each entity in the group which is itself a parent.

3.93 If an investment firm group contains a parent entity that is established outside the UK, we propose that its parent in the UK, known as a responsible UK parent, must ensure compliance with the GCT. This is to ensure that leverage and capital gearing are not introduced into the investment firm group through intermediate parent undertakings established in a third country. The responsible UK parent must either:

- ensure that the non-UK parent entity holds sufficient own funds to meet its own GCT, or
- itself hold an additional amount of own funds in respect of (i) above as part of its own GCT

3.94 The following diagram (Figure 2) provides an example of where a UK parent may also be a responsible UK parent. This means where a UK parent is responsible for ensuring that the obligations of the GCT are not otherwise avoided by introducing third-country parent entities in the investment firm group.

3.95 In Figure 2 the solid lines linking the entities indicate whole or majority ownership or control.
Figure 2: Example of where a UK parent may also be a responsible UK parent for the purposes of applying the group capital test

Applying for permission to use the group capital test

3.96 We propose that an application for permission to use the GCT must include:

- a structure chart including information on each entity in the FCA investment firm group
- an explanation of why the group structure is sufficiently simple to justify applying the group capital test
- an explanation of why there are no significant risks to clients or to the market stemming from the FCA investment firm group that would require supervision on a consolidated basis
- calculations to show how each parent in the investment firm group would satisfy the group capital test
- evidence that the book value of each parent’s investment in a subsidiary, whether that subsidiary forms part of the investment firm group or not, reflects fairly the consideration paid by the parent for that subsidiary
• calculations which demonstrate the consolidated own funds and liquid assets requirements that would apply on the basis of the consolidated situation of the FCA investment firm group if prudential consolidation applied instead
• an explanation of:
  – how the investment firm group would comply with the requirements for prudential consolidation if the FCA did not grant permission to use the GCT and
  – the timeframe in which the FCA investment firm group would expect to achieve compliance with such consolidated requirements
• an explanation of how the UK parent entity of the FCA investment firm group would comply with the system and control requirements for prudential consolidation

**Group capital test reporting requirements**

3.97 Each UK parent firm in an FCA investment firm group must report individually on how it is meeting the GCT.

3.98 A UK responsible parent must report on behalf of any third-country parent to show that either:

• the third-country parent holds enough own funds for the purposes of the GCT, or
• the UK responsible parent holds enough own funds to include the amount that would otherwise be held by the third-country parent

3.99 The investment firm group can nominate one parent firm to report to the FCA on behalf of the other parent firms in the group.

**Transitional arrangement for temporary use of the group capital test**

3.100 We propose that an FCA investment firm group can choose to apply the requirements of the GCT, rather than those of prudential consolidation, on a temporary basis before we have granted it permission to do so, if the following conditions are met:

• the parent of, or an investment firm within, the investment firm group has applied to the FCA for permission to use the group capital test within a month of the date on which the new IFPR rules first apply
• the management body of the applicant UK parent or FCA investment firm thinks there is a reasonable basis to conclude the investment firm group would satisfy the criteria to be granted permission to use the GCT

3.101 This transitional arrangement will apply for up to two years after the rules apply, or the date specified by the FCA in the notification of its decision to the UK parent or FCA investment firm on its application, whichever is earlier.

**Holding companies**

3.102 Various other requirements apply to UK investment holding companies, UK mixed financial holding companies and UK mixed activity holding companies. This includes a mixed activity holding company, even though this would not be part of an investment firm group for the purposes of prudential consolidation or the GCT.
Qualifications of directors

3.103 Clause 143K of the FS Bill provides that a UK parent must take reasonable care that the members of its management body are of sufficiently good repute and have sufficient knowledge, skills and experience to carry out their duties effectively. Guidance in our proposed rules refers to this provision, but this remains subject to Parliamentary approval of the FS Bill in its current form. If this provision in the FS Bill were to be amended, we would amend our guidance accordingly.

Additional requirements on parent firms

3.104 Under our draft rules, the FCA can require the parent of an FCA investment firm to provide relevant information so that we can effectively supervise the authorised firm.

3.105 If the parent is a UK mixed-activity holding company, the FCA investment firm must be able to identify, measure, monitor and control transactions between the firm, its parent and other subsidiaries of its parent.

3.106 If the FCA identifies a breach of these requirements by a UK parent firm, we can impose disciplinary measures on the parent firm or on the management body of the parent firm.

Q4: Do you have any specific comments on our proposals for the scope and methods of prudential consolidation? Please provide evidence to support any changes. Is there anything relevant to consolidation that is not covered in our rule proposals?

Q5: Are our proposals for how to calculate the consolidated own fund requirements (including the consolidated fixed overheads requirement, the consolidated permanent minimum requirement and the consolidated K-factor requirement) clear and sufficient? If not, do you have any specific suggestions for how to improve this?

Q6: Do you agree with our approach to the use of the group capital test (as an alternative to prudential consolidation), including our proposal for a transitional provision to allow its use as part of our initial implementation of the IFPR?
4  Own funds – definition and composition of capital

4.1 In this chapter, we provide an overview of our proposals for:

- the definition and types or ‘tiers’ of capital that are eligible as regulatory capital, known as ‘own funds’, including specific deductions that need to be made from own funds
- prior permissions that are required from the FCA to count certain items as regulatory capital
- specific rules on eligibility of own funds for FCA investment firms that are partnerships and limited liability partnerships
- trigger events in the terms of additional capital instruments that may be used to absorb losses
- the minimum proportions in which own funds must be held to meet the own funds requirements at both individual and consolidated level
- the minimum proportions in which own funds must be held by a parent entity to meet the group capital test
- transitional provisions for certain existing own funds permissions

4.2 Our proposed rules for own funds are in MIFIDPRU 3.

4.3 The text of the EU CRR is amended at the EU level by the EU text of the CRR2 and then the text of the IFPR. All references to the UK CRR in this chapter are references to the on-shored UK CRR in the form in which it would appear if it contained equivalent amendments. The FCA expects that such amendments will largely be made to the UK CRR by UK primary and secondary legislation. This is consistent with HM Treasury’s stated legislative approach in its ‘Prudential standards in the Financial Services Bill: June update’. The UK CRR is of particular relevance to own funds under the IFPR. This is because the majority of the concepts used are the same, and our rules cross-reference the relevant provisions of the UK CRR.

Definition of own funds

4.4 In general, we are proposing that the types and treatment of own funds under the IFPR will follow the same requirements as under the UK CRR (although with some amendments) and will comprise the following 3 classes of capital:

- Common Equity Tier 1 (or CET1) capital
- Additional Tier 1 (or AT1) capital
- Tier 2 (or T2) capital

4.5 Our proposed definition of capital represents a change for FCA investment firms that have not previously applied the CRR, such as ‘BIPRU Firms’ and ‘Exempt-CAD Firms’. For example, the concept of ‘Tier 3’ capital (short-term subordinated debt) will no longer apply.
4.6 We have changed the way we propose to apply the detail of the rules on own funds in the UK CRR to FCA investment firms under MIFIDPRU. This is to simplify the calculation of certain deductions, and to remove references to concepts that do not exist in the IFPR, including risk weighted assets.

4.7 The UK CRR contains numerous items that need to be deducted from the different tiers of own funds. This includes the following which, under the UK CRR, have the potential for partial deduction according to a detailed calculation, but that we propose should be deducted in full under the IFPR:

- defined benefit pension fund assets on the balance sheet of the institution
- deferred tax assets that rely on future profitability
- non-significant investments in financial sector entities, as far as they relate to holdings of capital instruments that are not held in the trading book
- significant investments in the CET1 instruments of financial sector entities

4.8 As intangible assets, we propose to require software assets to be deducted in full under IFPR. We are not persuaded by general arguments that FCA investment firms could be allowed some add-back for software assets that are prudently valued. There is no clear prudential basis that we have identified to support this.

4.9 A qualifying holding is where an FCA investment firm has a direct or indirect holding in an entity representing 10% or more of the capital or of the voting rights, or which make it possible to exercise a significant influence over the management of that entity. Under our proposals, an FCA investment firm with qualifying holdings in entities outside the financial sector will be required (subject to a few specific exceptions) to deduct any amount of such holdings from its CET1 capital, where this exceeds the following limits:

- an individual qualifying holding in a non-financial sector entity exceeds 15% of the FCA investment firm’s own funds
- the total of all the qualifying holdings in non-financial sector entities exceeds 60% of the FCA investment firm’s own funds

4.10 We believe that these proposed changes to enhance the quality of regulatory capital will result in FCA investment firms becoming more resilient, with increased capacity to absorb losses. All FCA investment firms will now apply the same definition of own funds.

4.11 Non-significant holdings of capital instruments of financial sector entities in the trading book will not, however, need to be deducted. This is to avoid discouraging market-making in capital instruments of other regulated entities.

**Overview of IFPR capital tiers**

4.12 Figures 3, 4, and 5 provide a visual summary of our proposals for the provisions in the UK CRR and MIFIDPRU 3 that relate to each tier of regulatory capital. In each case, references to the UK CRR are to the UK CRR as applied and modified by MIFIDPRU.
**Figure 3: Common equity tier 1 (CET1) capital**

**Common Equity Tier 1 (CET1) Items – Article 26 UK CRR**

(a) Capital instruments that meet the conditions of Articles 28 or 29 of UK CRR

(b) Share premium accounts related to the instruments in (a)

(c) Retained earnings*

(d) Accumulated other comprehensive income*

(e) Other reserves*

* Must be available for unrestricted and immediate use to cover risks or losses as soon as these occur. The conditions set out in Articles 27 to 31 of UK CRR must also be met.

**Prudential filters – items to be excluded/deducted from own funds**

(a) Article 32 – any increase in its equity resulting from securitised assets

(b) Article 33 – cash flow hedges and changes in the value of own liabilities

(c) Article 34 – additional value adjustments, by applying the requirements of Article 105 to its assets measured at fair value

**Prudential filters – items not to be excluded**

Article 35 – unrealised gains or losses on assets or liabilities measured at fair value, unless referred to in Article 33

**Deductions from CET1 Items – MIFIDPRU 3.3.6R**

(a) Losses for the current financial year

(b) Intangible assets – including goodwill

(c) Deferred tax assets that rely on future profitability

(e) Defined benefit pension fund assets on the balance sheet of the firm

(f) Holding of own CET1 instruments (direct/indirect/synthetic holdings)

(g) Holdings of CET1 instruments of financial sector entities (FSE) where there is a reciprocal cross holding

(h) Holdings of non-significant investments in FSEs

(i) Holdings of significant investments in FSEs

(j) Deductions to account for holdings of third party AT1 instruments in excess of issuance of own AT1 instruments

(k) Foreseeable tax charges relating to CET1 instruments

(l) Qualifying holdings outside the financial sector that are:
   1. For a single entity > 15% of the firm’s own funds
   2. For all entities > 60% of the firm’s own funds

1. Article 39 and Article 48 of the UK CRR do not apply
2. Article 41 of the UK CRR does not apply
3. Article 46 of the UK CRR does not apply
4. This does not apply where held in the trading book
5. Article 48 of the UK CRR does not apply

In addition, Article 49 does not apply

**Temporary waiver from deduction from own funds and eligible liabilities – Article 79**

May be granted where these are deemed to be held as part of a financial assistance operation.

**CET1 capital – Article 50**
**Additional Tier 1 (AT1) capital – Article 51 UK CRR**

(a) Capital instruments that meet the conditions of Article 52 of UK CRR  
(b) Share premium accounts related to the instruments in (a)  
The conditions set out in Articles 52 to 55 of UK CRR must also be met.  
**NB.** Article 54(1)(a) and Article 54(4)(a) of UK CRR do not apply. Instead, MIFIDPRU 3.4.3R applies. A firm specifies the trigger events, one of which must be when the CET1 of the firm falls below 64% of the firm’s own funds requirement.

**Deductions from AT1 Items – MIFIDPRU 3.4**

(a) Holdings of own AT1 instruments (direct/indirect/synthetic holdings)  
(b) Holdings of AT1 instruments of financial sector entities (FSE) where there is a reciprocal cross holding  
(c) Holdings of non-significant investments in FSEs  
(d) Holdings of significant investments in FSEs  
(e) Deductions to account for holdings of third party T2 instruments in excess of issuance of own T2 instruments  
(f) Foreseeable tax charges relating to AT1 instruments  

1. Article 60 of the UK CRR does not apply  
2. This does not apply where held in the trading book.

**Temporary waiver from deduction from own funds and eligible liabilities – Article 79 UK CRR**

May be granted where these are deemed to be held as part of a financial assistance operation.

**AT1 capital – Article 61 UK CRR**
4.13 In each case, the chart is only expected to be an overview of the most relevant proposals from MIFIDPRU that may apply, rather than an exhaustive statement of all potentially applicable requirements and conditions. The charts are not intended to be a substitute for detailed analysis of the proposed rules.

Prior permissions required from the FCA for CET1 capital

4.14 Under our proposed rules, FCA investment firms will require prior permission from us to:

- include interim profits or year-end profits in CET1 before the investment firm has taken a formal decision confirming the final profit or loss for the year
- classify an issuance of capital instruments as CET1 capital

4.15 If an investment firm has already obtained permission for a previous issuance of instruments that have been classified as CET1 capital, we do not propose that it should be required to obtain permission for a subsequent issuance of the same form of instruments provided that the provisions of the new instruments are substantially the same. Sufficient notice of the issuance must also be given to the FCA.

4.16 The section below on transitional provisions for existing own funds instruments may also be relevant.
**Investment firms that are not joint-stock companies**

4.17 The detailed conditions of the UK CRR for capital instruments to qualify as CET1 are, in general, easier to understand from the perspective of a joint-stock company issuing share capital. However, the same conditions apply to FCA investment firms with legal forms that are not joint-stock companies. We therefore propose to clarify our rules for CET1 instruments of partnerships (including both general and limited partnerships) and limited liability partnerships.

4.18 For an FCA investment firm that is a partnership or a limited liability partnership (LLP), we propose that a partner’s or member’s account will meet the conditions in article 28(1)(e) (perpetual) and article 28(1)(f) (reduction or repayment) of the UK CRR where the account is one:

- into which capital contributed by the partners or members is paid, and
- from which, under the terms of the partnership agreement or limited liability agreement, an amount representing capital may be withdrawn by a partner or member (P) only if:
  - P ceases to be a partner or member and an equal amount is transferred to another such account by Q’s former partners or members or any person replacing P as a partner or member
  - the partnership or LLP is wound up or otherwise dissolved, or
  - the firm has ceased to be authorised or no longer has a Part 4A permission

**Trigger events for Additional Tier 1 (AT1) capital**

4.19 The purpose of AT1 is that it can be converted to CET1 to bolster an FCA investment firm’s CET1, or otherwise be written down so that it absorbs losses in the same way as CET1 on a going-concern basis. This is to prevent a firm from falling below the amount needed to make up the minimum percentage of own funds required.

4.20 We want to ensure that FCA investment firms can use AT1 for its intended purpose and to avoid any likelihood of an investment firm breaching its minimum CET1 percentage before conversion can take place. So we are proposing that one of these trigger events must be the firm falling below a level of CET1 that is no lower than 64% of its total own funds requirement. This is the same as the trigger event required by the existing CRR but expressed in a different way to reflect the structure of capital under the IFPR.

4.21 FCA investment firms may set the trigger level at a higher level or choose to specify additional trigger events alongside this. The full principal amount of AT1 must be written down or converted when a trigger event occurs.
Calculating the type of own funds held to meet own funds requirements at both individual and consolidated level

4.22 Under our proposals, an FCA investment firm must hold own funds to meet its total own fund requirement (TOFR) in the following proportions:

- CET1 ≥ 56% of TOFR
- CET1 + AT1 ≥ 75% of TOFR, and
- CET1 + AT1 + T2 ≥ 100% of TOFR

4.23 These proportions are essentially the same as those in the UK CRR, but are expressed in a different way.

4.24 An FCA investment firm group that is subject to prudential consolidation will need to meet its consolidated own funds requirement by holding consolidated own funds in at least the same proportions as the above, on the basis of its consolidated situation. (See Chapter 3 for details on prudential consolidation).

Calculating the type of own funds held to meet the group capital test

4.25 The proportions of own funds to be held by a UK parent when subject to the group capital test (GCT) are different from those that will apply at individual FCA investment firm level or under prudential consolidation. (See Chapter 3 for details on the group capital test).

4.26 Our proposals are that when applying the GCT, a parent’s CET1 capital must be at least equal to:

- the sum of the book value of the parent’s holdings of the CET1 capital of relevant financial undertakings in the FCA investment firm group, plus
- the total amount of all the parent’s contingent liabilities in favour of the relevant financial undertakings in the FCA investment firm group

4.27 In addition, the sum of CET1 capital and AT1 capital of the parent must be at least equal to the sum of:

- the minimum amounts of CET1 set out above, plus
- the sum of the book value of the parent’s holdings in the AT1 capital of the relevant financial undertakings

4.28 And the sum of the parent’s own funds instruments (CET1, AT1 and Tier 2) must be at least equal to the total own funds requirement calculated under the GCT.

4.29 For these purposes, a ‘relevant financial undertaking’ is an investment firm, a financial institution, an ancillary services undertaking, a tied agent or any equivalent entity in a third country.

4.30 The purpose of the above is to ensure that a parent holds capital of at least the same quality as the capital it invests in its relevant subsidiaries, but without imposing higher
requirements than this. This will support a stable group capital structure when the investment firm group uses the GCT.

4.31 The following is a simplified worked example of the above requirement for calculating the minimum composition of capital when a parent is applying the GCT:

Assume a parent ‘J’ has three subsidiaries, a UK investment firm ‘B’, a UK financial institution ‘C’ and a third-country entity that would be an investment firm if it were established in the UK, ‘D’. The table shows the amount (in £m) of the book value of J’s investments in each subsidiary, and in the different tiers of capital instruments that this represents. I.e J records a book value investment of £10m in CET1 and £2m in AT1 instruments held in subsidiary B, of £5m in CET 1 in C, and of £1m in CET1 and £9m in Tier 2 in D.

<table>
<thead>
<tr>
<th>Type of capital</th>
<th>Subsidiary</th>
<th></th>
<th></th>
<th></th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>B</td>
<td>C</td>
<td>D</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CET1</td>
<td>10</td>
<td>5</td>
<td>1</td>
<td></td>
<td>16</td>
</tr>
<tr>
<td>AT1</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>T2</td>
<td></td>
<td></td>
<td></td>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td>Total</td>
<td>12</td>
<td>5</td>
<td>10</td>
<td></td>
<td>27</td>
</tr>
</tbody>
</table>

In this example, the parent J has a total GCT requirement of at least £27m. The total own funds that the parent needs to hold to satisfy this amount must consist of at least £16m in CET1 capital, at least £18m in total tier 1 capital (CET1 + AT1) and at least £27m in total capital (CET1 + AT1 + T2).

**Transitional provisions for existing own funds instruments**

4.32 We propose to introduce transitional provisions for certain own funds permissions granted by the FCA to IFPRU investment firms before the IFPR applies. These provisions set out where an FCA investment firm with such a permission may continue to rely on it under the IFPR. They cover:

- including interim or year-end profits in CET1 capital before the FCA investment firm has taken a formal decision confirming the final profit or loss for the year (under article 26(2) UK CRR)
- classifying an issuance of capital instruments as CET1 (under article 26(2) UK CRR)

4.33 We also propose a transitional provision which sets out what an FCA investment firm must do to determine whether any existing AT1 instruments issued under the UK CRR would continue to be eligible for inclusion as AT1 capital under the IFPR.

**Q7:** Do you agree with the proposals for the definitions and types of, and deductions from, regulatory capital that investment firms should use to calculate their own funds? Do you think that any additional simplification is needed? If yes, please provide suggestions.
Q8: Do you agree with our proposals for trigger events for the conversion or write-down of AT1 instruments, including setting the minimum the same as under the UK CRR but expressed in a different way to reflect the structure of capital under the IFPR? If not, please let us know why and what trigger events you think we should include?

Q9: Do you agree with our proposed transitional provisions for existing permissions for own funds instruments (under UK CRR)? Do you think that any additional transitional provisions are necessary? If so, please identify what they should be and say why.
5 Own funds requirements

5.1 In this chapter, we explain:

- what we are proposing should be an FCA investment firm’s ongoing permanent minimum capital requirement (PMR)
- how an FCA investment firm’s PMR might change depending on the activities carried out
- how the PMR is reflected in the initial capital requirement (ICR) that applies to firms seeking to be authorised as FCA investment firms, and how the PMR applies to FCA investment firms that are currently authorised
- the difference between the own funds requirements that apply to FCA investment firms that meet the criteria to be small and non-interconnected FCA investment firms (SNIs) and to those that do not meet the criteria (ie non-SNI investment firms)

5.2 We then outline our proposals for how to calculate each of the specific K-factors that will only apply to FCA investment firms that trade in their own name (ie deal on own account). This could be trading on its own behalf, or trading on behalf of its clients.

5.3 The final section of this chapter describes the transitional provisions that will allow firms to move from their current own funds requirements to those that will apply under the IFPR. It also sets out how firms should calculate their K-factor requirement when the IFPR initially takes effect where this calculation relies on having historical observations of data.

5.4 We will cover the remaining K-factors and how to calculate the fixed overheads requirement in a subsequent consultation.

Ongoing permanent minimum capital requirement

5.5 We believe that an FCA investment firm should, at all times, operate with a minimum level of own funds based on the MiFID investment services and activities it currently has permission to undertake. This will become its PMR. Table 3 summarises the amount of the PMR that we propose will apply to an FCA investment firm based on the investment services and activities it carries out.

Table 3: Summary of the PMR by the investment services and activities undertaken

<table>
<thead>
<tr>
<th>PMR</th>
<th>FCA investment firm service/activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>£750,000</td>
<td>MiFID activities undertaken include one or more of the following services or activities:</td>
</tr>
<tr>
<td></td>
<td>Dealing on own account</td>
</tr>
<tr>
<td></td>
<td>Underwriting and/or placing on a firm commitment basis</td>
</tr>
<tr>
<td></td>
<td>Operating an OTF without a limitation that prevents both matched principal trading and dealing on own account</td>
</tr>
</tbody>
</table>
### Initial capital requirement for new FCA investment firms

5.8 The ICR is the amount of capital required for an applicant firm to become authorised as an FCA investment firm. It is based on the activities that the new firm is seeking permission for. We are proposing that the ICR will be the same as the PMR that would apply if the applicant firm is granted the permissions it is seeking. We are also proposing that the ICR should be made up of capital of the same type and quality as would be needed for the applicant firm’s PMR, i.e. in own funds. (See Chapter 4 for details on own funds).

### Application to firms that are currently authorised to conduct MiFID business

5.9 The IFPR will not affect the ICR of FCA investment firms that are authorised ahead of the IFPR taking effect. Their ICR will no longer be relevant for the purposes of their capital requirements, or any other requirements, under the IFPR. These FCA investment firms should instead consider what their PMR will be under the IFPR and how they will transition to that new requirement. The PMR will form one of the ‘floors’ to their capital requirements.

<table>
<thead>
<tr>
<th>PMR</th>
<th>FCA investment firm service/activity</th>
</tr>
</thead>
</table>
| £75,000 | MiFID activities undertaken only from among the following services or activities:  
- Reception and transmission of orders  
- Execution of orders on behalf of clients  
- Portfolio management  
- Investment advice  
- Placing without a firm commitment basis  
- And, the firm does not have permission to hold client money or securities in the course of MiFID activities |
| £150,000 | All other FCA investment firms, including, but not limited to, firms with permission to:  
- operate an MTF  
- operate an OTF, only with a limitation that prevents it from carrying out either of the following:  
  - matched principal trading  
  - dealing on own account  

5.6 The activities an FCA investment firm wishes to carry out may change over time meaning its permissions will vary. Any variations in permission may affect that FCA investment firm’s PMR. At the point that an FCA investment firm seeks to vary its permissions, we propose to ask it to demonstrate that it can meet the PMR that applies to the new combination of permissions.

5.7 This means, for example, that an FCA investment firm might have a PMR of £75,000. If that FCA investment firm applies in due course to vary its permissions to be able to hold client money in connection with one or more MiFID activities, it will then have a PMR of £150,000. Or, if its new permissions include dealing in its own name, its PMR will then be £750,000.
Capital requirements for SNI and non-SNI investment firms

5.10 We propose that an FCA investment firm that meets the criteria to be small and non-interconnected (an SNI) should have an own funds requirement that is the higher of its PMR and its fixed overheads requirement (FOR). (See Chapter 2 for further information on the definition of an SNI). We cover how an FCA investment firm should calculate the FOR in a subsequent consultation.

5.11 We propose that an FCA investment firm that does not meet the criteria to become an SNI – so is a 'non-SNI' – should have an own funds requirement that is the highest of its PMR, its FOR, and its K-factor requirement.

5.12 The remainder of this chapter only covers the K-factors that will apply to firms that trade in their own name (ie have permission to deal on own account, including where they do so on behalf of clients). We will cover the remaining K-factors in a subsequent consultation.

K-factor capital requirements

5.13 The K-factor capital requirements are essentially a mixture of activity- and exposure-based requirements. Which K-factors will apply to an individual FCA investment firm will depend on the MiFID investment services and activities it undertakes.

5.14 In this section, we only cover the K-factors that will apply to FCA investment firms that have permission to deal as principal, ie they trade in their own name, including where they do so on behalf of clients. The remaining K-factors, that could apply to any FCA investment firm (including those that trade in their own name) will be covered in our next consultation.

5.15 For the avoidance of doubt, trading in own name will include, but is not limited to, FCA investment firms that:

- trade in their own name on behalf of a client
- trade in their own name on a matched principal basis
- have permission to operate an OTF. For the reason set out in paragraph 2.6, an OTF operator may deal in illiquid sovereign debt instruments and/or undertake matched principal transactions relying on that permission, unless it has a restriction from doing so.

5.16 The K-factors that only apply to FCA investment firms that have permission to trade in their own name are:

- net position risk (K-NPR) – a requirement based on the FCA investment firm's market risk
- clearing margin given (K-CMG) – an alternative to K-NPR to provide for market risk based on the margins given by the FCA investment firm to a clearing member
- daily trading flow (K-DTF) – a requirement based on the value of the FCA investment firm's daily trading flow
- trading counterparty default (K-TCD) – a requirement based on the risk of a trading counterparty failing to meet their obligations to the FCA investment firm
5.17 Where applicable, these K-factors will also apply to FCA investment firm groups that are subject to prudential consolidation (see Chapter 3 for more information on consolidation).

5.18 We propose that calculating the further K-factor capital requirement, K-CON, will also apply to FCA investment firms that trade in their own name. All firms, including firms that deal on own account, should be required to undertake general concentration risk monitoring. Our proposals relating to concentration risk and K-CON are set out in Chapter 7.

5.19 Other K-factors may also apply to FCA investment firms that trade in their own name. The specific K-factors will depend on any other investment services or activities it carries out. These are K-factors for:

- individual portfolio management and on-going advice (K-AUM)
- holding client money or client assets, (K-CMH and K-ASA)
- handling client orders (K-COH).

We will provide additional detail on our proposals for the remaining K-factors in our next consultation.

**Net position risk – K-NPR**

5.20 The K-factor capital requirement for net position risk, K-NPR, applies to an FCA investment firm’s trading book positions and is intended to capture market risk. It also applies to positions not in the trading book which give rise to foreign exchange or commodities risk.

5.21 The calculation methodology for K-NPR is also used to calculate K-CON for concentration risk on all portfolios. See Chapter 7 for more information on calculating K-CON.

5.22 We propose that the K-NPR requirement is to be calculated using the own funds requirements for market risk set out in Title VI of Part Three of the UK CRR – reading references to ‘own funds requirement’ as references to ‘K-NPR requirement’. This provides for an FCA investment firm to either apply the current standardised approach to market risk or to apply to us for permission to use the current internal models approach.

5.23 To preserve the existing CRR market risk regime, we propose that any reference to the UK CRR in our K-NPR rules is to the form of the UK CRR in which it stood on the day immediately before the earlier of

a. the date on which IFPR begins to apply’ or
b. the date that the CRR2 equivalent amendments to the UK CRR take effect.

5.24 On 16 November 2021, HM Treasury, the PRA and the FCA announced the target date for both IFPR and the CRR 2 equivalent amendment to take effect is 1 January 2022. Our proposed rules for K-NPR in MIFIDPRU 4 also modify the basic UK CRR provisions in certain respects and references to the UK CRR will therefore include the UK CRR text as modified.
Additional rules and guidance on market risk

5.25 The approach for K-NPR is essentially to carry forward the current market risk requirements under the UK CRR. We therefore also propose to carry forward relevant rules and guidance on market risk from our current IFPRU sourcebook (and in some cases, appropriate parts of our BIPRU sourcebook) to calculate the K-NPR requirement. In certain cases, we have refined the relevant provisions to clarify these under the new regime.

5.26 The provisions we propose to carry forward are broadly those relating to:

- instruments for which no treatment is specified in the UK CRR
- standardised approach for options
- netting of a convertible
- offsetting derivative instruments
- excluding overshootings when determining multiplication factor addends
- determining notional positions for standardised approaches when using various products
- seeking permission to use internal models
- capturing risk when using internal models
- what we expect for the use of internal models

5.27 The UK CRR contains several provisions, eg articles 329 and 331 about options delta and interest rate sensitivity models respectively, where permission is required. We will address permissions and applications, including our proposals for existing permissions for market risk, in a subsequent consultation.

Use of K-NPR where an investment firm has permission to use K-CMG

5.28 FCA investment firms do not generally have to calculate K-NPR for portfolios for which they have been given permission to use the alternative K-factor requirement of clearing margin given or K-CMG (see section below).

5.29 However, an FCA investment firm that has been granted permission to use K-CMG (even for every portfolio in its trading book) may still need to calculate K-NPR for any positions it holds outside of its trading book that give rise to foreign exchange or commodities risk. This is because we consider it unlikely that such positions would be eligible for a K-CMG permission.

5.30 Further, if an FCA investment firm has settled trades in a portfolio subject to K-CMG which represent its own proprietary positions, they are unlikely to give rise to a margin requirement on any given day when using K-CMG. (See section on K-CMG below). We have therefore proposed that settled proprietary trades of the firm should be subject to the standard K-NPR calculation provided:

- the clearing member has not applied a ‘haircut’ for collateral purposes
- they are not included in the calculation of the margin requirement

5.31 Even if a firm uses K-CMG for all its trading book portfolios, K-NPR is still used to calculate K-CON for all portfolios. See Chapter 7 for more information on calculating K-CON.
Future developments

Our proposals for the K-NPR carry forward the current approaches to calculating market risk used in the UK CRR. We are also aware of developments to amend international standards on market risk for banks. Therefore, in future we will have regard to the UK CRR2 regime when reviewing our rules on K-NPR.

Clearing margin given K-factor requirement (K-CMG)

An FCA investment firm may apply to the FCA for permission to use K-CMG, instead of K-NPR, to calculate its market risk requirement for specified portfolios.

We will define a portfolio as including either all the positions attributable to a trading desk, or a subset of the positions of a trading desk where those positions share common characteristics and risks. This is to accommodate the different ways in which investment firms’ trading desks are structured. The definition should not incentivise an investment firm to divide trading desks artificially, which could otherwise undermine the proper management of the risks arising from the activities of such desks. However, if the FCA investment firm has applied for permission to use flexibility, it must justify the choice of portfolio by referring to the common characteristics and risks of the positions it contains. Further, it must show it has not chosen the portfolio with a view to regulatory arbitrage.

The K-CMG requirement is calculated using the following formula:

\[ \text{K-CMG requirement} = \text{TM} \times 1.3 \]

where TM is the third highest amount of total margin required from the investment firm, measured each day, over the preceding three months.

We propose that for each trading day during the relevant calculation period, the FCA investment firm must calculate the total combined margin provided to all clearing members in aggregate for the relevant portfolios. The K-CMG requirement is then calculated using the third highest daily aggregate amount.

In arriving at TM, an FCA investment firm shall use the sum of:

- the amount of margin required by the margin model of the relevant clearing member or central counterparty, plus
- the value of any ‘haircut’ applied by the clearing member or authorised central counterparty to positions included in the portfolio that represent settled trades and which the clearing member or central counterparty is treating as collateral to secure the present or future obligations of the FCA investment firm.

The relevant amount of margin is the margin required under the margin model and not necessarily the amount of margin subsequently transferred by the investment firm. This ensures that the firm’s K-CMG requirement is not artificially reduced by subsequent commercial negotiations that may result in the clearing member or authorised central counterparty accepting a lower amount of margin than the model requires on any given day.
If a firm has settled trades in a portfolio which represent its own proprietary positions, those positions are unlikely to give rise to a margin requirement on any given day. In some cases, the clearing member or central counterparty may nonetheless take such positions into account by treating them as collateral to secure the other obligations of the trading firm. We understand that it is common to apply a ‘haircut’ to the value of such collateral which effectively reflects the risk that it will reduce in value due to market movements. That ‘haircut’ can therefore be used as a proxy for the market risk for the settled part of the portfolio.

The K-NPR requirement will apply to the position instead if it:

- has not been taken as collateral or no ‘haircut’ is applied
- is not included in the margin model

We propose to permit an FCA investment firm which is a clearing member of a central counterparty – where authorised or recognised under the on-shored EMIR regime – to apply for permission to use K-CMG when it self-clears the relevant portfolio(s). If the FCA investment firm is self-clearing, to determine the margin requirement it must use the authorised CCP’s model, not that of the firm itself. And the FCA investment firm must meet all the other necessary criteria for permission (see below).

We also propose that FCA investment firms that are not direct clients of clearing members should be able to apply to use K-CMG. We may grant a K-CMG permission for a portfolio that is subject to indirect clearing if:

- all the standard conditions for a K-CMG permission are met, and
- the FCA is satisfied that the indirect clearing arrangement does not otherwise result in undue risk

Ultimately, the margin requirement would still be determined by reference to the margin model of the relevant clearing member of the authorised CCP.

Permission to use K-CMG

To obtain a K-CMG permission for a portfolio, an FCA investment firm must demonstrate to our satisfaction that all the following conditions are met:

- The firm is not part of a group containing a credit institution.
- The clearing and settlement of the transactions in the relevant portfolio take place under the responsibility of a clearing member of an authorised or recognised central counterparty.
- The clearing member is the investment firm itself, a UK credit institution or a designated investment firm.
- Transactions in the relevant portfolio are either centrally cleared in an authorised or recognised central counterparty or settled on a delivery-versus-payment basis under the responsibility of the clearing member.
- The investment firm is required to provide total margin calculated on the basis of a margin model that:
  - satisfies the necessary criteria (see below), and
  - is operated by the relevant clearing member or, for an investment firm that is a self-clearing firm, the authorised or recognised central counterparty
• The rationale for the firm’s choice of calculating a K-CMG requirement for the portfolio has been clearly documented and has been approved by the firm’s management body or risk management function.

• The choice of the portfolio to be subject to a K-CMG requirement has not been made with a view to engaging in regulatory arbitrage between the K-NPR requirement and the K-CMG requirement in a disproportionate or prudentially unsound manner.

5.45 The necessary criteria for the margin model are that:

• the margin requirements are sufficient to cover losses that may result from at least 99% of the exposures movements over an appropriate time horizon with at least a two-business days’ holding period and

• the margin model used by the clearing member or authorised or recognised central counterparty to call the margin is always designed to achieve a level of prudence similar to that required in the provisions on margin requirements in article 41 of EMIR

5.46 If the parameters of a margin model operated by a clearing member or authorised or recognised central counterparty do not meet the criteria, those criteria will be considered to be met if an adjustment mechanism is applied to produce an alternative margin requirement. For this the alternative requirement must be at least equivalent to the margin requirement that would be produced by a margin model that meets the criteria. However, the FCA investment firm that has been granted the K-CMG permission must be able to give us, on request, a reasonable explanation of the adjustment it has applied. And it must continue to monitor and review the effectiveness of the adjustment mechanism.

5.47 If the margin model of a clearing member uses parameters that are more conservative than the minimum criteria, the output of the margin model may also be adjusted downwards to produce margin requirements that are consistent with the minimum criteria. This is to remove a regulatory incentive for clearing members or central counterparties to otherwise reduce the robustness of their risk management and margin models on behalf of their investment firm clients.

5.48 An FCA investment firm relying on a K-CMG permission must ensure that:

• the relevant individuals in the investment firm responsible for its risk management function, or for the oversight of that function, have a reasonable understanding of the operation of the margin model

• it integrates such understanding of the relevant margin model into its internal risk assessment process to consider whether:
  - the resulting K-CMG requirement is sufficient to cover the relevant risks to which it is exposed
  - the K-CMG permission remains appropriate to the portfolio(s) for which it was granted

5.49 If an FCA investment firm uses suitable advice or analysis provided by an appropriate third party, it will retain ultimate responsibility for ensuring that the relevant individuals in the investment firm have the necessary knowledge and understanding of the margin model.
5.50 Once an FCA investment firm has been granted permission to use K-CMG for a given portfolio, it must normally continue to do so for that portfolio for at least 2 years before reverting to using the K-NPR instead.

5.51 If an FCA investment firm identifies that any of the conditions for a K-CMG permission are no longer met, it must notify us immediately. In this case, we may revoke permission to use K-CMG for those portfolios that no longer meet the conditions. We also expect to review the use of K-CMG as part of any supervisory review process on the FCA investment firm. We will include our proposals for using K-CMG permission as part of any supervisory review process in our next consultation.

Where firms with K-CMG permission will still need to use K-NPR

5.52 Where the trade has been settled and the proprietary position of the FCA investment firm is no longer included in the calculation of its margin requirement for that portfolio, it should be included in K-NPR to take account of any market risk. However, this is not required for positions that result from client servicing.

5.53 An FCA investment firm that has been granted permission to use K-CMG (even for every portfolio in its trading book) may still need to calculate K-NPR for any positions it holds outside its trading book that give rise to foreign exchange or commodities risk. This is because we consider it unlikely that such positions would be eligible for a K-CMG permission.

5.54 An FCA investment firm will still need to calculate K-NPR as part of any K-CON calculation, even for those portfolios that have been granted permission to use K-CMG (see Chapter 7 on concentration risk).

Trading counterparty default K-factor requirement (K-TCD)

5.55 The trading counterparty default K-factor requirement or K-TCD is designed to capture the risk of an FCA investment firm’s exposure to the default of its trading counterparties. This component of the KFR is also used to calculate K-CON, the K-factor for concentration risk (see Chapter 7 for information on K-CON).

5.56 We are proposing that this requirement will apply to the following types of transactions that are recorded in the trading book of an FCA investment firm that trades in its own name, irrespective of whether this is on behalf of itself or on behalf of a client:

- derivative contracts listed in Annex II to the UK CRR, except:
  - derivative contracts directly or indirectly cleared through a central counterparty (provided various conditions are met)
  - exchange-traded derivative contracts
  - derivative contracts held for hedging a position of the firm resulting from an activity outside the trading book
- long settlement transactions
- repurchase transactions
- securities or commodities lending or borrowing transactions
- margin lending transactions
- any other types of securities financing transactions
5.57 In addition, it will include the following type of transaction if carried out by an FCA investment firm that has permission to trade in its own name (even though the firm may not be transacting in its own name when carrying out the particular transaction):

- Granting credits or loans to an investor so that they can carry out a transaction in one of more financial instruments where the FCA investment firm granting the credit or loan is involved in the transaction by:
  - executing the trade in the name of the investor, or
  - receiving and transmitting the order without executing it

5.58 We propose that transactions with the following types of counterparties do not need to be included when calculating K-TCD:

- central government and central banks, where the underlying exposures would receive a 0% risk weight under article 114 of the UK CRR
- multilateral development banks listed in article 117(2) of the UK CRR
- international organisations listed in article 118 of the UK CRR

5.59 We also propose that an FCA investment firm can apply to exclude certain intra-group transactions with other UK entities provided that various conditions are met. These include that the counterparty is part of the same group as the investment firm and both are subject to either prudential consolidation or the group capital test.

Calculating K-TCD

5.60 The own funds requirement for TCD = \( \alpha \times EV \times RF \times CVA \)

where:

- \( \alpha = 1.2 \)
- \( EV = \) the exposure value
- \( RF = \) the risk factor that applies to the counterparty type
- \( CVA = \) the credit valuation adjustment

Exposure value (EV)

5.61 The exposure value will be determined according to the formula:

\[ EV = \text{Max}(0; RC + PFE - C) \]

where:

- \( RC = \) replacement cost
- \( PFE = \) potential future exposure (this only applies to derivative contracts)
- \( C = \) collateral
Replacement Cost (RC)

5.62 We propose that the replacement cost is arrived at as follows:

- for derivative contracts, the current market value (CMV)
- for long settlement transactions, the settlement amount of cash to be paid or to be received by the firm upon settlement. A receivable should be treated as a positive amount and a payment as a negative amount.
- for repurchase transactions and securities or commodities lending or borrowing transactions, the amount of cash lent or borrowed. Cash lent by the firm should be treated as a positive amount and cash borrowed by the firm as a negative amount. (However, this treatment does not apply to securities financing transactions, where both legs of the transaction are securities)
- for securities financing transactions, where both legs of the transaction are securities, the CMV of the security lent by the firm, increased by the corresponding volatility adjustment (see under 'value of collateral' below)
- for margin lending transactions, the book value of the asset in accordance with the applicable accounting framework
- for credits and loans to an investor so that they can carry out a transaction in one of more financial instruments (where the investment firm is executing the trade in the name of the investor, or receiving and transmitting the order without executing it), the book value of the asset in accordance with the applicable accounting framework

Potential future exposure (PFE)

5.63 The requirement to calculate potential future exposure (PFE) only applies to derivative contracts.

5.64 We propose that an FCA investment firm must calculate the PFE for derivative contracts in a netting set using one of two approaches:

- the hedging approach, or
- the derivative netting ratio approach

5.65 Where a single derivative contract cannot be allocated to a netting set with other derivative contracts, it must be treated as a separate netting set.

5.66 By making such proposals we will provide certainty to FCA investment firms, including for commodity derivative firms that currently calculate counterparty risk according to Chapter 3 of our Interim Prudential sourcebook for Investment Firms (IPRU-INV).

5.67 Both approaches require what is known as the 'effective notional amount', calculated using the following formula:

\[
\text{The effective notional amount} = N \times D \times SD, \text{ where:}
\]

\[
N = \text{the notional amount}
\]

\[
D = \text{the duration}
\]

\[
SD = \text{the supervisory delta}
\]
5.68 Both approaches also require use of a supervisory factor, according to the relevant asset class. We propose that the supervisory factor for each asset class is as set out in Table 4.

**Table 4: Supervisory factor for each asset class**

<table>
<thead>
<tr>
<th>Asset class</th>
<th>Supervisory factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest rate</td>
<td>0.5%</td>
</tr>
<tr>
<td>Foreign exchange</td>
<td>4%</td>
</tr>
<tr>
<td>Credit</td>
<td>1%</td>
</tr>
<tr>
<td>Equity single name</td>
<td>32%</td>
</tr>
<tr>
<td>Equity index</td>
<td>20%</td>
</tr>
<tr>
<td>Commodity and emission allowance</td>
<td>18%</td>
</tr>
<tr>
<td>Other</td>
<td>32%</td>
</tr>
</tbody>
</table>

5.69 We propose that transactions relating to gold or gold derivatives must be allocated to the foreign exchange asset class.

5.70 The detailed rules for calculating PFE under each approach, including how to determine the notional amount, the duration and the supervisory delta, are set out in MIFIDPRU 4.

**Value of collateral (C)**

5.71 For transactions involving derivatives, margin lending, and credits and loans to an investor so that they can carry out a transaction in one of more financial instruments, the value of collateral, C, is the notional amount of collateral received by the FCA investment firm, decreased in accordance with the relevant volatility adjustment (see below).

5.72 For long settlement, repurchase, securities or commodities lending or borrowing, and any other types of securities financing transactions, the value of the C is the sum of the CMV of the security leg and the net amount of collateral posted or received by the FCA investment firm. If a contractual netting agreement satisfying a series of detailed requirements covers different types of transactions, the applicable volatility adjustments will be applied to the respective amounts calculated under both the security leg and the collateral leg on an issuer basis within each asset class. See Table 5 column C for the applicable volatility adjustments (volatility adjustment other transactions).

5.73 However, for securities financing transactions where both legs of the transaction are securities, the value of the C is the CMV of the security borrowed by the FCA investment firm.

5.74 If the FCA investment firm is purchasing or has lent the security, the CMV of the security will be treated as a negative amount and be decreased to a larger negative amount, using the relevant volatility adjustment below.

5.75 If the FCA investment firm is selling or has borrowed the security, the CMV of the security will be treated as a positive amount and be decreased by the relevant volatility adjustment below.
5.76 If there is a currency mismatch between the transaction and the collateral received or posted, an additional currency mismatch volatility adjustment of 8% will apply.

5.77 All collateral for both bilateral and cleared transactions will be subject to the volatility adjustments set out in Table 5.

Table 5: Volatility adjustment for different types of transaction

<table>
<thead>
<tr>
<th>Asset class</th>
<th>Volatility adjustment: repurchase transactions and securities lending and borrowing transactions</th>
<th>Volatility adjustment: other transactions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debt securities issued by central governments or central banks</td>
<td></td>
<td></td>
</tr>
<tr>
<td>≤ 1 year</td>
<td>0.707%</td>
<td>1%</td>
</tr>
<tr>
<td>&gt; 1 year ≤ 5 years</td>
<td>2.121%</td>
<td>3%</td>
</tr>
<tr>
<td>&gt; 5 years</td>
<td>4.243%</td>
<td>6%</td>
</tr>
<tr>
<td>Debt securities issued by other entities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>≤ 1 year</td>
<td>1.414%</td>
<td>2%</td>
</tr>
<tr>
<td>&gt; 1 year ≤ 5 years</td>
<td>4.243%</td>
<td>6%</td>
</tr>
<tr>
<td>&gt; 5 years</td>
<td>8.485%</td>
<td>12%</td>
</tr>
<tr>
<td>Securitisation positions (excluding re-securitisation positions)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>≤ 1 year</td>
<td>2.828%</td>
<td>4%</td>
</tr>
<tr>
<td>&gt; 1 year ≤ 5 years</td>
<td>8.485%</td>
<td>12%</td>
</tr>
<tr>
<td>&gt; 5 years</td>
<td>16.970%</td>
<td>24%</td>
</tr>
<tr>
<td>Listed equities and convertibles</td>
<td>14.143%</td>
<td>20%</td>
</tr>
<tr>
<td>Other financial instruments (including re-securitisation positions) and commodities</td>
<td>17.678%</td>
<td>25%</td>
</tr>
<tr>
<td>Gold</td>
<td>10.607%</td>
<td>15%</td>
</tr>
<tr>
<td>Cash</td>
<td>0%</td>
<td>0%</td>
</tr>
</tbody>
</table>

5.78 The references to years in column A of the above table are references to the remaining maturity of the relevant security or position.

5.79 As an example of how the volatility adjustment applies in practice, take an FCA investment firm that enters into an OTC derivative contract and receives collateral in the form of a debt security issued by a central bank with a maturity of 6 years. The notional value of the debt security is 100. The notional value of the collateral is required to be decreased by the applicable volatility adjustment. Applying the table above, the relevant volatility adjustment is 6%. The resulting value of C after the volatility adjustment has been applied is therefore 94.

Netting

5.80 For the purposes of calculating its K-TCD requirement, we propose that an FCA investment firm may, in the following order:

1. treat perfectly matching contracts included in a netting agreement as if they were a single contract with a notional principal equivalent to the net receipts
2. net other transactions subject to novation under which all obligations between the investment firm and its counterparty are automatically amalgamated so that the novation legally substitutes one set single net amount for the previous gross obligations, and

3. net other transactions where the FCA investment firm ensures that the following conditions have been met:

   a. those transactions are covered by netting contract with the counterparty, or by another agreement that creates a single legal obligation. That obligation would mean that the investment firm would have either a claim to receive, or obligation to pay, only the net sum of the positive and negative mark-to-market values of the individual transactions if a counterparty fails to perform due to any of the following:

      i. default
      ii. bankruptcy
      iii. liquidation, or
      iv. similar circumstances

   b. the netting contract does not contain any clause that, in the event of default of a counterparty, permits a non-defaulting counterparty to make limited payments only, or no payments at all, to the estate of the defaulting party even if the defaulting party is a net creditor

   c. the FCA investment firm has obtained an independent, written and reasoned legal opinion that, in the event of a legal challenge to the netting agreement, the investment firm’s claims and obligations would be equivalent to those referred to in (a) above under each of the following legal regimes:

      i. the law of the jurisdiction in which the counterparty is incorporated
      ii. if a foreign branch of a counterparty is involved, the law of the jurisdiction in which the branch is located
      iii. the law that governs the individual transactions included in the netting agreement, or
      iv. the law that governs any contract or agreement necessary to effect the netting

Risk factor (RF)

5.81 The proposed risk factor for a counterparty is as set out in the following table:

<table>
<thead>
<tr>
<th>Counterparty type</th>
<th>Risk factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central governments, central banks and public sector entities</td>
<td>1.6%</td>
</tr>
<tr>
<td>Credit institutions and investment firms</td>
<td>1.6%</td>
</tr>
<tr>
<td>Other counterparties</td>
<td>8%</td>
</tr>
</tbody>
</table>

Credit valuation adjustment (CVA)

5.82 The credit valuation adjustment (CVA) makes an adjustment to the mid-market valuation of the portfolio of transactions with a counterparty to reflect the CMV of the credit risk of the counterparty to the FCA investment firm. It does not reflect the CMV of the credit risk of the investment firm to the counterparty.
5.83 The CVA for the following transactions is 1:

- transactions with certain non-financial counterparties, if they do not exceed the clearing threshold specified in article 10(3) and (4) of EMIR
- intra-group transactions as provided for in article 3 of EMIR
- long settlement transactions
- securities financing transactions
- credits and loans to an investor so that they can carry out a transaction in one or more financial instruments where the FCA investment firm granting the credit or loan is involved in the transaction by:
  - executing the trade in the name of the investor, or
  - receiving and transmitting the order without executing it

5.84 The CVA for all other transactions is 1.5.

5.85 The CVA is also 1.5 for securities financing transactions where we have notified an FCA investment firm that its CVA exposures from those transactions is material.

Daily trading flow K-factor requirement (K-DTF)

5.86 The K-factor capital requirement for daily trading flow or K-DTF is designed to capture the operational risks relating to the value of trading activity an FCA investment firm conducts throughout each business day. This could be from systems, processes, people and external events.

5.87 DTF measures the daily value of transactions an FCA investment firm carries out in its own name, including on behalf of clients. It does not include the value of orders handled for clients in the name of clients that are captured within the scope of K-COH – client orders handled. We will provide more information on the scope and how to calculate K-COH in a subsequent consultation.

5.88 DTF has 2 components that are to be measured separately – cash trades and derivatives trades. The FCA investment firm will then apply the following factor to calculate its own funds requirement:

- the cash trade component of DTF should be multiplied by 0.1%
- the derivatives trades component of DTF should be multiplied by 0.01%

5.89 The K-DTF will be the sum of the two components. It must be calculated on the first business day of each month.

5.90 DTF will be measured as a rolling average (using the arithmetic mean) of an FCA investment firm’s daily trading flow measured over the previous 9 months, but excluding the 3 most recent months. It will be the sum of the absolute values of each buy and sell order.

5.91 We propose that a cash trade is an order that relates to the sale or purchase of any of the following:

- transferable securities
- money market instruments
• units in collective investment undertakings
• exchange-traded options

5.92 A derivatives trade is an order that relates to the sale or purchase of any financial instrument other than those listed above.

5.93 For cash trades, the value of an order is the amount paid or received on the trade. For cash trades relating to exchange traded options, the value of an order is the premium paid for the option.

5.94 For derivatives trades that are not related to interest rates, the value of an order is the notional amount of the contract calculated using the same method used to calculate the notional amount for the purposes of K-TCD.

5.95 For derivatives trades that are related to interest rates, the value of an order is the notional amount of the contract calculated using the same method used to calculate the notional amount for the purposes of K-TCD multiplied by the duration. The duration is the time to maturity in years, divided by 10.

Q10: Are our proposals for the PMR sufficiently clear, including how it interacts with the ICR? If not, please explain what else could help.

Q11: Do you agree with our approach to K-NPR, which carries forward the current approaches to calculating market risk used in the UK CRR, including relevant rules and guidance from our current prudential sourcebooks?

Q12: Are the requirements relating to the application and calculation of K-CMG sufficient, or do you have any specific suggestions for improving them?

Q13: Do you have any specific comments on our detailed proposals for calculating the K-TCD, including the approach to potential future exposure?

Q14: Are our proposals for how to calculate K-DTF sufficiently clear? And should there be the possibility of an adjustment to calculating the coefficients for K-DTF in periods of extreme market stress and volatility? What specific suggestions do you have, and how could any adjustment operate effectively in the proposed framework for calculating K-DTF?
6 Own funds requirements – transitional provisions

6.1 We are proposing several transitional provisions (TPs) to help FCA investment firms adjust to the proposed new minimum capital requirements of the IFPR. The majority of these apply in circumstances where there might otherwise be a relatively large increase for an individual firm compared to existing regulatory capital requirements. We also propose a TP for firms that are only authorised as FCA investment firms after the IFPR is introduced to ensure that they are not at a competitive disadvantage relative to existing firms that can rely on the other transitional arrangements.

6.2 These TPs apply to the PMR, the FOR or the K-factor requirement (KFR); it is possible to use more than one TP. Our intention is that the TPs will remain available for up to 5 years after the IFPR takes effect (except where stated otherwise). They are set out in MIFIDPRU TP2.

6.3 In addition, we propose a TP for where an investment firm group is subject to prudential consolidation and any FCA investment firm in that group is relying on any of the above TPs for its individual minimum own funds requirements. This is also set out in MIFIDPRU TP2.

6.4 We also propose a TP for calculating the K-factor requirement metrics given that their application uses historical observations of data points (and so would otherwise stretch back for considerable periods of time before the implementation date of the IFPR). This is set out in MIFIDPRU TP 4.

6.5 To ensure that both FCA investment firms, and parent undertakings of an FCA investment firm group where prudential consolidation applies, are able to calculate a K-factor requirement from the first day that the IFPR takes effect, we propose a further transitional as set out in TP 5. FCA investment firms should note that this TP imposes obligations that apply in the month immediately before the IFPR begins to apply.

Transitional provisions for the fixed overheads requirement and the K-factor requirement

Transitional provision for fixed overheads requirement and K-factor requirement for current IFPRU and BIPRU firms

6.6 This TP effectively caps the FOR or KFR as calculated using MIFIDPRU at twice the current own funds requirement of a current IFPRU or BIPRU firm (as is applied under the UK CRR or GENPRU, as appropriate). FCA investment firms will have to recalculate the alternative requirement regularly. Our proposal is that this recalculation should be done at least quarterly to fit in with regulatory reporting requirements.

6.7 The FCA investment firms to which this TP applies will still have to calculate their PMR. The PMR will be the firm’s operative requirement, where it is higher than the above transitional requirement.
6.8 This TP does not apply to exempt-IFPRU and exempt-BIPRU commodities firms.

**Transitional provision for fixed overheads requirement and K-factor requirement for current exempt CAD firms**

6.9 Our proposal aims to ensure that larger exempt CAD firms (for whom the FOR or the KFR might bite) will have a smooth transition to the IFPR own funds requirements.

6.10 This TP caps the FOR and the KFR components of the own funds requirement of this current type of FCA investment firm to:

- its transitional PMR (see paragraph 6.15 below) for the first year
- 10% of its FOR or KFR (whichever is higher) for the second year
- 25% of its FOR or KFR (whichever is higher) for the third year
- 45% of its FOR or KFR (whichever is higher) for the fourth year
- 70% of its FOR or KFR (whichever is higher) for the fifth year

6.11 The full requirement will then apply at the end of the fifth year.

6.12 For the avoidance of doubt, where the transitional PMR is higher than the capped FOR or KFR, the PMR will continue to be the operative requirement.

**Transitional provision for KFR for firms that were not MiFID investment firms in the UK before the IFPR takes effect**

6.13 We are proposing that an FCA investment firm, that was not a MiFID investment firm in the UK immediately before the IFPR takes effect, may cap its KFR at twice its FOR. The FOR should be recalculated during the transition period.

**Transitional provisions for the permanent minimum capital requirement**

6.14 The following TPs (paragraphs 6.16 to 6.20) do not affect an FCA investment firm’s FOR or KFR. Where the FOR or KFR (modified by any relevant TP) is higher than the transitional PMR, an FCA investment firm’s own funds requirement will still be the higher of its FOR or, if it applies, its KFR.

6.15 In addition, an FCA investment firm that applies to vary its permissions and, as a result has a higher PMR, will no longer be able to use the transitional provisions in paragraphs 6.16 and 6.17.
Transitional provision for the PMR for current exempt CAD firms

6.16 This TP allows firms that are exempt CAD firms immediately before the IFPR takes effect to gradually increase their PMR, up to £75,000.

<table>
<thead>
<tr>
<th>Period from start of IFPR</th>
<th>Transitional PMR</th>
</tr>
</thead>
<tbody>
<tr>
<td>TP year 1</td>
<td>£50,000</td>
</tr>
<tr>
<td>TP year 2</td>
<td>£55,000</td>
</tr>
<tr>
<td>TP year 3</td>
<td>£60,000</td>
</tr>
<tr>
<td>TP year 4</td>
<td>£65,000</td>
</tr>
<tr>
<td>TP year 5</td>
<td>£70,000</td>
</tr>
<tr>
<td>End of year 5 onwards</td>
<td>£75,000</td>
</tr>
</tbody>
</table>

Transitional provisions for the PMR for current IFPRU and BIPRU investment firms (except those that are currently ‘matched principal’)

6.17 These two TPs allow firms that will be IFPRU or BIPRU firms (except those that use the matched principal exemption) immediately before the IFPR takes effect to gradually increase their PMR own funds requirement from its existing level up the full applicable requirement under the IFPR.

<table>
<thead>
<tr>
<th>Current base capital requirement</th>
<th>BIPRU</th>
<th>IFPRU 50k</th>
<th>IFPRU 125k</th>
<th>IFPRU 730k</th>
</tr>
</thead>
<tbody>
<tr>
<td>TP year 1</td>
<td>£50,000</td>
<td>£50,000</td>
<td>£125,000</td>
<td>£730,000</td>
</tr>
<tr>
<td>TP year 2</td>
<td>£55,000</td>
<td>£55,000</td>
<td>£130,000</td>
<td>£735,000</td>
</tr>
<tr>
<td>TP year 3</td>
<td>£60,000</td>
<td>£60,000</td>
<td>£135,000</td>
<td>£740,000</td>
</tr>
<tr>
<td>TP year 4</td>
<td>£65,000</td>
<td>£65,000</td>
<td>£140,000</td>
<td>£745,000</td>
</tr>
<tr>
<td>TP year 5</td>
<td>£70,000</td>
<td>£70,000</td>
<td>£145,000</td>
<td>£750,000</td>
</tr>
<tr>
<td>End of year 5 onwards</td>
<td>£75,000</td>
<td>£75,000</td>
<td>£150,000</td>
<td>£750,000</td>
</tr>
</tbody>
</table>

Transitional provisions for the PMR for ‘matched principal’ firms

6.18 The matched principal exemption will no longer exist under the IFPR. This means that the PMR for FCA investment firms that deal on a matched principal basis will be £750,000. Our proposed TP applies to all IFPRU and BIPRU firms that currently use the matched principal exemption (under IFPRU 1.1.12R or BIPRU 1.1.23R).

6.19 We feel that this TP is more prudent than allowing such FCA investment firms to rely on the general PMR TPs as these do not provide a path to meeting the full £750,000 requirement. It would allow a gradual increase in the PMR up to £750,000 in the following stages:

- Year 1 – current base capital requirement
- Year 2 – £190,000
- Year 3 – £330,000
- Year 4 – £470,000
- Year 5 – £610,000

6.20 The full PMR of £750,000 applies from the end of year 5 onwards.
Transitional provision for the own funds requirement for ‘local firms’

6.21 This TP will apply to firms that were UK MiFID investment firms before 25 December 2019 and will be ‘local firms’ immediately before the IFPR takes effect. Our proposal is to allow these firms to limit their minimum own funds requirement, gradually increasing it to £750,000 in the following stages:

- Year 1 – £250,000
- Year 2 – £350,000
- Year 3 – £450,000
- Year 4 – £550,000
- Year 5 – £650,000

6.22 From the end of year 5 onwards, the full own funds requirements of the IFPR apply – ie the highest of the PMR, the FOR, and the KFR.

Transitional provisions for the fixed overheads requirement and the K-factor requirement for exempt commodities firms

6.23 Our proposal aims to allow exempt (IFPRU and BIPRU) commodities firms to move from their current capital requirements to their own funds requirements under the IFPR (other than their PMR) over a period of 5 years. Instead of applying the FOR and the KFR as calculated using MIFIDPRU, the TP caps those elements of the own funds requirement under the IFPR to:

- its PMR for the first year
- 10% of its FOR or KFR (whichever is higher) for the second year
- 25% of its FOR or KFR (whichever is higher) for the third year
- 45% of its FOR or KFR (whichever is higher) for the fourth year
- 70% of its FOR or KFR (whichever is higher) for the fifth year

6.24 The full amount of its FOR or KFR (whichever is higher) will apply at the end of the fifth year

6.25 For the avoidance of doubt, where the PMR is higher than the capped FOR or KFR, the PMR will continue to be the operative requirement.

6.26 Where an exempt commodities firm is currently subject to IPRU-INV, its own funds should never drop below the amount of its financial resources requirement as if it continued to be subject to IPRU-INV as it stands on the day before the IFPR takes effect.

Transitional provision for calculating the consolidated own funds requirement

6.27 Our view is that an FCA investment firm group subject to prudential consolidation should not be prevented from taking account of any TPs used by an individual FCA investment firm within that group, for the purposes of determining its consolidated own funds requirement. We propose to do this by allowing consolidation groups to
use a transitional ‘credit’ against their consolidated own funds requirement. This credit is based on the difference between the full MIFIDPRU requirement for each FCA investment firm that is part of the consolidated situation (i.e. the requirement that would apply if there was no transitional relief), and its transitional requirement on an individual basis. (See Chapter 3 for details on prudential consolidation).

Consolidated FOR

6.28 To calculate the transitional provision for the consolidated FOR (‘A’):

- calculate the consolidated FOR in line with MIFIDPRU 2 (‘B’)
- deduct the transitional credit (‘C’)

6.29 To calculate C for the consolidation group, first calculate the credit available for each FCA investment firm individually:

- calculate its FOR as it would be under the IFPR without using any TPs that would otherwise apply (‘D’)
- calculate the alternative requirement that applies in place of its individual FOR using the relevant TP (‘E’)
- the credit available for that FCA investment firm is D – E

6.30 This step should be repeated for each FCA investment firm in the consolidation group. The credit available for the consolidation group FOR is the sum of the individual credits.

6.31 If an FCA investment firm does not have a TP for its FOR, there is no credit available.

6.32 ‘A’ can never be lower than the sum of:

- the individual transitional FOR for each FCA investment firm for which there is an individual TP, and
- the individual FOR for each FCA investment firm for which there is no individual TP

Consolidated KFR

6.33 To calculate the transitional provision for the consolidated KFR (‘F’):

- calculate the consolidated KFR in line with MIFIDPRU 2 (‘G’)
- deduct the transitional credit (‘H’)

6.34 To calculate H for the consolidation group, first calculate the credit available for each FCA investment firm individually:

- calculate its KFR as it would be under the IFPR without using any TPs that would otherwise apply (‘J’)
- calculate the alternative requirement that applies in place of its individual KFR using the relevant TP (‘K’)
- the credit available for that FCA investment firm is J – K

6.35 This step should be repeated for each FCA investment firm in the consolidation group. The credit available for the consolidation group KFR is the sum of the individual credits.
6.36 ‘F’ can never be lower than the sum of:

- the individual transitional KFR for each FCA investment firm for which there is an individual TP, and
- the individual KFR for each FCA investment firm for which there is no individual TP

**K-factor metric calculations – transitional provisions**

6.37 These TPs are set out in MIFIDPRU TP 4 and apply to individual FCA investment firms.

6.38 We recognise that the calculations behind some of the K-factor requirements require varying periods of historical observations of underlying metrics. These proposed TPs are therefore intended to aid the calculation of the K-factor requirements for existing FCA investment firms that are undertaking the relevant activities immediately before the IFPR takes effect. They are not relevant to FCA investment firms that need to calculate KFRs for new activities that they start after the IFPR is in place, as MIFIDPRU 4 specifies the use of business projections in this situation until historical data is available.

6.39 The duration of these transitional arrangements depends on the relevant K-factor metric. The transitional arrangements will cease to apply once a firm has (or should have) collected sufficient historical information to perform the necessary calculations in accordance with the standard calculation rules for the relevant K-factor metric in MIFIDPRU 4.

6.40 These TPs only apply to collecting the metrics relevant to calculating K-AUM, K-CMH, K-ASA, K-COH, K-DTF and K-CMG requirements. It is not relevant to its K-NPR, K-TCD or K-CON requirements as they do not use historical data.

6.41 These TPs only apply until the FCA investment firm has, or should have, collected enough historical data to be able to calculate the KFR in accordance with MIFIDPRU 4. The precise time these TPs remain available will depend on the precise KFR the FCA investment firm is calculating. For the avoidance of doubt, if a firm has suitable observed data for certain months, it must use those data points. The TPs can only be used for addressing missing historical data points.

6.42 We propose that an FCA investment firm may use reasonable estimates to fill any missing historical data points when calculating a particular KFR. On request, it must provide us with a reasonable explanation of how it has reached those estimates.

6.43 Alternatively, it can use the calculations set out in MIFIDPRU TP4. It should use this method where the FCA investment firm considers that it cannot reasonably estimate the missing historical data points.

6.44 The FCA investment firm should continue to use the same method for a specific KFR until it has enough historical data to calculate the KFR in accordance with MIFIDPRU 4.

6.45 This means that an FCA investment firm cannot, for example, use the calculations in TP 4 to calculate K-AUM for a few months, and then move to using estimates. The FCA investment firm can use different methods for different KFRs. For example, it might use reasonable estimates for AUM and the MIFIDPRU TP 4 method for COH.
Due to the requirement in MIFIDPRU TP 5 for firms to begin collecting relevant KFR data one month before MIFIDPRU begins to apply in full, all existing FCA investment firms will have at least one month’s observed data by the time the new regime begins to apply. This will ensure that where necessary, they have a basis on which to apply the MIFIDPRU TP 4 calculation.

**Applying the TP to KFR calculations**

6.47 This section does not apply to K-CMG.

6.48 An FCA investment firm must first calculate the relevant average value for the K-factor. This is the monthly value for AUM, daily for the remaining K-factors.

6.49 This should be calculated over the number of months since the IFPR came into force (n) excluding the most recent months (y), where (y) is the greater of:

- zero, or
- (n) minus 12 when calculating AUM
- (n) minus 6 when calculating CMH, ASA or DTF
- (n) minus 3 when calculating COH

6.50 The first month during which IFPR begins to apply is treated as month 1 for these purposes (rather than month zero). During the first month, this calculation therefore uses the one month’s worth of advance data the firm has collected to comply with MIFIDPRU TP 5.

**Applying the TP to K-CMG calculations**

6.51 An FCA investment firm must calculate the third highest amount of total margin according to MIFIDPRU 4 over the number of months since the IFPR came into force. Again, the first month during which IFPR begins to apply is treated as month 1 for these purposes.

**K-factor metric calculations – transitional provisions for prudential consolidation**

6.52 MIFIDPRU TP 4 also sets out a transitional provision on using the K-factor metrics if a UK parent of an FCA investment firm group applies MIFIDPRU 4 to its consolidated situation and the consolidation group includes:

- an FCA investment firm to which MIFIDPRU TP 4 applies, or
- a third-country firm to which MIFIDPRU TP 4 would apply, if it were established in the UK

6.53 A UK parent may use reasonable estimates to fill any missing historical data points when calculating a particular KFR. It should, on request, give us a reasonable explanation of how it has reached those estimates.

6.54 Alternatively, it can use the calculations set out in MIFIDPRU TP 4. It should use this method where it considers that it cannot reasonably estimate the missing historical data points.
6.55 All FCA investment firms in the investment firm group must use the same TP for the K-factor metrics when calculating a specific KFR. The UK parent must then apply the same approach to calculating a specific KFR on a consolidated basis as the FCA investment firms have applied on an individual basis.

**Applying the TP to KFR calculations for prudential consolidation**

6.56 This section does not apply to K-CMG.

6.57 A UK parent to which consolidation applies must first calculate the relevant average value for the K-factor (according to MIFIDPRU 4) on the basis of its consolidated situation. This is the monthly value for AUM, daily for the remaining K-factors.

6.58 This should be calculated over the number of months since the IFPR came into force (n) excluding the most recent months (y), where (y) is the greater of:

- zero, or
- (n) minus 12 when calculating AUM
- (n) minus 6 when calculating CMH, ASA or DTF
- (n) minus 3 when calculating COH

6.59 The first month during which IFPR begins to apply is treated as month 1 for these purposes (rather than month zero). During the first month, this calculation therefore uses the month’s worth of advance data collected by the UK parent to comply with MIFIDPRU TP 5.

**Applying the TP to K-CMG calculations for prudential consolidation**

6.60 A UK parent to which consolidation applies must calculate the third highest amount of total margin (according to MIFIDPRU 4) on the basis of its consolidated situation over the number of months since the IFPR came into force. Again, the first month during which IFPR begins to apply is treated as month 1 for these purposes.

**Advance data collection – transitional provision on collecting K-factor metrics**

6.61 We propose a transitional provision, set out in MIFIDPRU TP 5, to ensure that both FCA investment firms, and the ultimate UK parent undertaking of an FCA investment firm group where prudential consolidation applies, are able to calculate a K-factor requirement from the first day that the IFPR takes effect.

6.62 MIFIDPRU TP 5 will require FCA investment firms and UK parents to begin collecting data on the K-factor metrics one month before the MIFIDPRU sourcebook begins to apply in full. It requires an FCA investment firm to only collect data on K-factor metrics that are relevant to the investment services/and or activities that it undertakes, or in the case of a UK parent, that relevant entities within its investment firm group undertake.

6.63 UK parents should note that where the FCA investment firm group includes third-country entities carrying on activities that would be relevant MiFID activities if they were carried on in the UK, they will need to collect data on K-factor metrics relevant to those entities.
Q15: Do you agree with our proposals for the various transitional provisions relating to own funds requirements? Do you agree that they cover all relevant situations? If not, what specific suggestions do you have?

Q16: Are our suggestions for the transitional provisions for the initial collection and use of K-factor metrics practical? Do you have any specific suggestions for improvement?

Q17: If we did not introduce our proposed transitional provisions on advanced data collection of the K-factor metrics, what alternative solution would you propose?
7 Concetration risk monitoring and K-CON

7.1 In this chapter, we explain how we propose concentration risk will work in relation to the IFPR. We set out our proposals for monitoring requirements for general concentration risk that will apply to all FCA investment firms. There are also reporting requirements on concentration risk for all non-SNI investment firms.

7.2 We also provide an overview of the various requirements that we propose will apply to the trading book exposures of FCA investment firms that deal on own account. This includes an additional K-factor requirement for concentration risk, known as the K-CON.

7.3 Finally, we describe when and how the requirements of this chapter will not apply to commodities and emissions allowance dealers.

7.4 Our proposed rules for concentration risk are set out in MIFIDPRU 5.

Monitoring and control of concentration risk

7.5 Harm can arise from more than just a concentrated trading book exposure to a client. To mitigate the potential for harm that can arise from different types of concentrated exposures or relationships, we propose that all FCA investment firms should monitor and control all their sources of concentration risk, including:

- exposures in a trading book
- assets (for example, trade debts) not recorded in a trading book
- off-balance sheet items
- the location of client money
- the location of client assets
- the location of its own cash deposits
- the sources of its earnings

7.6 When we refer to the location of client money/assets/cash, we mean that FCA investment firms should monitor and control the extent to which these assets are concentrated at particular banks, investment firms and other entities.

7.7 We propose to require FCA investment firms to identify not just individual clients but also groups of connected clients who may constitute a single risk because of their interconnectedness. Our proposed rules offer a detailed definition of what a group of connected clients means, based on the definition used in the UK CRR.
Reporting of concentration risk

Chapter 8 on reporting sets out in more detail the information on concentration risk that we are proposing to collect from non-SNI FCA investment firms. This includes, where applicable, information about the FCA investment firm’s exposures or positions with its 5 largest counterparties. We propose that SNI investment firms will not be subject to the reporting requirement for concentration risk, although they must still monitor and control concentration risk.

Overview of concentration risk requirements for investment firms that deal on own account

The concentration risk requirements described in the following sections will only apply to the trading book exposures of an FCA investment firm that is dealing on own account. This includes:

- FCA investment firms that trade in their own name but on behalf of a client
- FCA investment firms that trade in their own name on a matched principal basis
- OTF operators that deal on own account on a matched principal basis or in illiquid sovereign debt

Our proposed rules cover:

- how to calculate the value of exposure to each client or group of connected clients, referred to as the exposure value or EV
- how to calculate the concentration risk ‘soft limit’ for exposure to a client or group of connected clients
- how to calculate the value by which exposure to each client or group of connected clients exceeds the concentration risk soft limit, referred to as the exposure value excess or EVE
- an obligation to notify the FCA if the value of exposure to a client or group of connected clients exceeds the concentration risk soft limit
- how to calculate a concentration risk capital requirement, the K-CON on the amount of the EVE
- preventing avoidance of the K-CON
- ‘hard’ concentration risk limits on the size of any individual exposure and the total level of concentrated exposures
- excluding certain types of exposures from the concentration risk requirements

Calculation of exposure value (EV)

Our proposals require FCA investment firms to calculate an exposure value or EV for each client or group of connected clients. Here ‘client’ means any counterparty of the FCA investment firm.
The EV is calculated by adding together the following items:

- the positive excess of long positions over short positions in all the trading book financial instruments issued by the client in question, using the approach for K-NPR to calculate the net position for each instrument
- the exposure value of contracts and transactions with the client in question, calculated using the approach for K-TCD

K-NPR and K-TCD are the K-factor requirements for net position risk and trading counterparty default – see Chapter 5 of this CP for details of how to calculate these.

FCA investment firms that have permission to use K-CMG (the K-factor requirement for clearing margin given) for any of their portfolios will still need to use the rules for the K-NPR to calculate their net position for the exposures in those portfolios, for the purpose of calculating any K-CON requirement.

The exposure to a group of connected clients must be calculated by adding together the exposures to the clients in the group.

Concentration risk ‘soft limit’

Our proposed rules specify a concentration risk soft limit for trading book exposures to a client or group of connected clients. If the EV to a client or group of connected clients exceeds this limit, a further capital requirement, the K-CON, will then apply.

The concentration risk soft limit will generally be 25% of an FCA investment firm’s own funds. However, where the client is, or the group of connected clients contains, one or more banks or investment firms, we propose that the soft limit should increase to the lower of £150 million or 100% of the FCA investment firm’s own funds.

This is provided that, for the sum of EVs to connected clients that are not banks or investment firms, the concentration risk soft limit remains at 25% of the FCA investment firm’s own funds.

Calculating exposure value excess (EVE)

A firm that exceeds the concentration risk soft limit for a client or group of connected clients will then be required to calculate the exposure value excess (EVE). The EVE will be used to calculate the K-CON.

The EVE for an individual client or group of connected clients is to be calculated using the following formula:

$$\text{EVE} = \text{EV} - \text{L}$$

where EV = the exposure value, and L = the concentration risk soft limit.

Calculating the concentration risk capital requirement – K-CON

For as long as a firm exceeds the concentration risk soft limit for one or more clients or groups of connected clients, it must calculate the concentration risk capital
requirement or K-CON. The key elements needed to calculate K-CON on any concentrated exposure to a client or to a group of connected clients are the EV, EVE, the own funds requirement (OFR) relating to that exposure, and the number of days that the excess has persisted.

**7.22** K-CON involves a 2-step calculation. The first step is an exposure-based calculation, known as the own funds requirement for the excess (OFRE). The second involves applying a multiplying factor to the OFRE (or applying different multiplying factors to tranches of the OFRE) based on the length of time for which the exposure has persisted and by how much (as a percentage of own funds) the EV exceeds the ‘soft’ limit.

**7.23** For the purposes of the first step:

- the OFRE is determined by applying the following formula:
  \[ \text{OFRE} = \frac{\text{OFR}}{\text{EV}} \times \text{EVE} \]
- the OFR is the total amount calculated for K-TCD and of the specific-risk requirements for K-NPR for the relevant exposure (see Chapter 5 of this CP on K-factor requirements). FCA investment firms should ignore any requirement for general risk calculated as part of K-NPR, as it is only the specific risk that is relevant in terms of concentration to the client (or issuer) in question.
- if an FCA investment calculates a K-CMG requirement for a portfolio, it must calculate the OFR using the approach specified for K-NPR instead.
- the OFR for a group of connected clients is calculated by adding together the exposures to individual clients in the group.

**7.24** For the purposes of the second step:

- the OFRE has a multiplying factor applied to it, determined by the length of time the exposure has exceeded the ‘soft’ limit and by how much (as a percentage of own funds) the EV exceeds the ‘soft’ limit
- in measuring the length of time the exposure has exceeded the soft limits, we propose to only include business days

**7.25** Our proposed rules set out in detail how to calculate the K-CON. Below we provide two simplified worked examples to help explain how to do this. The first example covers where an excess has existed for 10 business days or less. The second is for where an excess continues to exist after 10 business days, and where extra steps are involved.

*Worked example 1: How to calculate the K-CON own funds requirement for an exposure to a client that has existed for 10 business days or less*

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>An FCA investment firm has:</td>
</tr>
<tr>
<td></td>
<td>a own funds of 1,000</td>
</tr>
<tr>
<td></td>
<td>b its concentration risk soft limit (L) is 25% of own funds</td>
</tr>
<tr>
<td></td>
<td>1,000 x 25% = 250</td>
</tr>
<tr>
<td></td>
<td>c an exposure value (EV) of 262</td>
</tr>
<tr>
<td></td>
<td>d its exposure value excess (EVE) is its EV minus its soft limit (L)</td>
</tr>
<tr>
<td></td>
<td>EVE = 262 – 250</td>
</tr>
<tr>
<td></td>
<td>EVE = 12</td>
</tr>
</tbody>
</table>
In this example, the exposure is all due to debt securities with a specific risk of 8%. This specific risk is taken from Table 1 in Article 336 of the UK CRR.

(Note that in practice it is possible that an exposure could be made up of different types of positions to a client or group of connected clients, with different specific risk requirements.)

There is zero K-TCD to this client.

In this example, the OFR is therefore $= 262 \times 8\% = 20.96$

To calculate the own funds requirement excess (OFRE)

$$\text{OFRE} = \frac{\text{OFR}}{\text{EV}} \times \text{EVE}$$

$$\text{OFRE} = \frac{20.96}{262} \times 12$$

$$\text{OFRE} = 0.96$$

This exposure has persisted for less than 10 business days.

This means that to calculate the CON own funds requirement, the OFRE needs to be multiplied by 200%

$$\text{K-CON own funds requirement} = 0.96 \times 200\% = 1.92$$

Worked example 2: How to calculate the K-CON own funds requirement for an exposure to a client that has existed for more than 10 business days

An FCA investment firm has:

a) own funds of 1,000

b) its concentration risk soft limit (L) is 25% of own funds
   $$1,000 \times 25\% = 250$$

c) an exposure value (EV) of 780

d) its exposure value excess (EVE) is its EV minus its soft limit (L)
   $$\text{EVE} = 780 - 250$$
   $$\text{EVE} = 530$$

In this example, the exposure is all due to debt securities with a specific risk of 8%. This specific risk is taken from Table 1 in Article 336 of the UK CRR.

(Note that in practice it is possible that an exposure could be made up of different types of positions to a client or group of connected clients, with different specific risk requirements.)

There is zero K-TCD to this client.

In this example, the OFR is therefore $= 780 \times 8\% = 62.4$

To calculate the own funds requirement excess (OFRE)

$$\text{OFRE} = \frac{\text{OFR}}{\text{EV}} \times \text{EVE}$$

$$\text{OFRE} = \frac{62.4}{780} \times 530$$

$$\text{OFRE} = 42.4$$
This exposure has persisted for more than 10 days. The OFRE should be allocated to the appropriate EVE band in the following table:

<table>
<thead>
<tr>
<th>EVE as a percentage of own funds</th>
<th>Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 40%</td>
<td>200%</td>
</tr>
<tr>
<td>From 40% to 60%</td>
<td>300%</td>
</tr>
<tr>
<td>From 60% to 80%</td>
<td>400%</td>
</tr>
<tr>
<td>From 80% to 100%</td>
<td>500%</td>
</tr>
<tr>
<td>From 100% to 250%</td>
<td>600%</td>
</tr>
<tr>
<td>Over 250%</td>
<td>900%</td>
</tr>
</tbody>
</table>

Each allocation is then multiplied by the applicable band factor.

In this example, 40% of own funds is 400, and 60% of own funds is 600. The FCA investment firm’s EVE is 530.

The proportion of the OFRE that relates to the first 400 of the EVE needs to be multiplied by 200%.

The proportion of the OFRE that relates to the remaining 130 of the EVE needs to be multiplied by 300%.

<table>
<thead>
<tr>
<th>EVE split by bands</th>
<th>allocating the OFRE across the bands</th>
<th>CON own funds requirement (OFRE x factor for that band)</th>
</tr>
</thead>
<tbody>
<tr>
<td>a 400 (200% band)</td>
<td>400/530 = 0.7547 x 42.4 = 32</td>
<td>32 x 200% = 64</td>
</tr>
<tr>
<td>b 130 (300% band)</td>
<td>130/530 = 0.2453 x 42.4 = 10.4</td>
<td>10.4 x 300% = 31.2</td>
</tr>
</tbody>
</table>

The total K-CON requirement for this exposure is the sum of the CON requirement for a and b. K-CON = 64 + 31.2 = **95.2**

**Anti-avoidance procedures**

7.26 Our proposals include rules to prevent FCA investment firms from deliberately avoiding the K-CON own funds requirement.

7.27 A firm must not undertake artificial transactions to close out the exposure and create a new exposure, or temporarily transfer the exposure to another undertaking, whether within the same group or not.

7.28 There is also a requirement to maintain systems which ensure that any closing out or transfer in breach of the above is immediately reported to the FCA.
Concentration risk ‘hard’ limits

7.29 It is prudent to set a maximum level of concentration risk that the trading book exposures of an FCA investment firms should not exceed. We are proposing that these ‘hard’ limits be set at:

- 500% of the FCA investment firm’s own funds for an EV to an individual client or group of connected clients that has exceeded the soft limit for 10 business days or less
- 600% of the FCA investment firm’s own funds for the total of all its exposure value excesses or EVEs that have existed for more than 10 business days

7.30 An exposure exceeding the concentration risk soft limit persists for as long as the overall exposure exceeds the concentration risk soft limit, irrespective of whether the constituent parts that make up that total exposure change over the duration of that total exposure.

7.31 The 600% limit applies to the aggregate of all individual EVEs for excesses that have persisted for more than 10 business days, irrespective of whether the individual concentrated exposures are connected to one another.

Notification requirements

7.32 If an FCA investment firm exceeds the concentration risk soft limit for a client or group of connected clients, it must notify us of the amount of the EVE, the name of the individual client or the group of connected clients concerned, without delay.

7.33 If an FCA investment firm exceeds either of the two hard limits, it will also be required to notify us without delay. This notification would include:

- the amount of the exposure or exposures that have led to the breach
- the name or names of the clients concerned
- any steps the FCA investment firm has taken or intends to take to deal with the breach and to prevent any future occurrence

Exclusions

7.34 Our proposals provide for some specific types of exposures to be excluded from the concentration risk requirements for dealing on own account. These are exposures:

- that have been deducted from own funds
- that are incurred during the ordinary course of settlement of:
  - payment services
  - foreign currency transactions
  - securities transactions
- that are incurred in the provision of money transmission
• to, or guaranteed by, the following (where they have a 0% risk weight in the UK CRR):
  – central governments
  – central banks
  – public sector entities
  – international organisations
  – multilateral development banks

7.35 We are also proposing to exclude exposures incurred by an FCA investment firm to its parent, to other subsidiaries or connected undertakings of that parent or to its own subsidiaries or connected undertakings. This is provided that those undertakings are supervised:

• on a consolidated basis in accordance with the IFPR or with UK CRR
• for compliance with the group capital test in accordance with IFPR, or
• in accordance with comparable standards in force in a third country

7.36 Two further conditions must also be met to use the above exclusion for intra-group exposures:

• there is no current or foreseen material practical or legal impediment to the prompt transfer of capital or repayment of liabilities
• the risk evaluation, measurement and control procedures of the parent include the relevant group entity

7.37 Currently, an FCA investment firm to which the existing large exposures regime applies is required to seek our permission to exempt certain intra-group exposures from the limits to large exposures in the UK CRR (under article 400(2)). The conditions for this permission are very similar to the proposed conditions for the exclusion under the IFPR. However, firms will no longer need to apply to us for permission before they can apply the new exclusion. We therefore expect that firms which exclude intra-group exposures under the UK CRR will continue to be able to exclude these exposures under the new regime, without needing to take any further action.

Exemption for commodities and emissions allowance dealers

7.38 Given the specific nature of trading in specialised commodities derivatives markets, we propose that the concentration risk requirements (including monitoring, reporting and limits and K–CON for trading book exposures) will not apply to commodity and emission allowance dealers where all the following conditions are met:

• the other counterparty is a non-financial counterparty
• both counterparties have appropriate centralised risk evaluation, measurement and control procedures
• the transaction can be assessed as reducing risks directly relating to the commercial activity or treasury financing activity of the non-financial counterparty or of that group

7.39 Commodity and emission allowance dealers will have to notify us in advance that they that wish to use this exemption and set out how their activity will meet these conditions. They will need to update this notification annually. If there is a material
change to the information provided, the commodity and emission allowance dealer will have to notify us without delay.

Q18: Do you have any comments on the proposal for monitoring and control of concentration risk? Please provide suggestions for any specific clarifications that you feel may be helpful.

Q19: Are the proposed concentration risk requirements for investment firms that deal on own account sufficiently clear? For example, how to determine the soft limit for exposures to a group of clients involving a mixture of banks and investment firms and corporates? If not, what improvements would you suggest?

Q20: Would you suggest any specific changes to our proposals for commodity and emission allowance dealers?
8 Reporting requirements

8.1 In this chapter, we set out the changes we propose to make to regulatory reporting by introducing the IFPR. Our intention is to collect an appropriate amount of data that will let us supervise FCA investment firms against the requirements of the IFPR. The proposed reporting templates and instructions on how to complete them are available on www.fca.org.uk/publication/consultation/ifpr-reporting-forms.pdf and www.fca.org.uk/publication/consultation/ifpr-reporting-instructions.pdf.

8.2 Our proposals for calculating the values that should be reported are in:

• Chapter 4 of this CP for calculating own funds
• Chapter 5 of this CP for calculating PMR, K-NPR, K-CMG, K-DTF, and K-TCD
• Chapter 7 of this CP for calculating K-CON

8.3 Our next consultation will include:

• how we propose the FOR, the liquidity requirement and the remaining K-factors are calculated
• remuneration reporting requirements
• any additional reporting that may be required for ICARA purposes

Single suite of reporting forms for all FCA investment firms

8.4 We intend to introduce a single suite of IFPR reporting forms for all FCA investment firms. Currently, FCA investment firms complete different sets of regulatory returns depending on which prudential sourcebook they fall under and if they are subject to COREP or FINREP. This is complex for FCA investment firms as a change in permissions can result in a completely new set of regulatory returns. It is also complex for the FCA and makes comparing FCA investment firms with similar business models more difficult.

8.5 We are proposing to take a proportional and risk-based approach to IFPR reporting requirements. We will expect FCA investment firms to be able to produce additional detail on how they have calculated the information they have provided to us if we ask them to do so.

8.6 We are proposing that all FCA investment firms should report this information to us quarterly. The relevant reporting reference dates will be the last business day in March, June, September and December.

8.7 We propose to continue to require FCA investment firms to submit balance-sheet and income statement returns. However, all FCA investment firms will use FSA029 and FSA030 reports in the existing format for these purposes. These returns will also be required quarterly, but reporting reference dates will be determined by referring to the firm’s accounting reference date.

8.8 We will retire FCA001, FSA002 and COREP returns for FCA investment firms.
8.9 Firms that are structures as partnerships or sole traders will also need to provide annual solvency statements, as under the current regime.

**Reporting for SNI investment firms**

8.10 We are proposing that SNI FCA investment firms will generally report in accordance with our proposals above, but with 2 exceptions:

- SNI firms are not required to submit reports relating to general concentration risk or the K-CON requirement (ie MIF004 and MIF005)
- If, exceptionally, the FCA has exempted an SNI firm from complying with the liquidity requirements under the IFPR, that firm is not required to submit the liquidity report (ie MIF002). We will set out our proposals on the IFPR liquidity regime, including any relevant exemptions, in our next consultation.

**Reporting on fixed overheads**

8.11 We will include additional information on calculating fixed overheads and the FOR in our next consultation. At that point, we will determine what additional detail we propose firms to report to us on the make-up of and deductions from a firm’s fixed overheads. That consultation will highlight any changes to the reporting form.

**Additional information from firms for K-factor calculations**

8.12 At this stage, we are not proposing to routinely collect additional information showing how FCA investment firms have calculated individual K-factors. We do expect that FCA investment firms will be able to give us this information on request.

8.13 We may also ask firms with specific business models or those over a particular size to report some additional detail regularly. Additional information required for this, or in support of ICARA requirements, will be included in a later consultation.

**Rationale for the data we are proposing to collect**

8.14 To enable us to deliver our Mission and objectives, we must ensure that FCA investment firms have adequate financial resources to allow them to wind down in an orderly way, and to be able to put right any harm that they might cause to others. To support this, through regulatory reporting we need to:

- know that the capital an FCA investment firm holds is of sufficient quality that it can generally absorb losses, from whatever cause, without having an adverse effect on customers and markets. The same applies for holding liquid assets and being able to meet debts as they fall due
- know where an FCA investment firm is using a transitional capital requirement and which transitional capital requirement it is
- be able to monitor changes in an FCA investment firm’s activities and size over time as these are likely to affect other requirements
- see what concentration risks an FCA investment firm might face from its counterparties – including with entities with which it has its own cash and where it places client money and assets
Consolidated and group reporting

8.15 If an FCA investment firm is part of a prudential consolidation group, we need to be satisfied that the group as a whole meets the requirements. Where the group capital test (GCT) is used, we need to be satisfied that investments in FCA investment firms are backed by enough capital of the right quality at the holding or parent company.

8.16 If an FCA investment firm group is subject to prudential consolidation (rather than the GCT), we are proposing that the UK parent entity for that group should submit reports on a consolidated basis. The reports that are required will depend on whether the UK parent entity is treated as an SNI or a non-SNI firm on a consolidated basis. We set out the criteria to determine this in Chapter 2 of this CP. A UK parent entity that is classified as an SNI firm on a consolidated basis will submit the same reports required from an SNI firm on an individual basis, but those reports will cover the consolidated situation of the group. The same approach will apply to a UK parent entity that is classified as a non-SNI firm on a consolidated basis.

8.17 If the GCT applies to an FCA investment firm group, each parent undertaking in the UK that is subject to the GCT must submit a separate return explaining how it complies with the relevant requirements. The reporting requirement for a responsible UK parent will depend on whether that parent undertaking has decided to:

a. hold own funds instruments to meet the requirement that would apply to its third-country subsidiary, or
b. ensure that the third-country subsidiary holds sufficient own funds instruments to satisfy the GCT at the third-country level

8.18 In point a above, the responsible UK parent will submit a single GCT return, but will include details of the holdings of the third-country subsidiary, as well as its own holdings.

8.19 In point b above, the responsible UK parent will submit 2 returns – one explaining how it complies with the GCT and another explaining how its third-country subsidiary does so.

8.20 We propose that investment firm groups may nominate a single FCA investment firm or UK parent entity to submit all reports required from the individual members of that group. This option is provided for administrative convenience, but does not relieve individual firms in that group of their ultimate responsibility for ensuring that they submit any reports relating to their individual position in an accurate and timely way.

Q21: Do you agree that all FCA investment firms should have the same basic regulatory reporting forms? If not, what changes to the regulatory reporting form do you suggest, and to which types of investment firm should they apply?

Q22: Do you agree with the frequency of the reporting? If not, please state what the frequency should be and explain why.

Q23: Do you think that the instructions for completing the regulatory forms are clear? If not, please specify where additional detail is required and what level of additional detail would be helpful.
9 Our approach to the FS Bill and compatibility with our duties and principles

9.1 When we consult on new rules, the FCA must meet certain requirements under Financial Services and Markets Act 2000 (FSMA). This CP also follows the Government’s introduction of its FS Bill on 20 October 2020. As currently drafted, the FS Bill introduces a new Part 9C into FSMA. Part 9C includes provisions relating to the prudential regulation of FCA investment firms.

9.2 The FCA intends to meet the new obligations set out in the FS Bill ahead of the Bill coming into force. The current draft of the FS Bill permits this, to enable the FCA to consult stakeholders well in advance of implementing the new prudential requirements.

9.3 The drafting of new Part 9C may change over the course of the FS Bill’s passage through Parliament. Nonetheless we believe consulting now is preferable to waiting until the Bill comes into force. This ensures the timely introduction of the IFPR while giving firms sufficient time to prepare for it. We will monitor the FS Bill’s passage through Parliament, and consider whether any changes to its provisions require us to take any further steps before we introduce the new regime.

9.4 The scope of the secondary legislation that HM Treasury makes using the proposed regulation-making powers in the Bill will affect our powers to introduce the IFPR. Again, we will closely monitor the content of those regulations and reflect these in subsequent consultations if needed.

9.5 In this chapter, we set out:

1. the effect of the new provisions in the FS Bill, including the duties and public accountability requirements it sets out for us
2. how we intend to fulfil those duties through the draft rules set out in this CP
3. how our ‘have regard to’ considerations have affected our draft rules, with a specific focus on the new considerations set out in the FS Bill and reflecting our wider FSMA duties

FS Bill provisions

9.6 In the FS Bill, as introduced to Parliament in October 2020, provisions will dis-apply the CRR for FCA investment firms. It will give the FCA additional rule-making, information-gathering and enforcement powers over unauthorised holding companies of FCA investment firms. These are necessary to allow us to introduce the IFPR.

9.7 The FS Bill also sets out the duties, new ‘have regard to’ considerations and public accountability requirements that we must apply in our rule-making for the IFPR.
9.8 The FS Bill places a duty on the FCA to make rules for FCA investment firms, using our existing rule-making powers, to impose the following prudential requirements:

- the types and amounts of capital and liquid assets they must hold
- the management of risks arising from the strength of firms’ relationships with, or exposure to, clients
- regulatory reporting
- public disclosure
- governance arrangements
- remuneration policies and practices

9.9 In doing so, we should look to address the risks to:

- consumers arising from investment firms
- the integrity of the UK financial system arising from investment firms
- which FCA investment firms are exposed

9.10 The FS Bill also imposes similar obligations to make prudential rules for authorised parent undertakings of FCA investment firms, and (if we think such rules are necessary or expedient to advance one of our operational objectives) for unauthorised parent undertakings of FCA investment firms.

9.11 The rules the FCA makes to meet these new duties under the FS Bill for the IFPR are referred to in the Bill as ‘Part 9C Rules’.

9.12 The FS Bill sets out that when making or amending any Part 9C rules we must have regard to:

- any relevant standards set by an international body
- the likely effect of the rules on the relative standing of the United Kingdom as a place for internationally active investment firms to be based or to carry on activities
- any other matter specified by HM Treasury regulations

9.13 These new considerations are in addition to the FCA’s existing statutory objectives, its duty to have regard to the regulatory principles in FSMA, and to the importance of taking action to minimise the extent to which it is possible for a business to be used for a purpose connected with financial crime. All of which are considered in the context of the matters set out in Chancellor’s Recommendations for the Financial Conduct Authority letter of 4th November 2019. Unlike these existing obligations, the new considerations in the FS Bill only apply to Part 9C rules.

9.14 The FS Bill would also require us to consider, and consult HM Treasury on, the likely effect of the rules on relevant equivalence decisions. HM Treasury is responsible for determining what is considered a relevant equivalence decision and must notify the FCA of these in writing. This requirement also only applies to Part 9C rules.

9.15 The FS Bill also sets out new public accountability requirements. When we consult on our draft IFPR rules, we are required to explain:

- the provisions included to address the risks set out above
- the ways in which having regard to the above new considerations has affected the rules

This is in addition to our existing consultation requirements under section 138I of FSMA.
9.16 When we make our proposed rules to introduce the IFPR, we must also publish a summary of the purpose of the rules and explanations and a statement on the points above. We are also required to publish a list of the rules we consider to be Part 9C rules.

How we intend to fulfil our duties

9.17 In this section, we set out how we propose to make prudential rules to address in part the risks and fulfil our duties, as set out above.

9.18 As set out in the Chapter 1, we want to provide industry with sufficient time to prepare for the introduction of this new regime. We have therefore adopted a staggered approach to consultation where we set out now our draft rules on those areas where we believe industry needs more time to prepare, rather than waiting until later in 2021 to release a single consultation.

9.19 A consequence is that – as with our CBA – we will set out in this CP how we have fulfilled our duties and addressed the risks as required by the FS Bill provisions. But we will do this only in the context of the chapters for the new prudential sourcebook MIFIDPRU that we are consulting on in this CP. We will explain in later consultations how other elements of our proposals further address our duties and the risks set out.

9.20 Our intention is that our final consultation will bring together the elements covered in the preceding consultations.

9.21 In this CP we set out our draft rules to introduce the following chapters, or elements of them, of the new prudential sourcebook for MIFID investment firms:

- MIFIDPRU 1 – Application
- MIFIDPRU 2 – Prudential consolidation and the group capital test
- MIFIDPRU 3 – Own funds resources
- MIFIDPRU 4 – Own funds requirements
- MIFIDPRU 5 – Concentration risk
- MIFIDPRU 9 – Regulatory reporting

9.22 Below we set out how we believe our proposed rules in these chapters help us fulfil our duties and address the risks.

MIFIDPRU 1 – Application

9.23 Our current prudential regime for FCA investment firms encompasses a wide range of categories of firms. This is the result of our base regime being amended by various iterations of, and exemptions from, EU prudential legislation which has culminated in the CRR. Two notable consequences of this are that:

- the regime can be complex to understand, leading to the risk that firms inadvertently mis-apply the rules and expose themselves and others to harm
- it is harder for the FCA to be proportionate through the application of its rules.

9.24 Our proposals look to address this by simplifying the new regime by replacing all the existing categories of FCA investment firms with just two: SNIs, and non-SNIs. SNIs are not permitted to trade in their own name or hold client money or assets, and
typically include smaller asset managers and advisers. We have proposed that these SNI firms benefit from a proportionate implementation of the regime in key areas such as calculating capital requirements, reporting, disclosure and remuneration requirements. The non-SNI category comprises all other FCA investment firms.

9.25 We consider that our proposals more clearly delineate between those firms that pose a wider risk of harm to markets and clients, and apply our supervisory focus accordingly. This allows us to better mitigate such harms.

**MIFIDPRU 2 – Prudential consolidation and the group capital test**

9.26 The level at which a firm holds financial resources, assesses its risks and governance, and at which we focus our supervisory oversight, is important in determining an individual firm or group’s financial resilience. For solo-regulated firms that are part of a group the risk is that liabilities, losses or events arising from another entity in that group adversely affect the solo-regulated entity.

9.27 The CRR regime we currently apply to FCA investment firms looks to address these risks through consolidated supervision requirements, meaning that at a consolidated or group-wide level, adequate financial resources are held to cover risks across the group. However, prudential consolidation can be complicated to apply in practice, and it may be possible to address the risks arising from simpler group structures in a more proportionate way.

9.28 Under the CRR regime, groups which contain exclusively limited licence firms and/or limited activity firms may be eligible for a consolidation waiver. In practice, this has sometimes been used to avoid a capital deficit that would otherwise occur if the relevant group had to deduct goodwill from its consolidated financial resources. In extremis, this can mean that the capital of regulated firms is financed by significant amounts of debt at parent level. In turn, this can result in pressure on the regulated entity to transfer financial resources to the parent to service that debt, with implications for the financial resilience of the regulated firm and the wider group.

9.29 Our proposals look to address issues around group risk and consolidation, and so the risks FCA investment firms are exposed to by virtue of their relationship with their parent undertaking, by:

- clarifying the types of relationships that will result in an investment firm group for prudential purposes so as to capture the types of entities that might give rise to harm to consumers and to markets
- providing for a group capital test to ensure that an investment firm group has a stable financial structure, but as a less complex alternative to prudential consolidation for groups that have a sufficiently simple structure
- for groups that are subject to consolidation, providing more practical detail on how to capture the relevant potential risks arising across the group
- removing the existing investment firm consolidation waiver, which can lead to financially unstable group structures. We consider it will no longer be appropriate under the new regime, particularly due to the availability of the group capital test as a more proportionate alternative to prudential consolidation.
MIFIDPRU 3 – Own funds resources

9.30 The composition of capital or own funds resources used by firms to meet their capital requirements is of critical importance to their financial resilience. A key failure of the regime in place pre-2007/8 financial crisis was that not only did financial institutions hold inadequate levels of capital, but that the capital held did not have adequate loss absorbing capacity.

9.31 The Basel Committee on Banking Supervision (BCBS) subsequently set out new standards for the quality of capital banks should hold. These standards were largely adopted in the CRR and so applied to investment firms subject to that regime.

9.32 Our proposals in MIFIDPRU 3 look to build on the UK CRR by making changes for FCA investment firms to reflect their business models, and reflect changes to how capital requirements will apply under our proposed rules. The new rules also include some simplifications as to how a firm calculates its available capital. We are also proposing to extend the definitions of capital from the UK CRR to all types of FCA investment firms, including former BIPRU Firms and Exempt-CAD firms. These firms will no longer be able to use existing definitions of capital such as Tier 3 to meet their own funds requirements under IFPR.

9.33 As a result, the effect of our proposed rules for own funds resources will be to:

- make them more appropriate for FCA investment firms already subject to the UK CRR before the IFPR
- improve the financial resilience of other FCA investment firms currently not subject to the same quality of capital requirements.

This will better address risks to consumers and the integrity of the financial system. It will also ensure consistency across the population of FCA investment firms.

MIFIDPRU 4 – Own funds requirements

9.34 As noted above, the absence of sufficient own funds, both in absolute terms and the quality of capital required, was a key driver of firm failure during the 2007/8 financial crisis. In response, the CRR raised the quantum of capital held, including for the FCA investment firms to which it applied.

9.35 However, the BCBS regime is designed to address the risks faced by deposit-taking institutions. So, while the CRR raised the quantum of capital, how this is calculated does not reflect the business models of investment firms.

9.36 Furthermore, other aspects of the own funds requirements for FCA investment firms were not updated in the various legislative changes that followed the financial crisis. Most notably, the initial capital required for authorisation has not been updated for FCA investment firms since 1993, despite inflation and significant changes to the affected firms in terms of size and business model.

9.37 We are proposing changes that address both these issues. By updating the initial capital for the authorisation for FCA investment firms we are looking to ensure that the baseline for authorisations more accurately reflects the changing nature of the risks posed. We then propose to ensure that at least this basic minimum amount is maintained at all times through applying a ‘permanent minimum’ capital requirement.
9.38 In addition, all FCA investment firms will now be subject to a fixed overheads requirement. Its aim is that any exit from the market takes place in a more orderly manner.

9.39 Further, by introducing the K-Factors methodology, larger FCA investment firms to which it applies will also assess risks and hold capital that better reflects (than the BCBS regime) their business model and the potential harm posed to consumers and markets. This should help better align capital requirements to harm.

9.40 The overall effect of these various own funds requirement rules is intended to be that in future all FCA investment firms hold, at all times, an adequate minimum level of financial resources.

**MIFIDPRU 5 – Concentration risk**

9.41 Having excessive exposure to, or relationships with, a single or limited number of counterparties or connected counterparties can put financial institutions at risk if those counterparties run into difficulties. Sources of concentration risk for FCA investment firms can arise in different ways, including from a trading book, off-balance sheet items, the location of client money, assets and deposits, and sources of earnings.

9.42 Diversification of counterparties is a key risk-mitigation strategy firms should apply. To encourage this, and to help build up financial resilience among FCA investment firms that have a concentration of counterparties, we are proposing rules that require FCA investment firms to monitor and control concentration risks. To ensure that we are proportionate to the risk posed, regulatory reporting on concentration risk will not apply to those FCA investment firms that are SNIs.

9.43 To further address the requirement set out in the FS Bill on managing risks arising from the strength of firms’ exposure to clients, we are also proposing a further set of requirements for FCA investment firms with a trading book: the introduction of the K-CON K-factor. This calculates a minimum amount of own funds an FCA investment firm is required to hold based on its exposure to individual or connected counterparties. And we are proposing a limit on the maximum concentration risk an FCA investment firm can have to a counterparty or group of connected counterparties, independent of the K-CON charge they receive for it.

9.44 With the proposed concentration risk rules, we believe we are addressing risks to individual FCA investment firms, and by better correlating capital with concentration in the system, the wider integrity of the financial system.

**MIFIDPRU 9 – Regulatory reporting**

9.45 Without access to relevant and timely data on the risk profile of FCA investment firms, the FCA may not be able to identify trends in individual firms or groups of firms that point to potential risks to their financial resilience. FCA supervisors may also be unable to identify outliers among a cohort of firms that can be a prompt for further supervisory investigation.

9.46 For FCA investment firms, having to produce and process excessive volumes of data that does not typically relate to their business model can distract both them and FCA supervisors from being able to focus on core relevant data.
The collation of appropriate regulatory reporting data helps firms get a better understanding of their regulatory risk profile, allowing them to identify potential risks to their resilience and take steps to address this. The ability of an FCA investment firm to consistently and accurate provide regulatory data can often indicate the effectiveness of its wider data gathering, IT and operational or governance.

We are proposing a move to more targeted and business-model-specific reporting requirements. This will remove the need for FCA investment firms to report COREP data and substantially reduce the number of data points a firm is expected to provide.

In our view, this will improve prudential outcomes as it will:

- allow both firms and supervisors to focus on the core business model indicators of financial resilience relevant to FCA investment firms
- reduce the unnecessary burden of reporting and analysing data of little value in identifying and mitigating against potential harm

Our proposals will also ensure greater consistency across the FCA investment firm population. This will facilitate greater comparability between firms.

Summary

We consider the impact of the proposals that we have set out in this CP will be to reduce the risks to consumers, to which FCA investment firms are exposed (including by virtue of their relationship with their parent undertaking), and to support the integrity of the financial system.

In so doing, these proposals are part of the fulfilment of our duties under the FS Bill to impose the following requirements on FCA investment firms and their parent undertakings:

- the types and amounts of capital they must hold
- the management of risks arising from the strength of firms’ relationships with, or exposure to, clients
- regulatory reporting

We will set out in later consultations how we will complete the fulfilment of these duties, and our proposals to impose the other requirements on FCA investment firms and their parent undertakings as set out in the FS Bill.

Advancing our objectives

When proposing changes to our rules, our approach is guided by advancing our operational objectives. The proposals set out in this CP are primarily intended to advance our objectives to enhance the integrity of the UK financial system and promote effective competition in the interests of consumers.

We consider these proposals compatible with the FCA’s strategic objective of ensuring that the relevant markets function well. They are intended to reduce the potential harm that an investment firm may cause to its clients or markets by better aligning standards with their business model and source of harm. More appropriate standards
should prevent a firm’s disorderly failure, protecting consumers and improving the stability of the financial sector overall.

9.55 The regime will also support our competition objective by treating all investment firms in a more consistent and simpler manner. This allows for better competition between investment firms which operate within consistent regulatory standards. A more resilient and fairer competitive landscape should benefit consumers, particularly FCA investment firms’ clients, as they can be confident that the market operates efficiently and that smaller firms, which may offer services more appropriate to their needs, are financially resilient.

How we have taken account of our ‘have regard to’ considerations in developing the draft rules

9.56 When proposing changes to our rules, we are required to have regard to factors set out in FSMA, and the recommendations in the Chancellor’s Recommendations for the Financial Conduct Authority letter. The FS Bill proposes two further considerations we must apply for the purposes of our IFPR rule-making:

• having regard to any relevant standards set by an international body
• having regard to the likely effect of the rules on the relative standing of the United Kingdom as a place for internationally active investment firms to be based or to carry on activities

Relevant standards set by an international body (as proposed by the FS Bill)

9.57 For the purposes of the MIFIDPRU chapters included in this CP we have only identified one relevant standard for investment firms: IOSCO’s ‘Core Principle 30’. This sets out that: ‘there should be initial and ongoing capital and other prudential requirements for market intermediaries that reflect the risks that the intermediaries undertake’.

9.58 We consider that the proposals set out in this CP are consistent with the standard. Our proposed rules ensure that the prudential requirements set out in IFPR meet the risks and reflect the business models of FCA investment firms. These include elements of the rules for setting initial and ongoing capital requirements, the remainder of which we will be set out in our next consultation.

9.59 In our next consultation, when we set out our proposed rules on remuneration and governance, we will explain how we have had regard to the relevant international standards that apply in these areas.

The relative standing of the UK (as proposed by the FS Bill)

9.60 The Chancellor’s letter with Recommendations for the FCA (received on 4 November 2019) requires us to consider the impact of our rule-making on the UK’s attractiveness for internationally active financial institutions when developing any policy intervention.

9.61 The new ‘have regard to’ duty set out in the FS Bill addresses a similar issue, but places a wider framework by requiring us to consider our ‘relative standing’.
9.62 When considering this, it is first necessary for us to establish a baseline of where the UK stands before the proposed rules come into force.

9.63 The UK is the world’s largest or second largest financial centre by most measures, and has the highest number of domestic and international investment firms operating in Europe. As such, we believe the UK has a strong relative standing as a place for international investment firms to establish and conduct business. This is confirmed in discussions we have with firms and industry bodies. They state that the deep pool of skilled labour, deep capital markets, time zone, and strong, informed and consistent regulatory approach are all positive drivers in this regard.

9.64 For the purposes of our IFPR rule-making, the most relevant other country or territory where in our opinion internationally active investment firms could choose to be based or carry on activities jurisdiction is the EU. It is the other major jurisdiction currently introducing a prudential regime for investment firms, shares broadly the same time zone, has deep capital markets, and a labour pool with the relevant financial services skill set.

9.65 The EU’s IFR/IFD is the baseline for the UK’s IFPR. Our intention is to achieve the same outcomes with IFPR as that of the IFR/IFD. This, in part, reflects the level of input we had on the design of the EU’s regime. This approach, we believe, will positively impact the relative standing of the UK in the eyes of internationally active investment firms.

9.66 As we have considered aspects of the EU’s regime (at least those published to date), and the impact of its introduction in the UK, we have had regard to the specifics of the UK market and the business models of investment firms located here. We agree with the outcome the EU regime is looking to achieve. But we have identified areas of the EU’s regime that – if introduced on a line-by-line basis in the UK – could lead to less optimal outcomes, both prudentially and on FCA investment firms’ business models.

9.67 There are three areas in particular, where having regard to the UK’s relative international standing – both as a jurisdiction that places a high emphasis on maintaining market integrity, and in terms of ease of doing business – has been our consideration for our proposed rules.

**The application of the K-CMG K-factor**

- The EU’s rules take a single view on the structure of trading desks and the clearing arrangements that investment firms operate. This may be appropriate for many markets. But in our view it does not reflect the reality of how the trading desks of UK-based investment firms operate.
- Introducing the EU’s rules could require firms to change their business models and how they approach risk management beyond that which we consider necessary or appropriate to achieve the desired outcomes. Our approach, taking this impact into consideration, is to propose a set of rules in MIFIDPRU 4 on the application of K-CMG that achieve the same prudential outcomes, but in a risk-based and proportionate way to reflect the business models of UK firms.

**Our new regulatory reporting requirements**

- The EBA is still consulting on its proposals for the EU’s IFR reporting requirements. Its draft proposals envisage over 30 different types of data collection forms, and retaining COREP.
- As we have considered the appropriateness of the EU’s approach, we have had regard to the value implications for FCA investment firms of maintaining such an
approach to reporting versus the supervisory benefits to us of obtaining such quantities of data. The EBA may adopt a different approach, and we may iterate our approach at a later stage. But in this CP we are proposing more proportionate regulatory reporting requirements that are bespoke to the UK. We are also proposing to stop collecting COREP data and to reduce duplication of other data compared to current CRR requirements.

**Our proposed treatment of intangible assets deducted from own funds**

- The EU’s rules allow for the carve-out of certain eligible software from CET1 deductions. This reflects the EU’s approach to the CRR2. However, in our draft MiFIDPRU 3 rules we are proposing that all intangible assets must be deducted in full, with no carve-out for software.
- We have considered the impact our proposed approach would have on the UK’s international standing. Taken in isolation, international firms for whom this carve-out was substantial may view this negatively in terms of the UK’s relative standing. However, on balance, and considering our wider objectives and desire to raise prudential standards, we do not believe the carve-out is appropriate.

**Likely effect on equivalence decisions (as proposed by the FS Bill)**

9.68 As part of the process of drafting the rules in this CP we have discussed with HM Treasury the rules’ likely effect on relevant equivalence decisions. We are not expected under our new public accountability requirements to provide further detail on this.

**The need to use our resources in the most efficient and economical way**

9.69 We have designed our proposals to be proportionate and ensure FCA investment firms are clear about our expectations.

9.70 For example, our new data-gathering proposals are more targeted and business-model specific. They remove the need for FCA investment firms to report COREP data and substantially reduce the number of data points they are required to provide.

9.71 In our view, our proposals should allow both FCA investment firms and supervisors to focus on the core business model indicators of financial resilience relevant to each firm, and result in a more efficient and economic allocation of resources for both.

**The principle that a burden or restriction should be proportionate to the benefits**

9.72 As we have noted throughout this CP, a key driver for our proposed rules is to address the issue that the burden and focus of the existing regime is not fully aligned with the harm that FCA investment firms present. This means that some groups of FCA investment firms do not hold sufficient financial resources to mitigate their potential for harm; others hold too much, or are subject to other burdens such as reporting costs, that do not align with the risks they pose. This is particularly the case for smaller, non-interconnected firms.

9.73 Through our proposed rules, and in keeping with the above principle, all FCA investment firms will benefit from a bespoke regime that reflects their business models. Smaller firms will also benefit from the built-in proportionality for calculating...
capital requirements and reporting requirements that we propose in this CP; and from disclosure and remuneration requirements that we cover in later consultations.

9.74 We have included a full analysis of the costs and benefits of our proposals in Annex 2.

The desirability of sustainable growth in the economy of the United Kingdom in the medium or long term

9.75 Given the importance of FCA investment firms to the functioning of the UK and global economy, it is in everyone's interest that they are held to prudential standards that are proportionate to the risks they pose to clients, other firms and the wider market.

9.76 The current prudential regime was designed for globally active systemically important banks. This means that the current requirements are not designed to address the specific harms that investment firms may pose, based on the different activities they carry out.

9.77 By contrast, under the IFPR, FCA investment firms will be required to hold financial resources proportionate to the scale and nature of the risks they pose. This should ensure that, if an investment firm has to wind down, it can do so in an orderly manner.

9.78 Introducing a regime that supports orderly wind-down will avoid wider disruption to the UK economy during periods of financial stress, thereby helping to drive sustainable long-term growth.

9.79 We consider that our more targeted approach to requirements should lead to better prudential outcomes, greater stability and overall confidence in the industry, and therefore bring benefits to the wider economy.

The general principle that consumers should take responsibility for their decisions

9.80 The proposals are primarily prudential and about reducing the potential that an investment firm may cause to its clients and markets. Consumers do not typically have any influence over these.

The responsibilities of senior management

9.81 Senior managers should understand the proposals and the impacts they may have on their firm. We expect senior management to take responsibility for their firms' compliance with the new reporting requirements consistent with their responsibilities under the Senior Managers & Certification Regime.

The desirability of recognising differences in the nature of, and objectives of, businesses carried on by different persons including mutual societies and other kinds of business organisation

9.82 Our proposals are designed to ensure greater proportionality and alignment of standards with firms' business models, size and the relevant risks they pose.

9.83 For example, our new differentiation between SNI and non-SNI FCA investment firms should ensure that smaller firms are not subject to requirements that are disproportionate to their size and the risks they pose.
The desirability of publishing information relating to persons subject to requirements imposed under FSMA, or requiring them to publish information

9.84 Our proposals in this CP do not require firms to publish, or make publicly available, confidential or commercially sensitive information.

9.85 We support public disclosure as a way to allow third parties – whether investors in the firm, counterparties or clients – to monitor and compare the risks that investment firms take. We believe this promotes good governance and allows investors and counterparties to make more accurate decisions. We will consult on disclosure of prudential data for investment firms in a later consultation.

The principle that we should exercise our functions as transparently as possible

9.86 Our consultation processes are intended to transparently set out the thinking behind our proposals and clearly explain what we expect to achieve. We will continue to engage with industry and other stakeholders to obtain feedback during the consultation process to ensure transparency and clarity in our approach.

9.87 In formulating these proposals, the FCA has had regard to the importance of taking action intended to minimise the extent to which it is possible for a business carried on (i) by an authorised person or a recognised investment exchange; or (ii) in contravention of the general prohibition, to be used for a purpose connected with financial crime (as required by s. 1B(5)(b) FSMA). We do not consider this relevant to our proposals.
Annex 1
Questions in this paper

Q1: Do you agree that FCA investment firms with permission to deal on own account and/or underwrite or place financial instruments on a firm commitment basis (as indicated by a permission to deal as principal in financial instruments) should not be considered an SNI? If not, please include in your response what you consider to be a suitable quantitative threshold for these activities.

Q2: Do you agree with the quantitative thresholds, as set out in Figure 1, that we are proposing? If not, please include in your response what you consider to be suitable quantitative thresholds.

Q3: Do you think that any other criteria should be considered for determining if an FCA investment firm can be an SNI? Please provide examples and thresholds as appropriate.

Q4: Do you have any specific comments on our proposals for the scope and methods of prudential consolidation? Please provide evidence to support any changes? Is there anything relevant to consolidation that is not covered in our rule proposals?

Q5: Are our proposals for how to calculate the consolidated own fund requirements (including the consolidated fixed overheads requirement, the consolidated permanent minimum requirement and the consolidated K-factor requirement) clear and sufficient? If not, do you have any specific suggestions for how to improve this?

Q6: Do you agree with our approach towards the use of the group capital test (as an alternative to prudential consolidation), including our proposal for a transitional provision to allow its use as part of our initial implementation of the IFPR?

Q7: Do you agree with the proposals for the definitions and types of, and deductions from, regulatory capital that investment firms should use to calculate their own funds? Do you think that any additional simplification is needed? If yes, please provide suggestions.
Q8: Do you agree with our proposals for trigger events for the conversion or write-down of AT1 instruments, including setting the minimum the same as under the UK CRR but expressed in a different way to reflect the structure of capital under the IFPR? If not, please let us know why and what trigger events you think there should be instead?

Q9: Do you agree with our proposed transitional provisions for existing permissions in respect of own funds instruments (under UK CRR)? Do you think that any additional transitional provisions are necessary and if so, please identify what they should be and why?

Q10: Are our proposals for the PMR sufficiently clear, including how it interacts with the ICR? If not, please explain what else could help.

Q11: Do you agree with our approach to K-NPR, which carries forward the current approaches to calculating market risk used in the UK CRR, including relevant rules and guidance from our current prudential sourcebooks?

Q12: Are the requirements relating to the application and calculation of K-CMG sufficient, or do you have any specific suggestions for improvement?

Q13: Do you have any specific comments on our detailed proposals for calculating the K-TCD, including the approach to potential future exposure?

Q14: Are our proposals for how to calculate K-DTF sufficiently clear? And should there be the possibility of an adjustment to calculating the coefficients for K-DTF in periods of extreme market stress and volatility? What specific suggestions do you have, and how could any adjustment operate effectively within the proposed framework for calculating K-DTF?

Q15: Do you agree with our proposals for the various transitional provisions relating to own funds requirements and that they cover all relevant situations? If not, what specific suggestions do you have?

Q16: Are our suggestions for the transitional provisions for the initial collection and use of K-factor metrics practical? Do you have any specific suggestions for improvement?

Q17: If we did not introduce our proposed transitional provisions on advanced data collection of the K-factor metrics, what alternative solution would you propose?
Q18: Do you have any comments on the proposal for monitoring and control of concentration risk? Please provide suggestions for any specific clarifications that you feel may be helpful.

Q19: Are the proposed concentration risk requirements for investment firms that deal on own account sufficiently clear? For example, how to determine the soft limit for exposures to a group of clients involving a mixture of banks and investment firms and corporates? If not, what improvements would you suggest?

Q20: Would you suggest any specific changes to our proposals for commodity and emission allowance dealers?

Q21: Do you agree that all FCA investment firms should have the same basic regulatory reporting forms? If not, what changes to the regulatory reporting form do you suggest, and to which types of investment firm should they apply?

Q22: Do you agree with the frequency of the reporting? If not, please state what the frequency should be and explain why.

Q23: Do you think that the instructions for completing the regulatory forms are clear? If not, please specify where additional detail is required and what level of additional detail would be helpful.
Annex 2
Cost benefit analysis

Introduction

1. FSMA, as amended by the Financial Services Act 2012, requires us to publish a CBA of our proposed rules. Specifically, section 138I requires us to publish a CBA of proposed rules, defined as ‘an analysis of the costs, together with an analysis of the benefits that will arise if the proposed rules are made’.

2. This analysis presents estimates of the impacts of our proposal discussed in this consultation. We provide monetary values for the impacts where we believe it is reasonably practicable to do so. For others, we provide estimates of outcomes in other dimensions.

3. The scope of this CP and corresponding CBA focus on own funds, a subset of own funds requirements both at a solo and consolidated level, and reporting. Subsequent consultations will cover the remaining elements of the Investment Firm Prudential Regime, and will include the relevant CBAs.¹

4. This CBA has the following structure:

   a. Section 1 outlines the problem and rationale for our proposed intervention.
   b. Section 2 presents our baseline and key assumptions.
   c. Section 3 lays out our estimates and analysis of the costs and benefits.

Problem and rationale for our proposed intervention

5. FCA investment firms are an important element of a well-functioning economy. They help ensure capital is allocated efficiently and appropriately and help individuals make the most of their savings and investments. If FCA investment firms are not financially resilient, their failure, if it occurs in a disorderly manner, could bring disruption to clients or the markets in which they operate. This means it is necessary for such to be held to appropriate prudential standards.

6. Furthermore, decisions and choices of individual market participants can lead to negative externalities. These are side effects on third parties, such as consumers, other firms, the taxpayer, or the wider economy, that are not necessarily taken into account by these market participants. This can lead to a suboptimal (low) level of capital held. Where FCA investment firms fail, this can have knock-on effects on the markets or the economy. However, if the prudential requirements are set too high, this

¹ Additional capital requirements due to firm-specific risks may be identified by firms themselves or through the supervisory review process. These are not addressed through our proposed methodologies as set out in our rules and are therefore not in scope. As a result, we have not produced an estimate of the costs and benefits of any such firm-specific requirements.
could lead to inefficient allocation of capital based on measures such return on capital employed.

7. Our proposed intervention aims to achieve a better balance between avoiding the excessive social cost from firm failure and ensuring the efficient allocation of capital. The proposed regime is expected to generate benefits to FCA investment firms and the market. We expect that firms subject to the proposed regime would find the new prudential framework more appropriate and proportionate to their business model and less burdensome than the current requirements. Prudential requirements that better align with an FCA investment firm’s business model should also help improve the financial stability in the sector overall. This should have positive implications for consumer protection and particularly for clients of these firms, either because it reduces the potential for firm failure itself, or because it reduces the potential for disorderly failure in the event that a firm does fail including restoring consumers back into the position they should have been in. The proposed changes should help reduce economic losses in drawn-out insolvency proceedings or reliance on investor compensation schemes, avoiding consequent impacts on other firms to top-up these schemes to handle pay-outs. Overall confidence, investor sentiment and market stability should also benefit.  

8. The proposed regime will be closely aligned with the new EU regime – the IFD/IFR, while taking into consideration the specifics of the UK market. The details of the EU’s new prudential regime for investment firms can be found in our June 2021 Discussion Paper - DP20/2.

Baseline and key assumptions

Baseline – current regulatory regime

9. It is necessary to establish a baseline against which to assess the costs and benefits of an intervention to ensure that only those attributable to the intervention are considered.

10. The EU’s proposed rules introducing a new regime for investment firms were published last year. As the UK is no longer a member of the EU, we are not obliged to implement the EU’s rules. We have discretion to decide whether to implement a UK domestic regime that reflects the new EU regime for investment firms or certain parts of it. We consider that the existing levels of regulatory requirements and the current market conditions are an appropriate baseline, because absent our proposed rules, those existing requirements would continue.

11. We will compare our proposals against the current prudential framework that either specifies direct requirements for UK investment firms or defines the scope of the FCA’s discretion to apply other prudential requirements i.e. the on-shored CRD IV and the CRR regimes. 3 Where an IFPR requirement impacts a firm in a materially different way to these regimes, this will be set out in this analysis. Some of our proposals will be aligned with the EU, so we will also consider the case made by the EU in making its proposals.

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2 Also see EU Impact Assessment of the Review of the appropriate prudential treatment for investment firms for the rationale and expected benefits from the proposed changes (available here: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/1307-Review-of-the-appropriate-prudential-treatment-for-investment-firms).

3 References to the “CRR” in this CBA are to the onshored version of the CRR as it is expected to apply in UK domestic law by virtue of the European Union (Withdrawal) Act 2018 (as amended) and any related subordinate legislation.
Scope

12. This CBA will only assess costs and direct benefits of proposals covered by this consultation. The scope of this CP covers elements of the IFPR where the proposed changes are either neutral or beneficial. In this case, the proposed rules either closely resemble the current regime, or are not expected to require firms to make changes to business models or incur substantial costs.

Affected firms

13. The IFPR will apply to around 3,200 investment firms regulated by the FCA. This is based on the number of firms with relevant permissions on the Financial Services Register.

14. We have defined three categories of investment firms: Small, Medium and Large (note that this differs from the proposed approach to categorisation set out in Chapter 2 of this CP and MiFIDPRU 1, and is purely for the purpose of this CBA). Two of these ((a) and (b) below) are FCA investment firms and are covered by the IFPR:

   a. Small firms – non-systemic investment firms that are either SNI (small and non-interconnected) firms or small non-SNI firms, of which there are in total around 3,000. These firms are subject to the IFPR and capital will be driven by either the permanent minimum capital (PMC) or fixed overhead requirement (FOR). The K-factors\(^4\) though applicable for small non-SNI firms is not expected to be greater than the PMC or FOR. This is because some small firms will be categorised as non-SNI investment firms, due only to breaching one or more of the following zero calibrated thresholds for ASA, CMH, DTF, TCD, NPR or CMG by the smallest amount

   b. Medium firms – non-systemic investment firms that are non-SNI firms of which there are around 200. These firms are subject to the IFPR and their own funds requirement will be the higher of permanent minimum capital (PMC), fixed overhead requirement (FOR), and K-factor methods. For these firms, it is expected that it will be the K-factors that drive the capital requirements.

   c. Large firms – systemic investment firms of which there are 8. These firms are not subject to the IFPR but will remain subject to the CRR/CRDIV and prudentially regulated by the PRA. These firms, since they are not subject to the IFPR, are not part of the CBA.

Data

15. We conducted this analysis of the costs and benefits of the consultation proposals using data held by the FCA. These data include information provided through firms’ regulatory returns and the application of the FCA’s standardised costs model to estimate compliance costs as a result of the proposed intervention.\(^5\) We have separately issued a data request to collect data from firms to support later consultations.

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4 K-factor’ concept is a capital calculation based on the activities that an investment firm undertakes. See paragraph [1.30-1.31] of the consultation.

Costs and Benefits

Summary of costs and benefits

16. In the sections below, we have assessed the implementation costs, the costs arising from the proposed prudential rules and the expected benefits.

17. The following table sets out a summary of the estimated implementation costs, which are one-off costs:

<table>
<thead>
<tr>
<th>Type of cost</th>
<th>One-off costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Familiarisation costs and gap analysis</td>
<td>£9.5m</td>
</tr>
<tr>
<td>Costs of changes to the firms’ methodology for capital calculations</td>
<td>£4m</td>
</tr>
<tr>
<td>Costs of making changes to the IT systems</td>
<td>£4.5m</td>
</tr>
<tr>
<td>Costs of providing staff training/disseminating information about the new rules</td>
<td>£1.6m</td>
</tr>
<tr>
<td><strong>Total implementation cost</strong></td>
<td><strong>£19.6m</strong></td>
</tr>
</tbody>
</table>

18. The estimated total one-off implementation costs imply average costs of around £26k and £5k per medium and small firms respectively (as defined in paragraph 14). The per-firm average estimated values do not represent the costs we expect each firm of a given size to incur as a result of the proposals in this CP. Rather, these are averages published for the purposes of transparency for our calculations of the cost of these interventions. The size categories we have used are broad, and each encompasses a range of firm sizes, which in turn would have a range of compliance costs above or below the averages we have included.

19. In the table below we assess how FCA investment firms will be impacted by the proposed changes to the prudential regime:

<table>
<thead>
<tr>
<th>Item</th>
<th>Impact on firms</th>
<th>Small (circa. 3,000 firms)</th>
<th>Medium (circa. 200 firms)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prudential consolidation and the group capital test</td>
<td>Neutral-to-beneficial impact as scope and methodology match the current regime, with a new optional derogation, the Group Capital Test, added. Removal of Investment Firm consolidation waiver is expected to have an immaterial impact on firms, in aggregate.</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Definition and composition of own funds</td>
<td>Neutral-to-beneficial impact as definition and composition of own funds is based on a simplified three-tiered structure using current CRR requirements.</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>K-NPR (net position risk)</td>
<td>Neutral impact as the proposed rule carries across CRR market risk requirements, and position risk applies primarily to IFPRU firms.</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>K-CMG (clearing margin given)</td>
<td>New optional approach that will be beneficial to firms that choose to implement it.</td>
<td>No</td>
<td>Yes</td>
</tr>
</tbody>
</table>
### Item

<table>
<thead>
<tr>
<th>Item</th>
<th>Impact on firms</th>
<th>Small (circa. 3,000 firms)</th>
<th>Medium (circa. 200 firms)</th>
</tr>
</thead>
<tbody>
<tr>
<td>K-TCD (trading counterparty default)</td>
<td>Beneficial due to significant simplification of requirements and reduction in scope.</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Concentration risk including K-CON</td>
<td>Neutral-to-beneficial overall impact, due to simplification and clarification of existing relevant trading book CRR requirements.</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Reporting requirements</td>
<td>Beneficial due to significant reduction in the number of data items to be reported.</td>
<td>Yes, quarterly</td>
<td>Yes, quarterly</td>
</tr>
</tbody>
</table>

20. In addition, FCA investment firms might be eligible to opt in for a transitional arrangement (contained in the draft MIFIDPRU transitional provision annexes), or a phase-in period, which mostly last for five years. These are designed to reduce the immediate impact of the new prudential requirements for (potentially smaller) firms that might find transition challenging, and should thus help to mitigate some costs in the short term.

21. In summary, the benefits of the proposed rules assessed in this CBA are:

- Reducing the scope of application to make the regime more proportionate and tailored to business models of FCA investment firms.
- Promoting consistency, transparency and market liquidity in FCA investment firm capital instruments so maintaining or increasing the quality of capital in the system and maintaining or potentially reducing firms’ cost of capital.
- Improving financial stability and consumer protection by reducing the potential for firm failure itself or reducing the potential for disorderly failure in the event that a firm does fail.
- Reducing the social cost of firm failure by reducing the reliance on investor compensation schemes, avoiding consequent impacts on other firms to top-up these schemes to handle pay-outs.

22. We do not consider it reasonably practicably to quantify these benefits.

23. Taking all the costs and benefits in the round, we believe that our proposals in this CP will be net-beneficial in the short to medium term. Most of the costs are one-off implementation costs, while the benefits are ongoing and will likely build over time.

### Implementation, IT and training costs

24. Implementation costs include the time and resources spent by firms familiarising themselves with the proposals and performing a gap analysis to identify necessary changes as a result. Firms may also incur training and IT costs. These costs will be one-off in nature to prepare for the introduction of the IFPR.
25. We use standard assumptions to estimate firm compliance costs based on the standardised costs model, of which further details can be found in the FCA publication “How we analyse the costs and benefits of our policies”.6

26. To familiarise themselves with our proposals, we expect that all firms will read the consultation, which contains 104 pages some of which will not be relevant to all firms. We assume that the number of compliance staff who would need to read the consultation will on average be 5 people at a medium firm and 2 at a small firm. We use an average salary of a compliance function and apply these estimates to circa. 200 medium firms and circa. 3,000 small firms.

27. To meet the proposed requirements, firms are expected to conduct a gap analysis of the amount of capital required, among other things, and compare it against the current regime. Firms will be required to assess the actions they may need to take to eliminate any gaps. The standardised cost model assumes it will take 2 and 1 legal or compliance professionals at a medium and a small firm respectively to review legal text, which contains 235 pages, and assess our proposals.

28. We estimate the total cost of familiarisation and gap analysis to be around £9.5m. This would amount to an average cost of £14k for a medium firm and an average cost of £2k for a small firm.

29. In addition to the costs set out above, we expect firms to incur some training costs, although these are likely to be relatively small given the nature of the proposed changes in this CP. For this consultation, we expect firms to disseminate information about the new requirements to their staff, without a need for a formal training. Training will include information given to relevant staff, ranging from informal memos and updates via email through to oral updates. We assume that a medium firm will brief 10 employees and a small firm will brief 2 employees, comprising of compliance staff and investment advisors. We assume that reading the briefing and acting on the information will take a half-day for each affected employee. This would result in the cost of £1.6m.

30. We expect that firms will need to make some changes to own funds calculations methodologies, which would require a small project management team. The main costs relate to the opportunity cost of staff time. Our model assumes that a medium firm will spend 14 person days to implement this change, while a small firm will spend 3 person days. We also assume that this change will need to be reviewed by Senior Managers at each firm. The total cost of this change is expected to be around £4.4m.

31. Finally, we expect firms will need to make some changes to their IT systems to reflect changes to own funds calculations methodologies, even if only for simplification purposes. Firms would also need to update their systems to comply with updated reporting requirements. Our estimates assume that medium firms have an in-house IT capability and will spend 8 person days to implement this change, while small firms are likely to rely on external consultants, and spend the equivalent of 4 person days to implement the IT change. We expect the total cost of this change to be around £4m.

32. In summary, we estimate the total one-off implementation costs to be around £19.6m. This would amount to an average cost of £27k for a medium firm and £5k for a small firm.

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Rule-specific net costs to firms

33. This section covers costs and benefits that firms would incur from each of the rules proposed in this consultation:

a. Prudential consolidation and the group capital test
b. Definition and composition of own funds
c. K-NPR (net position risk)
d. K-CMG (clearing margin given)
e. K-TCD (trading counterparty default)
f. K-CON (concentration risk)
g. Transitional arrangements for own funds requirements
h. Reporting requirements
i. Permanent minimum capital

Prudential consolidation and exemptions for an investment firm group

34. Unlike the CRR, the proposed obligations under a prudential consolidation in IFPR would fall directly upon parent undertakings (including an investment firm where it is a parent undertaking), rather than the authorised entity. This means parent undertakings, which may otherwise be unregulated, will have to meet regulatory obligations.

35. The methods of prudential consolidation match those in the CRR, including full consolidation and, proportional consolidation. Investment firm groups will be required to do a full consolidation unless the FCA permits the group to do a proportional consolidation. This CBA assumes that, where proportional consolidation is currently used this is on the basis it is risk-based and proportionate and will continue to be case under the IFPR.

36. There are currently 224 FCA investment firm groups and we expect there could be more groups when the IFPR applies to all types of investment firms. All groups will have parent entities that are either regulated or unregulated, and any unregulated UK parent entities will now fall within the scope of the IFPR. Since groups typically require there to be a parent entity that, in practice, is normally at least indirectly required to meet consolidated requirements under the CRR, this change essentially formalises current arrangements. Consequently, the impact on how groups are organised and consolidated for the purpose of determining group capital should be neutral.

37. In addition, the IFPR introduces a new derogation – the Group Capital Test (GCT). The purpose of the GCT is to ensure that an investment firm in a group is not exposed to unnecessary financial strain due to its membership of that group. The GCT is an optional alternative to prudential consolidation subject to our permission for its use. Since this approach is optional, it follows that a firm would only apply to use it if beneficial.

38. The proposed regime removes the existing investment firm consolidation waiver (IFCW) for IFPRU and BIPRU firms. IFCWs have been used to facilitate business combinations through acquisitions funded by capital ineligible to be included in own funds. This resulted in consolidation deficits due to the deduction of goodwill. Since the FCA applied conditional IFCWs in 2013, the aggregate deficit across all

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7 Prudential consolidation for investment firms will apply to an investment firm group, which must include at least one investment firm subject to IFPR. The entities that must be consolidated include investment firms, financial institutions, ancillary services undertakings and tied agents. Insurance undertakings are not included within scope.
Annex 2

A new UK prudential regime for MiFID investment firms

FCA investment firm groups has over time been reduced to zero. Consequently, the removal of the IFCWs will have no impact on firms.

**Definition and composition of own funds (capital)**

39. Own funds is the amount and type of capital a firm must hold at both an entity and consolidated group level. Eligible capital includes share capital and distributable reserves (or their equivalent for non-joint stock entities), hybrid instruments that are either convertible into share capital or written-down, and subordinated debt that must be amortised over the last five years of its maturity.

40. Our proposals define\(^8\) the amount and type of capital using the current CRR definitions with one modification – to where hybrid capital instruments are convertible into share capital (referred to as additional tier 1 capital or AT1), then in the event more share capital is required, the entire amount should be converted. This then increases the minimum amount of the highest quality of capital to absorb losses.

41. Since FCA investment firms issue little or no AT1, a modification to AT1 conversion, a feature designed to typically mitigate extreme market events, is not a material change so will have little or no impact on investment firms.

42. For other regimes, including BIPRU and IPRU-INV Chapter 3, 5, 9 and 13, the definition and composition of capital is substantively the same ie share capital and distributable reserves and long-term debt capital.

43. FCA investment firms that are not joint-stock companies funded by LLP member capital, partnership capital and sole trader capital, can continue to treat this as eligible capital, so there will be no change as a result of our proposal.

**Prudential filters and deductions**

44. Prudential filters and deductions reduce the amount of capital that is eligible to be treated as own funds. These have been carried over under our proposals from the CRR, with the following exceptions or simplifications.

45. Significant financial sector entities (FSE) holdings below the current 10% threshold will now have to be deducted instead of risk-weighted 250%. This increase in capital requirements is expected to be more than offset by not requiring firms to deduct FSE positions were these are held for the purposes of market making.

46. If defined benefit pension assets are on the firm’s balance sheet and the value exceeds the pension obligation, that amount will now be deducted. Due to very few firms operating defined benefit schemes (having switched to money purchase defined contribution schemes), and based on the information readily available at the FCA, the amount of defined benefit assets held on investment firm’s balance sheet is immaterial, so we expect that for FCA investment firms, deduction rather than risk-weighting will have little or no impact on firm’s costs.

47. Deferred tax assets that rely on future profitability and arise out of temporary differences which are below the current 10% threshold will now have to be deducted instead of risk weighted 250%. Based on information readily available to the FCA, such balances are immaterial for most investment firms.

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\(^8\) See MIFIDPRU 3 draft rules on the composition of own funds.
48. Subject to meeting the relevant requirements, under our proposals FCA investment firms may now reduce own funds without the need for our permission in certain specified circumstances (such as certain changes in the regulatory or tax treatment of additional tier 1 or tier 2 instruments). This is a benefit to firms as it speeds up the process and reduces the administrative burden, although we do not consider it reasonably practicable to give an estimate of this benefit since it partly depends upon future circumstances which are not reasonably foreseeable.

49. FCA investment firms currently have the option to either deduct qualifying holdings or apply a 1250% risk-weight. Under our draft rules, firms will no longer have the option to risk-weight this exposure so will have to deduct the amount from share capital and reserves. The consequence is that it reduces the amount of CET1 that counts towards own funds and, due to how the own funds limits operate, will reduce the amount of AT1 and T2 that can be treated as eligible capital. This will mean that those FCA investment firms that have qualifying holdings and also rely on lower quality capital will need to increase share capital or retain more distributable reserves. This is not expected to be a material cost for firms.

**K-NPR (net position risk)**

50. The K-NPR provisions in MIFIDPRU 4 cross-refer to the current approaches for market risk set out in the CRR and carry forward some of our existing rules and guidance supporting that. Consequently, there is no change from the current position for IFPRU firms.

**K-CMG (clearing margin given)**

51. K-CMG is an alternative approach to K-NPR for cleared trading book positions. Firms are required to meet certain conditions and gain our permission prior to using this approach. Since firms have the option to seek permission to use K-CMG, we expect that this will generally be exercised if beneficial to the firm.

**K-TCD (trading counterparty default)**

52. Our IFPR proposals simplify the current requirements for counterparty risk by implementing a single standardised regime, drawing on the key features of the current standardised approaches in the CRR.

53. K-TCD will continue to include CRR Annex II derivative contracts, long settlement transactions, repurchase transactions, securities or commodities lending or borrowing transactions, margin lending transactions and any other type of securities financing transactions (SFT).

54. In addition, and to the extent not already caught by other types of SFT, the K-TCD specifically includes within the scope of application the following ancillary service: “credits and loans in the event the investment firm is executing the trade in the name of the client or receiving and transmitting the order without executing it”.9

55. We consider that our proposed rules will be beneficial to firms for the following reasons:

a. The scope of application is reduced by exempting derivative contracts cleared through a CCP, exchange-traded derivative contracts and, to the extent not in a trading book, any derivative hedges.

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9 As set out in MiFID II, Annex I, Section B, point (2).
b. Firms can exclude certain intragroup counterparty exposures from the solo K-TCD capital calculation, subject to our approval.

c. Exposures currently 0% risk-weighted under the CRR are excluded.

**K-CON (concentration risk including)**

56. The concentration risk regime covers capital requirements and monitoring obligations.

57. Our proposals for K-CON, the capital requirements for concentration risk, are based on CRR large exposure (LE) regime for trading book position risk and counterparty risk. Non-trading book requirements have not been carried across as FCA investment firms are not expected to have material positions that are not in the trading book so helping to simplify these requirements.

58. The exposure value used for concentration risk is based on the aggregation of K-NPR (specific risk only) and K-TCD. Firms using K-CMG for position risk will need to calculate K-NPR for these positions for the purposes of K-CON. Since K-CMG is optional, firms will be expected to take this into account when assessing the benefits of using K-CMG.

59. Commodity and emission allowance dealers are exempt from the current large exposures regime in the CRR. We propose that they can continue to benefit from an exemption, but are now subject to conditions limiting the exemption to non-financial entities, and that we are notified before an FCA investment firms makes use of it. This is not expected to prevent most if not all firms currently using the exemption in CRR from continuing to exempt much of their trading business. Being required to notify the FCA is not considered unduly burdensome and expected to be a minimal cost to firms.

60. Those CRR Article 95(1) firms that currently benefit from the matched-principal concession, and Article 96(1) or limited activity firms, will now be included within the scope of K-CON.

61. Other CRR Article 95(1) firms are not permitted to deal on own account or underwrite financial instruments and/or place financial instruments on a firm commitment basis. Consequently, even if exceeding one of the other K-Factor thresholds and being deemed a non-SNI, there would still be no capital required for K-CON as there are no trading book positions.

62. Article 96(1)(a) firms are permitted to run trading book positions for the purposes of executing or fulfilling client orders, so will be subject to K-TCD and K-NPR. These firms will be non-SNI investment firms and subject to K-CON. Since their trading book positions arise only for the purposes of fulfilling the firm’s obligation to the client, the amount of position risk will be very low, consequently the amount of K-CON capital required will be zero. Firms that use extended delivery versus payment settlement, free deliveries or run long dated derivative positions with no margining or netting, could result in risking more than 25% of own funds against a single counterparty or group of connected counterparties. Given this, few if any firms are expected to hold capital for concentration risk.

63. Article 96(1)(b) firms are permitted to undertake only dealing on own account, must have no customers and must not safeguard client money and assets. The firms can have directional trading book positions and counterparty risk so will be subject to K-CON. These firms would need to risk more than 25% of own funds on a single exposure or group of connected risk exposures in order to be required to hold capital.
against concentration risk. Given this, few firms are expected to need to hold capital for concentration risk.

64. The scope of our proposals for concentration risk monitoring extends beyond reporting requirements and applies to all FCA investment firms. Examples of this are set out in the DP20/2 (paragraph 9.8) e.g. location of client money, location of custody assets, firm’s own cash deposits and earnings. Since firms are already required to have adequate systems and controls, it could be argued that these monitoring requirements already exist. However, it remains that the IFPR has referenced these specific monitoring requirements so for firms that do not already have this monitoring in place there will be some extra costs. However, this is not expected to be material.

65. Overall, we expect the proposed K-CON requirement not to have a material cost impact as most FCA investment firms are already subject to very similar concentration risk requirements. Some firms may need to improve their systems and controls to comply with the new monitoring requirements, but this not expected to unduly costly. Some CRR 96(1)(a) firms may be required to hold capital for the first time for concentration risk, but this can be mitigated by having more diverse counterparties and using credit risk mitigation techniques such as netting and or margining. For 96(1) (b) firms the same applies for counterparty risk, but there could also be significant amount of position risk, so arguably there is a greater possibility of having to hold capital for concentration risk. The threshold above which K-CON applies to an exposure is though set quite high at 25% of own funds on a single exposure or group of connected exposures.

Reporting requirements

66. We are proposing to introduce a more proportionate and risk-based reporting regime for FCA investment firms.

67. This will be achieved by:

   a. Having a single suite of IFPR reporting forms. Currently, there are different sets of regulatory returns depending on which prudential sourcebook firms fall under and if they are subject to COREP or FINREP. This has proven to be unduly complex for firms to navigate, especially if there is a change on permissions.
   b. Reducing the number of data items reported, while maintaining sufficient information to adequately supervise firms.
   c. Requiring firms to report information to us quarterly.

68. The following reports will be consulted on in future consultations:

   a. Remuneration reporting.
   b. Internal capital and risk assessment (ICARA) reporting.
   c. Fixed overhead reporting

69. Under our proposals FSA029 balance sheet and FSA030 income statement will be retained and applied to all FCA investment firms. FSA001 balance sheet and FSA002 income statement and the corresponding COREP forms will no longer need to be completed.
70. SNI firms will not be required to submit general concentration risk report MIF004 and K-CON report MIF005.

71. SNI firms which have obtained an exemption from liquidity requirements will not be required to submit liquidity report MIF002. The FCA will consult on the IFPR liquidity regime, including any relevant exemptions, in a future consultation.

72. Unless the group is subject to the group capital test (GCT) the ultimate UK parent undertaking will continue to submit consolidated returns. The GCT however, requires that each parent undertaking i.e. intermediate parent undertakings as well as the ultimate UK parent undertaking, must report separately. Since the GCT is optional, subject to FCA granting permission, it follows that firms will only request to apply the GCT if it is beneficial.

73. To enable the FCA to effectively supervise firms, we will continue to reserve the right to require firms to provide additional information if required.

74. In summary, the reporting requirements that we are consulting on will be a scaled down version of existing reporting requirements, with the added benefit that there will be a dedicated single suite of reporting forms making navigating the requirements far easier. Notwithstanding some initial one-off cost in becoming acquainted with what reporting requirements have been removed or clarified, this should be overall beneficial to firms.

Transitional arrangements for own funds requirements

75. IFPR transitional arrangements (or a phase-in period) are designed to reduce the immediate impact of the new prudential requirements for (potentially smaller) firms that might find transition challenging. These arrangements would give FCA investment firms up to five years to comply after the IFPR's introduction, and so provide a potential benefit. However, we do consider it not reasonably practicable to give an estimate of the reduction in costs. There is uncertainty about how many firms will make use of this transitional arrangement given it will ultimately depend upon the specific situation of each investment firm.

Permanent minimum capital (PMC)

76. At present, it is not reasonably practicable to prepare a meaningful estimate of the costs or benefits arising from the proposals relating to the PMC. This is because the PMC will not necessarily determine the overall capital requirements of an FCA investment firm. Instead, we propose that the PMC will become the operative requirement only where it is higher than the fixed overheads requirement (FOR) and (for firms that are non-SNI investment firms) the K-factor requirement (KFR) of the relevant firm. We expect to publish proposals which will complete the outstanding elements of the overall KFR calculation and will specify the calculation of the FOR in our next consultation. Until those proposals are finalised, it is not generally possible to determine the overall impact of the proposed PMC on the population of FCA investment firms. We will incorporate the impact of the PMC into our next CBA, when we will have complete proposed frameworks for the FOR and KFR.

Benefits

77. We believe that the benefits of our proposals will be delivered in the form of improved consumer protection and particularly for clients of FCA investment firms, either because it reduces the potential for firm failure itself, or because it reduces the
potential for disorderly failure in the event that a firm does fail. The proposed changes should help reduce economic losses in drawn-out insolvency proceedings or reliance on investor compensation schemes, avoiding consequent impacts on other firms to top-up these schemes to handle pay-outs. Overall confidence, investor sentiment and market stability should also benefit.

78. FCA investment firms are also likely to benefit from a more proportionate and risk-based reporting regime, and thus a less costly regime overall.

79. In addition, there will be benefits to the stability of the financial system and wider economy that we have not been able to quantify, but which will be a part of the overall package of benefits that we expect this new prudential regime to deliver.

80. We will provide a further analysis of benefits in the forthcoming consultations, covering the rest of the new prudential regime for FCA investment firms.
Annex 3
Other legal duties

Expected effect on mutual societies

1. The FCA does not expect the proposals in this paper to have a significantly different impact on mutual societies.

Equality and diversity

2. We are required under the Equality Act 2010 in exercising our functions to ‘have due regard’ to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the Act, advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, to and foster good relations between people who share a protected characteristic and those who do not.

3. As part of this, we ensure the equality and diversity implications of any new policy proposals are considered. The outcome of our consideration in relation to these matters in this case is stated in paragraphs 1.15-1.17 of this CP.

Legislative and Regulatory Reform Act 2006 (LRRA)

4. We have had regard to the principles in the LRRA for the parts of the proposals that consist of general policies, principles or guidance and consider that they will help firms understand and meet the regulatory requirements associated with our new capital requirements framework, leading to better prudential outcomes for firms and their clients. We also think our proposals are proportionate and take into consideration the variety of firms in scope.

5. We have had regard to the Regulators’ Code for the parts of the proposals that consist of general policies, principles or guidance and consider the proposals do not create an unnecessary burden on firms, or adversely affect competition.
### Annex 4
#### Abbreviations used in this paper

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AIFMD</td>
<td>Alternative Investment Fund Management Directive</td>
</tr>
<tr>
<td>AT1</td>
<td>Additional Tier 1 capital</td>
</tr>
<tr>
<td>BCBS</td>
<td>Basel Committee on Banking Supervision</td>
</tr>
<tr>
<td>BIPRU</td>
<td>Prudential sourcebook for banks, building societies and investment firms</td>
</tr>
<tr>
<td>BRRD</td>
<td>Bank Recovery and Resolution Directive</td>
</tr>
<tr>
<td>CBA</td>
<td>Cost benefit analysis</td>
</tr>
<tr>
<td>CCP</td>
<td>Central counter party</td>
</tr>
<tr>
<td>CET1</td>
<td>Common Equity Tier 1 capital</td>
</tr>
<tr>
<td>CMV</td>
<td>Current market value</td>
</tr>
<tr>
<td>CP</td>
<td>Consultation Paper</td>
</tr>
<tr>
<td>CPMI</td>
<td>Collective Portfolio Management Investment firm</td>
</tr>
<tr>
<td>COREP</td>
<td>Common reporting</td>
</tr>
<tr>
<td>CRD</td>
<td>Capital Requirements Directive</td>
</tr>
<tr>
<td>CRR</td>
<td>Capital Requirements Regulation</td>
</tr>
<tr>
<td>CU</td>
<td>Connected Undertaking</td>
</tr>
<tr>
<td>EBA</td>
<td>European Banking Authority</td>
</tr>
<tr>
<td>EMP</td>
<td>Energy market participant</td>
</tr>
<tr>
<td>ESG</td>
<td>Environmental, Social and Governance</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>FCA</td>
<td>Financial Conduct Authority</td>
</tr>
<tr>
<td>FICOD</td>
<td>Financial Conglomerates Directive</td>
</tr>
<tr>
<td>FINREP</td>
<td>Financial reporting</td>
</tr>
<tr>
<td>Acronym</td>
<td>Description</td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
</tr>
<tr>
<td>FOR</td>
<td>Fixed overheads requirement</td>
</tr>
<tr>
<td>FS Bill</td>
<td>Financial Services Bill</td>
</tr>
<tr>
<td>FSE</td>
<td>financial sector entities</td>
</tr>
<tr>
<td>FSMA</td>
<td>Financial Services and Markets Act</td>
</tr>
<tr>
<td>GENPRU</td>
<td>General Prudential sourcebook</td>
</tr>
<tr>
<td>GCT</td>
<td>Group capital test</td>
</tr>
<tr>
<td>ICARA</td>
<td>Internal Capital Adequacy and Risk Assessment</td>
</tr>
<tr>
<td>IFCW</td>
<td>Investment Firm Consolidation Waiver</td>
</tr>
<tr>
<td>IFD</td>
<td>Investment Firm Directive</td>
</tr>
<tr>
<td>IFPR</td>
<td>Investment firm prudential regime</td>
</tr>
<tr>
<td>IFPRU</td>
<td>Prudential sourcebook for investment firms</td>
</tr>
<tr>
<td>IPRU-INV</td>
<td>Interim prudential sourcebook for investment business</td>
</tr>
<tr>
<td>IFR</td>
<td>Investment Firm Regulation</td>
</tr>
<tr>
<td>KFR</td>
<td>K-factor requirement</td>
</tr>
<tr>
<td>LRRA</td>
<td>Legislative Regulatory Reform Act</td>
</tr>
<tr>
<td>MIFID</td>
<td>Markets in Financial Instruments Directive</td>
</tr>
<tr>
<td>MIFIDPRU</td>
<td>New Prudential sourcebook for solo regulated MiFID investment firms</td>
</tr>
<tr>
<td>OFR</td>
<td>Own funds requirement</td>
</tr>
<tr>
<td>OFRE</td>
<td>Own funds requirement for the excess</td>
</tr>
<tr>
<td>OMP</td>
<td>Oil market participant</td>
</tr>
<tr>
<td>OTC</td>
<td>Over the counter</td>
</tr>
<tr>
<td>OTF</td>
<td>Organised trading facility</td>
</tr>
<tr>
<td>PMC</td>
<td>Permanent minimum capital</td>
</tr>
<tr>
<td>PMR</td>
<td>Permanent minimum requirement</td>
</tr>
<tr>
<td>PRA</td>
<td>Prudential Regulation Authority</td>
</tr>
</tbody>
</table>
We make all responses to formal consultation available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

Despite this, we may be asked to disclose a confidential response 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 Rights Tribunal.

All our publications are available to download from www.fca.org.uk. If you would like to receive this paper in an alternative format, please call 020 7066 7948 or email: publications_graphics@fca.org.uk or write to: Editorial and Digital team, Financial Conduct Authority, 12 Endeavour Square, London E20 1JN
Appendix 1
Draft Handbook text
INVESTMENT FIRMS PRUDENTIAL REGIME INSTRUMENT 2021

Powers exercised

A. The Financial Conduct Authority (“the FCA”) 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 137A (The FCA’s general rules);
(2) section 137T (General supplementary powers);
(3) section 138D (Actions for damages);
(4) section 139A (Power of the FCA to give guidance);
(5) section 143D (Duty to make rules applying to parent undertakings);
(6) section 143E (Powers to make rules applying to parent undertakings);¹ and
(7) paragraph 23 of Schedule 1ZA (Fees).

B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

C. The following parts of this instrument come into force on [Editor’s note: insert date one month before the application date specified in paragraph D]:

(1) Part 2 of Annex A to the instrument; and
(2) solely for the purpose of enabling a person to comply with the rules in Part 2 of Annex A to this instrument, the provisions in Part 1 of Annex A and in Annex B to this instrument.

D. This instrument comes into force for all remaining purposes on [date].

Making the Prudential sourcebook for MiFID Investment Firms (MIFIDPRU)

E. The Financial Conduct Authority makes the rules and gives the guidance in Annex A to this instrument.

Amendments to the Handbook

F. The Glossary of definitions is amended in accordance with Annex B to this instrument.

G. The Supervision manual (SUP) is amended in accordance with Annex C to this instrument.

¹ Editor’s note: The references to sections 143D and 143E of the Financial Services and Markets Act 2000 are to those provisions as they appear in the Financial Services Bill introduced in the House of Commons on 20 October 2020. The reference to the statutory powers and related provisions in this instrument may need to be reviewed and updated if the Bill is amended during the parliamentary process.
Notes

H. In the annexes to this instrument, the “notes” (indicated by “Note:” or “Editor’s note:”) are included for the convenience of readers, but do not form part of the legislative text.

Citation

I. This instrument may be cited as the Investment Firms Prudential Regime Instrument 2021.

J. The sourcebook in Annex A to this instrument may be cited as the Prudential sourcebook for MiFID Investment Firms (or MIFIDPRU).

By order of the Board
[date]

[Editor’s note:

The text of the EU CRR is amended at the EU level by the EU texts of the Investment Firms Regulation (Regulation (EU) 2019/2033) (“IFR”) and Regulation (EU) 2019/876 amending the EU CRR (“CRR2”). All references to the UK CRR in this instrument are references to the onshored UK CRR in the form in which it would appear if it contained equivalent amendments, unless expressly stated otherwise. The FCA expects that such amendments will largely be made to the UK CRR by UK primary and secondary legislation. This is consistent with HM Treasury’s stated legislative approach in its ‘Prudential standards in the Financial Services Bill’ policy statement published in June 2020. However, the FCA may replace cross-references to the UK CRR in this consultation text with final rules that copy out provisions of the UK CRR in full (reflecting the necessary amendments) to the extent that it is necessary or desirable to do so to make the rules easier for firms to use.

Notes marked “Note:” in this instrument contain references to provisions of the EU IFR or EU Investment Firms Directive (Directive (EU) 2019/2034) (“IFD”). As the IFR and IFD will not apply in the UK, these references will not appear in the final Handbook text. They are provided in this draft instrument solely to assist firms in identifying EU provisions which have a broadly similar effect to the Handbook provision to which they relate. These references may assist firms and groups that operate on an international basis in understanding how the UK prudential regime for investment firms will achieve similar outcomes to the EU IFR and IFD and therefore may be useful for implementation purposes.

References to the “Act” (i.e. the Financial Services and Markets Act 2000) are references to provisions of the Act as they are expected to appear following the enactment of the Financial Services Bill 2020-21.

Amendments to the Glossary of definitions in this instrument assume that the FCA will be repealing the related parts of the BIPRU and IFPRU sourcebooks. The FCA will consult on the repeal of existing sourcebooks in a subsequent consultation.]
Annex A

Prudential sourcebook for MiFID Investment Firms (MIFIDPRU)

In this Annex, all the text is new and is not underlined.

Insert the following new sourcebook, the Prudential sourcebook for MiFID Investment Firms (MIFIDPRU) after the Prudential sourcebook for Insurers (INSPRU).

Part 1: Comes into force on [date]

1 Application

1.1 Application and purpose

[Editor’s note: This section will be published in a subsequent consultation paper.]

1.2 SNI MIFIDPRU investment firms

Basic conditions to be classified as an SNI MIFIDPRU investment firm

1.2.1 A MIFIDPRU investment firm is an SNI MIFIDPRU investment firm if it satisfies the following conditions:

1. (1) its AUM, as calculated in accordance with MIFIDPRU [Editor’s note: insert the appropriate cross-reference to the calculation methodology for AUM in MIFIDPRU 4.7] is less than £1.2 billion;

2. (2) its COH, as calculated in accordance with MIFIDPRU [Editor’s note: insert the appropriate cross-reference to the calculation methodology for COH in MIFIDPRU 4.10] is less than:

   (a) £100 million per day for cash trades; and

   (b) £1 billion per day for derivatives trades;

3. (3) its ASA, as calculated in accordance with MIFIDPRU [Editor’s note: insert the appropriate cross-reference to the calculation methodology for ASA in MIFIDPRU 4.9] is zero;

4. (4) its CMH, as calculated in accordance with MIFIDPRU [Editor’s note: insert the appropriate cross-reference to the calculation methodology for CMH in MIFIDPRU 4.8] is zero;

5. (5) it does not have permission to deal on own account;

6. (6) the on- and off-balance sheet total of the firm is less than £100 million; and
(7) the total annual gross revenue from \textit{investment services and/or activities} of the \textit{firm} is less than £30 million, calculated as an average on the basis of the annual figures from the two-year period immediately preceding the given financial year.

[\textbf{Note:} article 12(1), first paragraph of the \textit{IFR}.

1.2.2 G The definitions of ASA and CMH relate to client assets and client money that are held in the course of MiFID business. As a result, a firm may hold client assets or client money in the course of business other than MiFID business (provided that it has the necessary permissions to do so) and still meet the conditions to be classified as an SNI MiFIDPRU investment firm. When determining whether client assets or client money are to be treated as held in the course of MiFID business for these purposes, MiFIDPRU investment firms should refer to the rules and guidance in MiFIDPRU [4.8] and [4.9].

Additional provisions relating to the calculation of conditions to be classified as an SNI MiFIDPRU investment firm

1.2.3 R Notwithstanding the calculation methodologies in MiFIDPRU 4, the firm shall use the following for the purposes of the criteria in MiFIDPRU 1.2.1R:

(1) end-of-day values to assess each of the following conditions:

(a) its AUM under MiFIDPRU 1.2.1R(1);

(b) its COH under MiFIDPRU 1.2.1R(2);

(c) its ASA under MiFIDPRU 1.2.1R(3);

(2) intra-day values to assess its CMH under MiFIDPRU 1.2.1R(4).

[\textbf{Note:} article 12(1), second to fourth subparagraphs of the \textit{IFR}.

1.2.4 R (1) By way of derogation from MiFIDPRU 1.2.1R, a firm may use the alternative approach in (2) to measure:

(a) its AUM for the purposes of MiFIDPRU 1.2.1R(1); and/or

(b) its COH for the purposes of MiFIDPRU 1.2.1R(2).

(2) The alternative approach is to apply the methodologies in MiFIDPRU 4 for measuring AUM and COH, but with the following modifications:

---

2 Editor’s note: It is currently anticipated that these rules and guidance will be published as part of the rules for calculating CMH and ASA in a subsequent consultation paper.
(a) the measurement must be performed over the immediately preceding 12 months; and
(b) the exclusion of the three most recently monthly values does not apply.

(3) A firm that chooses to apply the derogation in (1) must:
(a) notify the FCA by [Editor’s note: notification and contact details to be inserted] before applying the alternative approach in (2); and
(b) apply the alternative approach for a continuous period of at least 12 months from the date specified in the firm’s notice in (a).

[Note: article 12(1), sixth subparagraph.]

1.2.5 G Where a firm relies on the derogation in MIFIDPRU 1.2.4R, the alternative approach applies only for the purpose of determining whether the firm meets the requirements to be classified as an SNI MIFIDPRU investment firm. It does not apply for the purpose of a MIFIDPRU investment firm’s calculation of its K-factor requirement under MIFIDPRU 4.

1.2.6 R (1) A firm must use the values recorded at the end of the last financial year for which accounts have been finalised and approved by its management body to assess each of the following conditions:
(a) its on- and off-balance sheet total under MIFIDPRU 1.2.1R(6); and
(b) its total annual gross revenue under MIFIDPRU 1.2.1R(7).

(2) By way of derogation from (1), where a firm’s accounts have not been finalised and approved after six months from the end of the last financial year, the firm must use provisional accounts for the purposes of this rule.

[Note: article 12(1), fifth subparagraph.]

1.2.7 R (1) A firm may use the end-of-day value for CMH instead of the intra-day value under MIFIDPRU 1.2.3R(2) if:
(a) there has been an error in record-keeping or in the reconciliation of accounts that incorrectly indicated that the firm had breached the zero threshold in MIFIDPRU 1.2.1R(4); and
(b) the error is resolved before the end of the business day to which it relates.

(2) Where a firm relies on (1) to use an end-of-day value, it must notify the FCA by [Editor’s note: notification and contact details to be inserted] immediately of:

(a) the error;

(b) the reasons that the error occurred; and

(c) how the error has been corrected.

[Note: article 12(1), fourth subparagraph of the IFR.]

1.2.8  G (1) MIFIDPRU 1.2.7R applies to a situation where a firm has incorrectly recorded an amount of client money as CMH. This could occur, for example, where there has been an error in data entry, or where a firm incorrectly records client money as meeting the CMH definition and identifies the mistake before the end of the same business day.

(2) MIFIDPRU 1.2.7R does not apply where a firm mistakenly accepts an amount that meets the CMH definition and subsequently returns that amount to the relevant client. In that case, the firm will have breached the zero threshold in MIFIDPRU 1.2.1R(4) and the situation has not arisen merely due to an error in record-keeping or reconciliation. A firm that wishes to be classified as an SNI investment firm should therefore operate effective systems and controls that prevent it from mistakenly accepting money or assets that constitute CMH or ASA.

1.2.9  R A MIFIDPRU investment firm must assess the following conditions on the basis of the firm’s individual situation:

(1) ASA under MIFIDPRU 1.2.1R(3);

(2) CMH under MIFIDPRU 1.2.1R(4); and

(3) whether the firm has permission to deal on own account.

[Note: article 12(2), second subparagraph of the IFR.]

1.2.10  R (1) A MIFIDPRU investment firm must assess the conditions in (2) on the basis of the combined position of each of the following entities that form part of the same group as that MIFIDPRU investment firm:

(a) MIFIDPRU investment firms;
(b) designated investment firms;
(c) collective portfolio management investment firms; and
(d) third country investment firms that carry on investment services and/or activities in the UK.

(2) The relevant conditions are:

(a) AUM under MIFIDPRU 1.2.1R(1);
(b) COH under MIFIDPRU 1.2.1R(2);
(c) the on- and off-balance sheet total under MIFIDPRU 1.2.1R(6); and
(d) total annual gross revenue under MIFIDPRU 1.2.1R(7).

(3) When measuring the combined total annual gross revenue under (2)(d), the firm may exclude any double counting that may arise in respect of gross revenues generated within the group.

(4) For the purposes of this rule, when calculating the contribution to the combined position of the group of:

(a) a collective portfolio management investment firm, a MIFIDPRU investment firm is required to include only amounts that are attributable to the investment services and/or activities that fall within COLL 6.9.9R (4) to (6) or FUND 1.4.3R (3) to (6); and

(b) a third country investment firm, a MIFIDPRU investment firm is required to include only amounts that are attributable to the investment services and/or activities that are carried on by the third country investment firm in the UK.

[Note: article 12(2), first subparagraph of the IFR.]

1.2.11 G (1) MIFIDPRU 1.2.10R applies to each individual MIFIDPRU investment firm by reference to the relevant entities that form part of that firm’s group. The purpose of that rule is to prevent a MIFIDPRU investment firm from dividing its business between multiple separate group entities that may each carry-on investment services and/or activities in the UK in order to avoid being classified as a non-SNI MIFIDPRU investment firm. Where two or more MIFIDPRU investment firms exceed one or more of the relevant thresholds in MIFIDPRU 1.2.10R on a combined basis, each of those firms will be treated as a non-SNI MIFIDPRU investment firm as a result.
(2) Where a **MIFIDPRU investment firm** forms part of an **investment firm group** to which consolidation applies under **MIFIDPRU 2.5, MIFIDPRU 2.5.21R** explains how **MIFIDPRU 1.2** applies to the **consolidated situation** of the relevant **UK parent entity**.

Summary of conditions to be classified as an SNI MIFIDPRU investment firm and associated calculation requirements

1.2.12 **G** The following table summarises the effect of **MIFIDPRU 1.2.1R** to **1.2.10R**.

<table>
<thead>
<tr>
<th>Measure</th>
<th>Measurement of relevant values</th>
<th>Threshold to be classified as an SNI MIFIDPRU investment firm</th>
<th>Application of threshold on an individual basis or combined basis of investment firms within a group (see MIFIDPRU 1.2.8R)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>AUM</strong></td>
<td>End-of-day</td>
<td>Less than £1.2 billion</td>
<td>Combined</td>
</tr>
<tr>
<td><strong>COH</strong> (cash trades)</td>
<td>End-of-day</td>
<td>Less than £100 million per day</td>
<td>Combined</td>
</tr>
<tr>
<td><strong>COH</strong> (derivatives)</td>
<td>End-of-day</td>
<td>Less than £1 billion per day</td>
<td>Combined</td>
</tr>
<tr>
<td><strong>ASA</strong></td>
<td>End-of-day</td>
<td>Zero</td>
<td>Individual</td>
</tr>
<tr>
<td><strong>CMH</strong></td>
<td>Intra-day</td>
<td>Zero</td>
<td>Individual</td>
</tr>
<tr>
<td><strong>DTF</strong></td>
<td></td>
<td>Firm must not have permission to deal on own account, so these measures must always be zero</td>
<td>Individual</td>
</tr>
<tr>
<td><strong>NPR</strong></td>
<td></td>
<td></td>
<td>Individual</td>
</tr>
<tr>
<td><strong>CMG</strong></td>
<td></td>
<td></td>
<td>Individual</td>
</tr>
<tr>
<td><strong>TCD</strong></td>
<td></td>
<td></td>
<td>Individual</td>
</tr>
<tr>
<td>On- and off-balance sheet total</td>
<td>End of last financial year for which accounts finalised by management body</td>
<td>Less than £100 million</td>
<td>Combined</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>--------------------------------------------------------------------------------</td>
<td>------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>Total annual gross revenue from investment services and/or activities</td>
<td>End of last financial year for which accounts finalised by management body</td>
<td>Less than £30 million, based on an average of annual figures for the two-year period immediately preceding the current financial year</td>
<td>Combined</td>
</tr>
</tbody>
</table>

**Notes**

**Note 1:** The *firm* may calculate the relevant values for these measures by applying the applicable methodologies in *MIFIDPRU* 4, but over a period of the most recent 12 months and without excluding the three most recent monthly values, in accordance with *MIFIDPRU* 1.2.4R.

**Note 2:** If there has been an error in record keeping or in reconciliation of accounts that incorrectly indicated the *firm* has breached the zero threshold for *CMH* and the error is corrected before the end of the *business day* to which it relates, the *firm* may use the end-of-day value in accordance with *MIFIDPRU* 1.2.7R.

**Note 3:** Where the relevant accounts have not been finalised and approved after six months from the end of the last financial year, the *firm* must use provisional accounts for these purposes, in accordance with *MIFIDPRU* 1.2.6R.

**Note 4:** The *firm* may exclude any double counting that may arise in respect of gross revenues generated within the *group*, in accordance with *MIFIDPRU* 1.2.10R.

Non-SNI MIFIDPRU investment firms that subsequently meet the conditions to be an SNI MIFIDPRU investment firm
1.2.13 R (1) This rule applies to a firm that is originally a non-SNI MIFIDPRU investment firm and subsequently satisfies all the conditions in MIFIDPRU 1.2.1R.

(2) The firm in (1) shall be reclassified as an SNI MIFIDPRU investment firm only:

(a) after a period of six months from the date on which the firm met all the relevant conditions; and

(b) where the firm also meets the requirements in (3).

(3) The relevant requirements are that the firm:

(a) must not subsequently breach one or more of the conditions in MIFIDPRU 1.2.1R during the six-month period in (2)(a); and

(b) has promptly notified the FCA by [Editor’s note: contact details to be inserted] that it has met all of the conditions in MIFIDPRU 1.2.1R for the six-month period in (2)(a).

[Note: article 12(4) of the IFR.]

1.2.14 R Where a MIFIDPRU investment firm no longer meets all the conditions set out in MIFIDPRU 1.2.1R, it shall cease to be an SNI MIFIDPRU investment firm with immediate effect, except where MIFIDPRU 1.2.15R applies.

[Note: article 12(3), first subparagraph of the IFR.]

1.2.15 R (1) Where a MIFIDPRU investment firm no longer meets one or more of the thresholds in (2), but continues to meet all other conditions in MIFIDPRU 1.2.1R, it shall cease to be an SNI MIFIDPRU investment firm three months after the date on which the relevant threshold was first exceeded.

(2) The relevant conditions are:

(a) the AUM threshold in MIFIDPRU 1.2.1R(1);

(b) either or both of the COH thresholds in MIFIDPRU 1.2.1R(2);

(c) the on- and off-balance sheet total threshold in MIFIDPRU 1.2.1R(6); and

(d) the total annual gross revenue threshold in MIFIDPRU 1.2.1R(7).
[Note: article 12(3), second subparagraph of the IFR.]

1.2.16 R Where a MIFIDPRU investment firm ceases to meet one of the conditions in MIFIDPRU 1.2.1R, it must promptly notify the FCA by [Editor’s note: contact details to be inserted].

[Note: article 12(3), second subparagraph of the IFR.]

1.2.17 G Where a firm ceases to meet one of the conditions in MIFIDPRU 1.2.11R, but subsequently begins to satisfy that condition again within the three-month period referred to in that rule, the firm will still be reclassified as a non-SNI MIFIDPRU investment firm three months after the date on which it first ceased to meet that condition. The firm will only be reclassified as an SNI MIFIDPRU investment firm where it meets the conditions in MIFIDPRU 1.2.13R.

Application of senior management, remuneration and systems and controls requirements to SNI MIFIDPRU investment firms

1.2.18 R (1) Subject to (2) and (3), the following provisions do not apply to an SNI MIFIDPRU investment firm:

(a) [Editor’s note: any requirements which will be disapplied in relation to SNI MIFIDPRU investment firms and which should be referenced in this rule will be published as part of a future consultation paper.]

(b) [Editor’s note: further provisions to be listed here will be published as part of a future consultation paper]3

(2) If a non-SNI MIFIDPRU investment firm meets the conditions to be classified as an SNI MIFIDPRU investment firm, the provisions in (1) will cease to apply only:

(a) six months after the date on which the firm first met the conditions to be reclassified as an SNI MIFIDPRU investment firm; and

(b) provided that the firm:

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3 Editor’s note: The FCA will consult in a subsequent consultation paper on the proposed approach to applying IFPR remuneration, governance and risk management requirements (including the internal capital and risk assessment (ICARA) process). That consultation will also explain the extent to which such requirements will apply to SNI MIFIDPRU investment firms. The relevant cross-references to any requirements that are disapplied for SNI MIFIDPRU investment firms will be populated in MIFIDPRU 1.2.18R at that time. The proposed structure of MIFIDPRU 1.2.18R in this instrument is without prejudice to the content of the FCA’s proposals in the future consultation paper and may be amended as part of that future consultation.
(i) continued to meet the conditions to be classified as an \textit{SNI MIFIDPRU investment firm} without interruption throughout that six-month period; and

(ii) has given the notification in \textit{MIFIDPRU 1.2.13R(3)(b)} to the \textit{FCA} promptly following the expiry of the relevant period.

(3) If an \textit{SNI MIFIDPRU investment firm} no longer meets the conditions to be classified as such, it must:

(a) notify the \textit{FCA} immediately of the date on which it ceased to be eligible to be classified as an \textit{SNI MIFIDPRU investment firm}; and

(b) comply with the provisions in (1) within 12 \textit{months} from the date on which the \textit{firm} ceased to be eligible to be an \textit{SNI MIFIDPRU investment firm}.

1.2.19 \textit{G MIFIDPRU investment firms} are reminded that under the Capital Requirements (Country-by-Country Reporting) Regulations 2013 (SI 2013/3118) as amended\textsuperscript{4}, non-\textit{SNI MIFIDPRU investment firms} may be required to disclose certain information relating to their branches or subsidiaries outside the \textit{UK}. Those Regulations also set out how the country-by-country reporting obligations apply when a \textit{MIFIDPRU investment firm} is reclassified as either an \textit{SNI MIFIDPRU investment firm} or a non-\textit{SNI MIFIDPRU investment firm}.

1.3 \textit{Actions for damages}

1.3.1 \textit{R A contravention of the rules in MIFIDPRU does not give rise to a right of action by a private person under section 138D of the Act} (and each of those rules is specified under section 138D(3) of the Act as a provision giving rise to no such right of action).

2 \textit{Level of application of requirements}

2.1 \textit{Application and purpose}

Application

2.1.1 \textit{R MIFIDPRU 2 applies to:}

(1) a \textit{MIFIDPRU investment firm};

\textsuperscript{4} \textit{Editor’s note}: The Financial Services Bill, as introduced in the House of Commons on 20 October 2020, amends SI 2013/3118 so that country-by-country reporting obligations will apply to FCA investment firms. This guidance provision may change if the Bill is amended during the parliamentary process.
(2) a UK parent entity;

(3) a UK investment holding company, UK mixed financial holding company or UK mixed-activity holding company; and

(4) a parent undertaking in the UK that is a relevant financial undertaking in an investment firm group.

Purpose

2.1.2 This chapter contains:

(1) a rule, MIFIDPRU 2.2.1R, applying requirements in this sourcebook to MIFIDPRU investment firms on an individual basis;

(2) rules in MIFIDPRU 2.3 outlining the circumstances where a MIFIDPRU investment firm may apply to the FCA for an exemption from specific requirements in this sourcebook that apply on an individual basis;

(3) rules and guidance in MIFIDPRU 2.4 which contain:

(a) guidance on the basic definition of an investment firm group;

(b) rules and guidance relating to the undertakings that are included within an investment firm group; and

(c) rules and guidance on how an investment firm group may apply to the FCA for permission to use the group capital test as an alternative to the prudential consolidation requirements in MIFIDPRU 2.5, as well as the applicable criteria for such an application;

(4) rules and guidance in MIFIDPRU 2.5 which cover the following (note that a more detailed breakdown of the rules and guidance in MIFIDPRU 2.5 is contained in the table in MIFIDPRU 2.5.3G):

(a) the application of requirements in this sourcebook on a consolidated basis;

(b) the circumstances in which the FCA may permit an investment firm group to disapply certain prudential consolidation requirements; and

(c) how prudential consolidation would apply to an investment firm group in practice, in the context of different obligations contained in this sourcebook;
(5) *rules and guidance* in *MIFIDPRU* 2.6 in relation to the *group capital test*; and

(6) *rules and guidance* in *MIFIDPRU* 2.7 which cover the following:

(a) additional requirements and *FCA supervisory powers* that are relevant to a *UK parent entity*; and

(b) additional requirements that are relevant to a *MIFIDPRU investment firm* which is a *subsidiary of a UK mixed-activity holding company*.

2.2 General principle

2.2.1 R A *MIFIDPRU investment firm* must comply with the *rules* in *MIFIDPRU* 3 to *MIFIDPRU* 9 on an individual basis.

[Note: article 5 of the *IFR.*]

2.3 Exemptions

2.3.1 R A *MIFIDPRU investment firm* will be exempt from *MIFIDPRU* [8]5 (Disclosure by investment firms), as applied by *MIFIDPRU* 2.2.1R, where:

(1) the *firm* has applied to the *FCA* in accordance with *MIFIDPRU* 2.3.3R;

(2) the application in (1) has demonstrated the following to the satisfaction of the *FCA*:

(a) the *firm* is a *SNI MIFIDPRU investment firm*;

(b) the *firm* is a *subsidiary* and is included in the supervision on a *consolidated basis* of an *insurance undertaking* or *reinsurance undertaking* in accordance with Rule 10.5 of the *PRA Rulebook: Solvency II firms: Group Supervision*;

(c) both the *firm* and its *parent undertaking* are subject to *authorisation* and supervision in the *UK*;

(d) *own funds* are distributed adequately between the *firm* and its *parent undertaking* and:

(i) there is no current or foreseen material practical or legal impediment to the prompt transfer of capital

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5 *Editor’s note:* The FCA intends to consult on the public disclosure requirements for investment firms in *MIFIDPRU* 8 in a future consultation paper.
or repayment of liabilities by the parent undertaking;

(ii) either the parent undertaking will guarantee the commitments entered into by the firm, or the risks in the firm are of negligible interest;

(iii) the risk evaluation, measurement and control procedures of the parent undertaking include the firm; and

(iv) the parent undertaking holds more than 50% of the voting rights attached to shares in the capital of the firm or has the right to appoint or remove a majority of the members of the firm’s management body.

(3) the PRA does not object to the exemption.

[Note: article 6(2) of the IFR.]

2.3.2 R A MIFIDPRU investment firm will be exempt from MIFIDPRU [6] (Liquidity), as applied by MIFIDPRU 2.2.1R, where:

(1) the firm has applied to the FCA in accordance with MIFIDPRU 2.3.3R;

(2) the application in (1) has demonstrated the following to the satisfaction of the FCA:

(a) the firm:

(i) is supervised on a consolidated basis in accordance with Chapter 2 of Title II of Part One of UK CRR; or

(ii) is included in an investment firm group subject to MIFIDPRU 2.5.11R and has not obtained the exemption referred to in MIFIDPRU 2.5.19R;

(b) the parent undertaking, on a consolidated basis, monitors and has oversight at all times over the liquidity positions of all institutions and MIFIDPRU investment firms within the group or sub-group that are exempted from liquidity requirements on an individual basis, and ensures a sufficient level of liquidity for all of those institutions and MIFIDPRU investment firms;

Editor’s note: The FCA intends to consult on the liquidity requirements in MIFIDPRU 6 in a future consultation paper.
(c) the parent undertaking and the firm have entered into contracts that, to the satisfaction of the appropriate regulator, provide for the free movement of funds between the parent undertaking and the firm to enable them to meet their individual obligations and joint obligations as they become due;

(d) there is no current or foreseen material, practical or legal impediment to the fulfilment of the contracts referred to in (c); and

(3) the PRA, if consolidating supervisor of the group, does not object to the exemption.

[Note: article 6(3) of the IFR.]

2.3.3 R An application referred to in MIFIDPRU 2.3.1R(1) or MIFIDPRU 2.3.2R(1) must:

(1) be made using the form in MIFIDPRU 2 Annex 1R; and

(2) be submitted to the FCA according to the instructions in that form.

2.4 Investment firm groups: general

Application and purpose

2.4.1 R This section applies to:

(1) a UK parent entity; and

(2) a MIFIDPRU investment firm.

2.4.2 G (1) The basic definition of an investment firm group covers a parent undertaking and its subsidiaries, at least one of which must be a MIFIDPRU investment firm.

(2) The definition of an investment firm group also includes connected undertakings. These are relevant financial undertakings which are not subsidiaries, but which form part of the investment firm group due to one of the types of relationship listed in MIFIDPRU 2.4.6R.

(3) If the relevant subsidiaries of the investment firm group include a UK credit institution, the group will not be an investment firm group. However, if a UK credit institution is merely a connected undertaking in relation to an investment firm group, that group will still be an investment firm group.

2.4.3 G (1) When a UK parent entity or a MIFIDPRU investment firm is identifying whether it forms part of an investment firm group, it
will need to identify all relevant financial undertakings that are either subsidiaries or connected undertakings.

(2) The UK parent entity or MIFIDPRU investment firm can use the analysis in (1) to determine whether the investment firm group:

(a) is likely to be subject to consolidation under MIFIDPRU 2.5; or

(b) has a sufficiently simple structure to justify submitting an application to the FCA to apply the group capital test under MIFIDPRU 2.6.

2.4.4 G (1) Where consolidation under MIFIDPRU 2.5 applies, the definition of an investment firm group and the resulting consolidated situation includes all relevant financial undertakings that are either subsidiaries or connected undertakings.

(2) Where MIFIDPRU 2.6 applies, the definition of an investment firm group means that the group capital test only applies to a parent undertaking in relation to relevant financial undertakings that are its subsidiaries. It does not apply in relation to relevant financial undertakings that are merely connected undertakings of the parent undertaking.

(3) However, as explained in MIFIDPRU 2.4.19G, where an investment firm group contains connected undertakings, the FCA considers that the underlying structure of the investment firm group is unlikely to be sufficiently simple to permit the application of the group capital test. As a result, it is likely that the UK parent entity of the relevant investment firm group will need to apply consolidation under MIFIDPRU 2.5 instead.

Subsidiaries

2.4.5 G (1) The definition of a subsidiary for the purposes of MIFIDPRU refers to any undertaking which is a “subsidiary undertaking” as defined in section 1162, read together with Schedule 7, of the Companies Act 2006.

(2) UK parent entities and firms are reminded that under section 1162(4) of the Companies Act 2006, this includes relationships where either of the following apply in relation to an undertaking (“A”) and another undertaking (“B”):

(a) A has the power to exercise, or actually exercises, dominant influence or control over B; or

(b) A and B are managed on a unified basis.
(3) **UK parent entities and firms** are also reminded that under section 1162(5) of the Companies Act 2006, if an undertaking (“A”) has a subsidiary undertaking (“B”) and B is a parent undertaking of another undertaking (“C”), then C is also a subsidiary undertaking of A. As a result, the definition of a subsidiary in MIFIDPRU includes subsidiaries of subsidiaries.

Connected undertakings: general

2.4.6 R An undertaking (“CU”) is a connected undertaking of another undertaking (“P1”) if:

(1) P1 is connected to CU by *majority common management* in accordance with MIFIDPRU 2.4.8R(1);

(2) P1 exercises significant influence over CU in accordance with MIFIDPRU 2.4.10R(1);

(3) P1 and CU have been placed under single management, other than pursuant to a contract, clauses in memoranda or articles of association, in accordance with MIFIDPRU 2.4.12R(1);

(4) CU is a *subsidiary* of another undertaking (“P2”), and P2:

(a) is connected to P1 by *majority common management* in accordance with MIFIDPRU 2.4.8R(1); or

(b) has been placed under single management with P1, other than pursuant to a contract, clauses in memoranda or articles of association, in accordance with MIFIDPRU 2.4.12R(1); or

(5) P1 holds a *participation* in CU in accordance with MIFIDPRU 2.4.15R.

2.4.7 G The criteria in MIFIDPRU 2.4.8R(2)-(5) and MIFIDPRU 2.4.12R(2)-(5) for determining the deemed parent undertaking in relation to a connected undertaking apply on the basis of the facts at the time at which the relevant relationship first arises. This means that subsequent changes in the *own funds requirement* of entities or investment firm groups referenced in those rules will not lead to a change in the deemed parent undertaking for such purposes.

Connected undertakings: majority common management

2.4.8 R (1) This rule applies where:

(a) a MIFIDPRU investment firm is connected to a relevant financial undertaking by majority common management; or
(b) a relevant financial undertaking that forms part of an investment firm group is connected to another relevant financial undertaking by majority common management.

(2) If only one of the undertakings connected by majority common management forms part of an existing investment firm group, that undertaking shall be deemed to be the parent undertaking of the other undertaking when applying the requirements in MIFIDPRU 2.5.

(3) If both undertakings connected by majority common management form part of separate existing investment firm groups, the undertaking that forms part of the investment firm group which has, or would have, the higher consolidated own funds requirement based on its consolidated situation, shall be deemed to be the parent undertaking of the other undertaking when applying the requirements in MIFIDPRU 2.5.

(4) If neither of the undertakings connected by majority common management forms part of an existing investment firm group and both undertakings are MIFIDPRU investment firms, the MIFIDPRU investment firm with the higher individual own funds requirement shall be deemed to be the parent undertaking of the other MIFIDPRU investment firm when applying the requirements in MIFIDPRU 2.5.

(5) If neither of the undertakings connected by majority common management forms part of an existing investment firm group and only one of those undertakings is a MIFIDPRU investment firm, the MIFIDPRU investment firm shall be deemed to be the parent undertaking of the other undertaking when applying the requirements in MIFIDPRU 2.5.

[Note: article 2(1) and (2) of the draft consolidation RTS.]

2.4.9 G A MIFIDPRU investment firm may wish to apply to the FCA under section 138A of the Act to modify the application of MIFIDPRU 2.4.8R(2)-(5), if it considers that a different undertaking should be deemed to be the parent undertaking for the purposes of MIFIDPRU 2.5 in the context of majority common management.

[Note: article 2(3) of the draft consolidation RTS.]

Connected undertakings: significant influence without participation or capital ties

2.4.10 R (1) This rule applies where:

(a) any of the following undertakings (“A”) exercises significant influence over a relevant financial undertaking:
(i) a MIFIDPRU investment firm;

(ii) an investment holding company; or

(iii) a mixed financial holding company; and

(b) the relevant financial undertaking is not:

(i) a subsidiary of A; or

(ii) connected to A by majority common management.

(2) Where this rule applies, A shall be deemed to be the parent undertaking of the relevant financial undertaking for the purposes of MIFIDPRU 2.5.

2.4.11 G For the purposes of MIFIDPRU 2.4.10R(1)(a), the following circumstances may be indicators that A is exercising significant influence over the relevant financial undertaking:

(1) A appoints or has the ability to appoint a representative in the management body, either in the executive or in the supervisory function, of the relevant financial undertaking;

(2) A participates in the policy-making processes of the relevant financial undertaking, including participation in decisions about dividends and other distributions;

(3) the existence of material transactions between the two undertakings;

(4) the interchange of managerial personnel between the two undertakings;

(5) the provision of essential technical information or critical services from one entity to the other;

(6) A enjoys additional rights in the relevant financial undertaking, by virtue of a contract or of a provision in the articles of association or other constitutional documents of that undertaking, that could affect the management or the decision-making of that relevant financial undertaking; and

(7) the existence of share warrants, share call options, debt instruments that are convertible into ordinary shares or other similar instruments that are currently exercisable or convertible and have the potential, if exercised or converted, to give voting power or to reduce another party’s voting power over the financial and operating policies of the relevant financial undertaking.
[Note: article 3(2) of the draft consolidation RTS.]

Connected undertakings: single management other than pursuant to a contract, clauses in memoranda or articles of association

2.4.12 R (1) This rule applies where:

(a) any of the following undertakings ("A") has been placed under single management, other than pursuant to a contract, clauses in memoranda or articles of association, with a relevant financial undertaking:

(i) a MIFIDPRU investment firm;

(ii) an investment holding company; or

(iii) a mixed financial holding company; and

(b) the relevant financial undertaking is not:

(i) a subsidiary of A;

(ii) connected to A by majority common management; or

(iii) an undertaking over which A exercises significant influence in accordance with MIFIDPRU 2.4.10R.

(2) If only one of the undertakings placed under single management already forms part of an existing investment firm group, that undertaking shall be deemed to be the parent undertaking of the other undertaking when applying the requirements in MIFIDPRU 2.5.

(3) If both undertakings placed under single management form part of separate existing investment firm groups, the undertaking that forms part of the investment firm group which has, or would have, the higher consolidated own funds requirement based on its consolidated situation shall be deemed to be the parent undertaking of the other undertaking when applying the requirements in MIFIDPRU 2.5.

(4) If neither of the undertakings placed under single management forms part of an existing investment firm group and both of those undertakings are MIFIDPRU investment firms, the MIFIDPRU investment firm with the higher individual own funds requirement shall be deemed to be the parent undertaking of the other MIFIDPRU investment firm when applying the requirements in MIFIDPRU 2.5.

(5) If neither of the undertakings placed under single management
forms part of an existing investment firm group and only one of those undertakings is a MIFIDPRU investment firm, the MIFIDPRU investment firm shall be deemed to be the parent undertaking of the other undertaking when applying the requirements in MIFIDPRU 2.5.

[Note: article 4(1) of the draft consolidation RTS.]

2.4.13 G For the purposes of MIFIDPRU 2.4.12R, the following circumstances are indicators that the type of single management in MIFIDPRU 2.4.12R(1)(a) may exist:

(1) A and the relevant financial undertaking are controlled by:

(a) the same natural person;

(b) the same group of natural persons;

(c) an undertaking or the same group of undertakings that do not otherwise belong to that group;

(d) an undertaking or the same group of undertakings that are not established in the UK; or

(2) the majority of the management body, either in its executive or in its supervisory function, of A and the relevant financial undertaking is composed of people appointed by the same undertaking or undertakings, by the same natural person or by the same group of natural persons, even if they do not necessarily consist of the same people.

2.4.14 G The indicators in MIFIDPRU 2.4.13G are not conclusive and the occurrence of a situation in which two or more undertakings are placed under single management for the purposes of MIFIDPRU 2.4.12R must in each case be assessed by reference to the individual facts, and in particular whether in practice there is effective coordination of the financial and operating policies of the relevant undertakings.

[Note: article 4(2) of the draft consolidation RTS.]

Connected undertakings: participations

2.4.15 R (1) This rule applies where the following conditions are met:

(a) one of the following (“A”) holds, directly or indirectly, a participation in a relevant financial undertaking:

(i) a MIFIDPRU investment firm;

(ii) an investment holding company; or

(iii) a mixed financial holding company;
(b) the relevant financial undertaking is not:

(i) a subsidiary of A; or

(ii) connected to A by majority common management; or

(iii) an undertaking over which A exercises significant influence in accordance with MIFIDPRU 2.4.10R; or

(iv) an undertaking with which A has been placed under single management in accordance with MIFIDPRU 2.4.12R; and

(c) A forms part of an existing investment firm group.

(2) Where this rule applies, A shall be deemed to be the parent undertaking of the relevant financial undertaking when applying the requirements in MIFIDPRU 2.5.

2.4.16  G  (1) By virtue of the definition of a participation, where an undertaking (“A”) has direct or indirect ownership of 20% or more of the voting rights in, or capital of, a relevant financial undertaking, A will hold a participation in that undertaking.

(2) However, A may also hold a participation where, even though A does not have an ownership interest as described in (1), A nonetheless has rights in the capital of the relevant financial undertaking which create a durable link with that undertaking which is intended to contribute to its activities.

(3) For the purpose of assessing whether there is a participation of the type described in (2), it is relevant to consider the overall ownership structure of the relevant financial undertaking, having regard in particular to whether interests in the capital or voting rights of the relevant financial undertaking are distributed across a large number of shareholders, or whether A is the main investor.

Application to apply the group capital test to an investment firm group

2.4.17  R  An investment firm group will be subject to the requirements in MIFIDPRU 2.6, rather than those in MIFIDPRU 2.5, where:

(1) the UK parent entity of that investment firm group or a MIFIDPRU investment firm within that investment firm group has applied to the FCA in accordance with MIFIDPRU 2.4.18R; and

(2) the FCA is satisfied on the basis of the application in (1) that:
(a) the group structure of the *investment firm group* is sufficiently simple to justify applying the *group capital test*; and

(b) there are no significant risks to *clients* or to the market stemming from the *investment firm group* as a whole that would otherwise require supervision on a *consolidated basis*.

[Note: article 8(1) of the IFR.]

2.4.18 R An application submitted under *MIFIDPRU 2.4.17R(1)*:

(1) must be made using the form in *MIFIDPRU 2 Annex 3R*, and should be submitted to the *FCA* in accordance with the instructions in that form;

(2) must include:

(a) a group structure chart that:

(i) identifies each *undertaking* that forms part of the *investment firm group*;

(ii) explains the nature of the business or activities undertaken by each *undertaking*;

(iii) identifies whether each *undertaking* is a *relevant financial undertaking* and, if so, which type of *relevant financial undertaking* it is; and

(iv) explains the nature and degree of ownership or control that connects the *undertaking* to the *investment firm group* (including, where applicable, any relationship which has led the *undertaking* to be classified as a *connected undertaking* in relation to the *investment firm group*);

(b) an explanation of why the group structure is sufficiently simple to justify the application of the *group capital test*;

(c) an explanation of why there are no significant risks to *clients* or to the market stemming from the *investment firm group* that would require supervision on a *consolidated basis*;

(d) calculations which show how each *parent undertaking* within the *investment firm group* would satisfy the *group capital test*;
(e) evidence that the book value of each parent undertaking’s investment in a subsidiary, whether that subsidiary forms part of the investment firm group or not, is a fair reflection of the consideration paid by the parent undertaking for that subsidiary;

(f) calculations which demonstrate the consolidated own funds and liquid assets requirements that would apply on the basis of the consolidated situation of the investment firm group if consolidation under MIFIDPRU 2.5 applied instead;

(g) an explanation of:

(i) how the investment firm group would comply with the consolidated requirements in (f) if the FCA did not grant permission to apply the group capital test; and

(ii) the timeframe in which the investment firm group would expect to achieve compliance with such consolidated requirements; and

(h) an explanation of how the UK parent entity of the investment firm group would comply with the systems requirement in MIFIDPRU 2.5.8R.

(3) may only be submitted by a UK parent entity or a MIFIDPRU investment firm if that UK parent entity or MIFIDPRU investment firm has the necessary authority to make the application on behalf of all undertakings within the investment firm group which would be subject to the group capital test.

2.4.19 G In the FCA’s view, where an investment firm group includes one or more undertakings which are connected undertakings, it is unlikely that the investment firm group will be sufficiently simple for the purposes of MIFIDPRU 2.4.17R(2)(a). This is because the nature of the relationship between the relevant member of the investment firm group and the connected undertaking is likely to involve a more complex fact pattern and because the group capital test could not be applied to that relationship. Therefore, the FCA considers that it is likely to be more appropriate to apply prudential consolidation under MIFIDPRU 2.5 to the investment firm group in such circumstances.

2.5 Prudential consolidation

2.5.1 R (1) This section applies to a UK parent entity that is not subject to the group capital test under MIFIDPRU 2.6.
(2) This section also applies to a MIFIDPRU investment firm that forms part of the same investment firm group as the relevant UK parent entity in (1).

2.5.2 G Prudential consolidation under this section and the group capital test under MIFIDPRU 2.6 are mutually exclusive requirements that may apply to an investment firm group. If an investment firm group is not permitted to use the group capital test under MIFIDPRU 2.6, the consolidation requirements in this section will apply to that investment firm group, except to the extent that an exemption applies.

2.5.3 G The table below is a guide to the content of this section.

<table>
<thead>
<tr>
<th>Provisions of MIFIDPRU 2.5</th>
<th>Summary of content</th>
</tr>
</thead>
<tbody>
<tr>
<td>MIFIDPRU 2.5.4G</td>
<td>The interaction between prudential consolidation under MIFIDPRU 2.5 and prudential consolidation under the UK CRR</td>
</tr>
<tr>
<td>MIFIDPRU 2.5.5G</td>
<td>The meaning of the consolidated situation</td>
</tr>
<tr>
<td>MIFIDPRU 2.5.6G</td>
<td>The treatment of tied agents included within the consolidated situation</td>
</tr>
<tr>
<td>MIFIDPRU 2.5.7R to 2.5.12G</td>
<td>The main obligations in relation to prudential consolidation under MIFIDPRU 2.5</td>
</tr>
<tr>
<td>MIFIDPRU 2.5.13R to 2.5.16G</td>
<td>The default position requiring full consolidation and the availability of alternative methods of consolidation</td>
</tr>
<tr>
<td>MIFIDPRU 2.5.17R and 2.5.18G</td>
<td>Proportional consolidation</td>
</tr>
<tr>
<td>MIFIDPRU 2.5.19R and 2.5.20G</td>
<td>Exemption from consolidated liquidity requirements</td>
</tr>
<tr>
<td>MIFIDPRU 2.5.21R and 2.5.22G</td>
<td>Determining whether a UK parent entity should be treated as an SNI MIFIDPRU investment firm on a consolidated basis</td>
</tr>
<tr>
<td>MIFIDPRU 2.5.23G</td>
<td>Determining consolidated own funds</td>
</tr>
<tr>
<td>MIFIDPRU 2.5.24G to 2.5.46R</td>
<td>Determining the consolidated own funds requirement</td>
</tr>
</tbody>
</table>
Interaction between consolidation under MIFIDPRU and the UK CRR

2.5.4 G (1) Under this section, prudential consolidation applies where there is an investment firm group. The definition of an investment firm group excludes a group which contains a UK credit institution. Where a group includes a UK credit institution, prudential consolidation applies in accordance with the provisions of the UK CRR and the PRA Rulebook.

(2) However, a group may be an investment firm group where it contains both a MIFIDPRU investment firm and a designated investment firm subject to the UK CRR, but no UK credit institution. In that case, the MIFIDPRU investment firm would trigger prudential consolidation according to this section (and the designated investment firm would trigger consolidation according to the UK CRR). It is therefore possible for certain group structures to be subject to consolidation under both MIFIDPRU and the UK CRR simultaneously, with the same entities included within the scope of consolidation of each. In these situations, the relevant group must comply with both sets of consolidated requirements, which are aimed at addressing different types of risks.

[Note: article 4(1)(25) of the IFR.]

Meaning of “consolidated situation”

2.5.5 G (1) The application of prudential consolidation under this section is based on the consolidated situation of a UK parent entity.

(2) A consolidated situation is defined as the situation that results from applying relevant requirements in MIFIDPRU in accordance with MIFIDPRU 2.5.7R and MIFIDPRU 2.5.11R to a UK parent entity, as if that undertaking formed, together with all the relevant financial undertakings in the investment firm group, a single MIFIDPRU investment firm.
Editor's note: The FCA will consult on the fixed overheads requirement in MIFIDPRU 4.5 and the remaining K-factor calculations in MIFIDPRU 4.7 to 4.10 in a subsequent consultation paper.

(3) For the purposes of the consolidated situation, the term “relevant financial undertaking” (and the underlying definitions of “investment firm”, “financial institution”, “ancillary services undertaking” and “tied agent”) shall also apply to undertakings established outside the UK, which, were they established in the UK, would fulfil the definitions of those terms.

[Note: article 4(1)(11) of the IFR.]

Tied agents included within the consolidated situation

2.5.6 G (1) If a tied agent is included within the consolidated situation, all relevant activities and expenditure of that tied agent will be consolidated in full (or, where proportional consolidation applies, the relevant proportion of the activities of that tied agent will be consolidated) for the purpose of calculating the consolidated fixed overheads requirement and the consolidated K-factor requirement. This is the case irrespective of whether the investment services and/or activities carried on by the tied agent are undertaken, or the relevant expenses are incurred, on behalf of another entity included within the consolidated situation or on behalf of a third party that is not included within the consolidated situation.

(2) The guidance in (1) relates to a tied agent that is included within the consolidated situation. There are separate requirements in:

(a) MIFIDPRU [4.5.xR], which applies in relation to the individual fixed overheads requirement of a MIFIDPRU investment firm where a tied agent incurs expenses on behalf of that firm; and

(b) MIFIDPRU [4.7.xR], MIFIDPRU [4.8.x.R], MIFIDPRU [4.9.x.R] or MIFIDPRU [4.10.xR], which apply in relation to the individual K-factor requirement of a MIFIDPRU investment firm where a tied agent carries on certain investment services and/or activities on behalf of that firm.

These requirements apply in relation to the calculation of the individual fixed overheads requirement and K-factor requirement of a MIFIDPRU investment firm, even if the tied agent is not part of the same investment firm group as that MIFIDPRU investment firm.

7 Editor’s note: The FCA will consult on the fixed overheads requirement in MIFIDPRU 4.5 and the remaining K-factor calculations in MIFIDPRU 4.7 to 4.10 in a subsequent consultation paper.
(3) Where the requirements in (2)(a) or (2)(b) apply in relation to a MIFIDPRU investment firm which is included within the consolidated situation, the relevant amounts that are added to the individual requirements of that MIFIDPRU investment firm due to the activities of the tied agent must be included in the consolidated situation, irrespective of whether the tied agent is itself included within the consolidated situation.

(4) An individual tied agent (“A”) may both:

(a) be included within the consolidated situation; and

(b) incur expenses and/or carry on investment services and/or activities on behalf of a MIFIDPRU investment firm (“B”) where B is also included in the consolidated situation.

In such a case, the contribution of A to the consolidated fixed overheads requirement and consolidated K-factor requirement may be adjusted to the extent necessary to prevent double-counting of any amounts which may already have been included due to B being included in the consolidated situation and a proportion of A’s activities or expenses having already been attributed to B.

Prudential consolidation – main requirements

2.5.7 A UK parent entity must comply with the rules in the following chapters of MIFIDPRU on the basis of its consolidated situation:

(1) MIFIDPRU 3 (Own funds);

(2) MIFIDPRU 4 (Own funds requirements);

(3) MIFIDPRU 5 (Concentration risk);

(4) [MIFIDPRU 8 (Disclosure)]; and

(5) MIFIDPRU 9 (Reporting).

[Note: article 7(1) of the IFR.]

2.5.8 To ensure that the data required to comply with the consolidated requirements under MIFIDPRU 2.5.7R are duly processed and forwarded, a UK parent entity to which MIFIDPRU 2.5.7R applies and any MIFIDPRU investment firms in the same investment firm group must establish the following:

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Editor’s note: The FCA will consult on the content of MIFIDPRU 8 and any outstanding content in MIFIDPRU 4 and 9 in a subsequent consultation.
(1) a proper organisational structure; and
(2) appropriate internal control mechanisms.

2.5.9 R A UK parent entity to which MIFIDPRU 2.5.7R applies and any MIFIDPRU investment firms in the same investment firm group are each responsible for ensuring that any of their subsidiaries that are not subject to MIFIDPRU implement such arrangements, processes and mechanisms as are necessary to ensure that the UK parent entity complies with the consolidated requirements under MIFIDPRU 2.5.7R.

[Note: article 7(1) of the IFR.]

2.5.10 R (1) For the purposes of MIFIDPRU 2.5.7R, when applying MIFIDPRU 3 on a consolidated basis, the requirements in Title II of Part Two of the UK CRR shall also apply.

(2) For the purposes of (1), when applying the provisions of article 84(1), article 85(1) and article 87(1) of the UK CRR:

(a) to the extent that those provisions refer to other provisions of the UK CRR that impose own funds requirements, only the references to article 92(1) of the UK CRR shall apply; and

(b) the references to article 92(1) of the UK CRR in those provisions shall be read as if they were references to the own funds requirement under MIFIDPRU.

[Note: article 7(2) of the IFR.]

2.5.11 R A UK parent entity must comply with [MIFIDPRU 6 (Liquidity)]\(^9\) on the basis of its consolidated situation.

[Note: article 7(3) of the IFR.]

2.5.12 G MIFIDPRU 2.5.7R to 2.5.11R require a UK parent entity to comply with other chapters of MIFIDPRU on the basis of its consolidated situation. Certain requirements in those chapters do not apply, or apply in a modified manner, to SNI MIFIDPRU investment firms. MIFIDPRU 2.5.21R explains how the UK parent entity should determine whether it should be treated as an SNI MIFIDPRU investment firm on the basis of its consolidated situation.

Default position: full consolidation of relevant entities

2.5.13 R (1) For the purposes of determining the consolidated situation

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\(^9\) Editor’s note: The FCA will consult on the content of MIFIDPRU 6 in a subsequent consultation.
under MIFIDPRU 2.5.7R and MIFIDPRU 2.5.11R, a UK parent entity must carry out a full consolidation of all relevant financial undertakings that form part of its investment firm group, unless (2) applies.

(2) A UK parent entity is not required to carry out a full consolidation of a relevant financial undertaking under (1) where:

(a) the relevant financial undertaking is a connected undertaking that forms part of the investment firm group by virtue of a participation in accordance with MIFIDPRU 2.4.15R; and

(b) the conditions for proportional consolidation under MIFIDPRU 2.5.17R are satisfied.

[Note: article 6(1) of the draft consolidation RTS.]

2.5.14 G A UK parent entity which is subject to MIFIDPRU 2.5.13R(1) may make an application to the FCA under section 138A of the Act to modify the application of MIFIDPRU 2.5.13R(1) so as to require an alternative method of consolidation.

2.5.15 G When determining an application of the type described in MIFIDPRU 2.5.14G the FCA will consider a range of factors, including whether full consolidation is appropriate because the UK parent entity or a MIFIDPRU investment firm within the same investment firm group:

(1) acts as sponsor by managing or advising the relevant financial undertaking or marketing its securities;

(2) provides liquidity or credit enhancements to the relevant financial undertaking;

(3) is an important investor in the equity or debt instruments of the relevant financial undertaking;

(4) by virtual of contractual or non-contractual relationships, is exposed to risks or equity-like returns that are derived from the assets of the relevant financial undertaking or that are dependent upon the performance of that undertaking;

(5) is effectively involved in the decision-making process of the relevant financial undertaking or exercises influence over that undertaking;

(6) receives critical operational services from the relevant financial undertaking which cannot be replaced in a timely fashion without excessive cost;
(7) has a credit rating upon which the credit rating of the relevant financial undertaking is based;

(8) has a close commercial relationship with other investors in the relevant financial undertaking;

(9) has a common customer base with the relevant financial undertaking or is involved in the commercialisation of its products;

(10) is part of the same brand as the relevant financial undertaking;

(11) has already provided financial support to the relevant financial undertaking in relation to financial difficulties; or

(12) incurs a disproportionate amount of the expenses connected with the business operations of the relevant financial undertaking.

[Note: article 6(4) of the draft consolidation RTS.]

2.5.16 G The FCA would generally expect that the alternative method of consolidation proposed in an application of the type described in MIFIDPRU 2.5.14G would involve either:

(1) proportional consolidation according to the share of the capital or voting rights held in the relevant financial undertaking, in which case the FCA will take into account factors equivalent to those set out in MIFIDPRU 2.5.17R(2) in addition to the factors in MIFIDPRU 2.5.15G; or

(2) consolidation of an appropriate alternative fixed percentage of the relevant metrics attributable to the relevant financial undertaking.

Proportional consolidation: participations

2.5.17 R (1) This rule applies where a relevant financial undertaking forms part of an investment firm group because it is a connected undertaking by virtue of a participation in accordance with MIFIDPRU 2.4.15R.

(2) For the purposes of determining the consolidated situation under MIFIDPRU 2.5.7R and MIFIDPRU 2.5.11R, a UK parent entity (“A”) may apply proportional consolidation in relation to the relevant financial undertaking in (1) (“B”) if the following conditions are met:

(a) A’s liability is limited to the share of capital that it holds in B;
(b) the liability of the other shareholders or members of B (“participating undertakings”) is clearly established by means of a legally binding and enforceable contract between A and all participating undertakings which:

(i) limits the liability of the parties to the percentage of each shareholding;

(ii) clearly states that any potential losses arising from B will be borne by all shareholders or members proportionately to the share of capital held by each of them at such point in time;

(iii) clarifies that any changes in the share of capital of the shareholders or members are subject to the explicit consent of all the shareholders or members;

(iv) specifies that should B be recapitalised, A shall inform the FCA in a timely manner about the progress of the recapitalisation process and that each shareholder or member shall be liable to contribute to the recapitalisation no more than an amount that is proportionate to its current share of capital held in A;

(c) there are no other agreements or arrangements between any of the following that would override or undermine any of the conditions in (b);

(i) some or all of the participating undertakings; or

(ii) some or all of the participating undertakings and one or more third parties;

(d) any participating undertakings who do not form part of the same investment firm group as A either:

(i) are subject to prudential supervision; or

(ii) can reasonably be expected to have sufficient resources to fund any contribution for which they may be liable under (b)(iv);

(e) the solvency of the participating undertakings is satisfactory and can be expected to remain so; and

(f) before applying proportional consolidation in relation to the relevant financial undertaking in accordance with this rule, the UK parent entity has notified the FCA by email to [Editor’s note: contact details to be inserted]
that it intends to do so.

[Note: article 7(1) – (4) of the draft consolidation RTS]

2.5.18 G Proportional consolidation allows a UK parent entity to include within its consolidated situation only a proportion of the relevant metrics associated with the relevant financial undertaking to which it is connected by a participation. The relevant proportion is equal to the proportion of capital or voting rights that comprises that participation.

Exemption from consolidated liquidity requirements

2.5.19 R A UK parent entity will be exempt from MIFIDPRU 2.5.11R if:

(1) the UK parent entity has applied to the FCA in accordance with MIFIDPRU 2.5.20R; and

(2) the application in (1) has demonstrated the following to the satisfaction of the FCA:

(a) all MIFIDPRU investment firms in the investment firm group are subject to the rules in MIFIDPRU 6 (Liquidity) on an individual basis; and

(b) the exemption is appropriate, taking into account the nature, scale and complexity of the investment firm group.

[Note: article 7(4) of the IFR.]

2.5.20 R A UK parent entity must make any application under MIFIDPRU 2.5.19R(1) by submitting the form in MIFIDPRU 2 Annex 2R in accordance with the instructions in that form.

Application of criteria to be classified as an SNI MIFIDPRU investment firm on a consolidated basis

2.5.21 R (1) This rule applies for the purpose of determining whether a UK parent entity that is subject to consolidation under this section should be treated as an SNI MIFIDPRU investment firm when applying the relevant chapters of MIFIDPRU specified in MIFIDPRU 2.5.7R and 2.5.11R on a consolidated basis.

(2) Where any individual MIFIDPRU investment firm within the investment firm group has been classified as a non-SNI MIFIDPRU investment firm in accordance with MIFIDPRU 1.2 (including on a combined basis under MIFIDPRU 1.2.10R), the UK parent entity in (1) must comply with the relevant chapters of MIFIDPRU that apply on a consolidated basis as if it were a non-SNI MIFIDPRU investment firm.
(3) Where no individual MIFIDPRU investment firm within the investment firm group has been classified as a non-SNI MIFIDPRU investment firm (including on a combined basis under MIFIDPRU 1.2.10R), the UK parent entity in (1) must apply the criteria and comply with the calculation requirements in MIFIDPRU 1.2 on the basis of the consolidated situation.

(4) When applying the criteria in MIFIDPRU 1.2 in accordance with (3), if any entity included within the consolidated situation is dealing on own account, the UK parent entity in (1) must comply with the relevant chapters of MIFIDPRU that apply on a consolidated basis as if it were a non-SNI MIFIDPRU investment firm.

(5) For the purposes of (3), when calculating the contribution of a collective portfolio management investment firm to the consolidated situation, the UK parent entity is required to include only amounts that are attributable to the investment services and/or activities undertaken by that collective portfolio management investment firm.

2.5.22 G (1) Firms should note that MIFIDPRU 2.5.21R(3) requires the relevant UK parent entity to consolidate all of the relevant metrics for the criteria in MIFIDPRU 1.2.1R.

(2) The situation in (1) should not be confused with the application of only certain metrics (being AUM, COH, the on- and off-balance sheet total and the total annual gross revenue) on a combined basis to an individual MIFIDPRU investment firm under MIFIDPRU 1.2.10R.

(3) Where, when applying MIFIDPRU 1.2.1R on a consolidated basis, any of the thresholds in that rule are exceeded, the relevant chapters of MIFIDPRU specified in MIFIDPRU 2.5.7R and 2.5.11R apply to the UK parent entity as if it were a non-SNI MIFIDPRU investment firm. Conversely, if none of the relevant thresholds in MIFIDPRU 1.2.1R are exceeded on a consolidated basis, the relevant chapters of MIFIDPRU that apply on a consolidated basis apply to the UK parent entity as if it were an SNI MIFIDPRU investment firm.

Prudential consolidation in practice: own funds

2.5.23 G (1) MIFIDPRU 2.5.7R requires that the total consolidated own funds requirement of an investment firm group be met by consolidated own funds. Consolidated own funds must satisfy the requirements of MIFIDPRU 3 and the deductions from consolidated own funds must be applied in accordance with that chapter as it applies on a consolidated basis.
(2) **MIFIDPRU 2.5.10R** also applies the provisions on minority interests and additional tier 1 instruments and tier 2 instruments issued by subsidiaries in Title II of Part Two of the UK CRR to a **UK parent entity**, but with the modifications set out in that rule.

(3) The determination of consolidated own funds should be consistent with any reporting of consolidated financial statements that the FCA may require. In appropriate cases, the FCA may require a **UK parent entity** to provide independent verification of the calculation of its consolidated own funds in accordance with section 165(6) and (7) of the Act.

Prudential consolidation in practice: capital requirements

2.5.24 **G**

(1) Generally, the same approach to own funds requirements that applies to a **MIFIDPRU investment firm** on an individual basis under **MIFIDPRU 4** applies to a **UK parent entity** on a consolidated basis.

(2) The consolidated own funds requirement under **MIFIDPRU 2.5.7R** is the highest of the components of the own funds requirement specified in **MIFIDPRU 4.3** as they apply on a consolidated basis – i.e. the highest of:

(a) the consolidated fixed overheads requirement;

(b) the consolidated permanent minimum capital requirement; or

(c) if the **UK parent entity** is treated as a non-SNI **MIFIDPRU investment firm** in accordance with **MIFIDPRU 2.5.21R**, the consolidated K-factor requirement.

Consolidated fixed overheads requirement

2.5.25 **R**

(1) This rule applies for the purposes of a **UK parent entity’s** calculation of the fixed overheads requirement on a consolidated basis in accordance with **MIFIDPRU 2.5.7R**.

(2) A **UK parent entity** must:

(a) use figures arising from its most recent:

(i) audited consolidated annual financial statements

after distribution of profits; or
(ii) unaudited consolidated annual financial statements, where audited financial statements are not available; or

(b) if the relevant figures under (a) are not available, calculate the consolidated fixed overheads as the sum of the following:

(i) the individual fixed overheads of the UK parent entity;

(ii) the full amount of the individual fixed overheads of each relevant financial undertaking which is fully consolidated within the consolidated situation; and

(iii) the relevant proportion of the individual fixed overheads of each relevant financial undertaking which is subject to proportional consolidation on a consolidated basis.

(3) Where such amounts are not already included in the relevant figures under (2), a UK parent entity must include within its calculation of the consolidated fixed overheads any fixed expenses incurred by a third party, including a tied agent, on behalf of:

(a) the UK parent entity; or

(b) any relevant financial undertaking included in the consolidated situation.

(4) Where the figures under (2)(b) include expenses that are incurred between entities included in the consolidated situation, the UK parent entity may adjust the consolidated fixed overheads figure to the extent necessary to avoid double-counting of such amounts.

2.5.26 G Where the FCA considers that there has been a material change in the activities of the investment firm group, the FCA may exercise its powers under section 55L or [section 143K]10 of the Act to require a UK parent entity to use an appropriate adjusted figure as the consolidated fixed overheads requirement.

Consolidated permanent minimum capital requirement

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10 Editor’s note: References in this chapter to section 143K of the Financial Services and Markets Act 2000 are to that section as it would be inserted by the Financial Services Bill, which was introduced to the House of Commons on 20 October 2020. This reference may change if the Bill is amended during the parliamentary process.
2.5.27  R  (1)  This rule applies for the purposes of a UK parent entity’s calculation of the permanent minimum capital requirement on a consolidated basis in accordance with MIFIDPRU 2.5.7R.

(2)  The consolidated permanent minimum capital requirement is the sum of the following:

(a) for entities that are fully consolidated within the consolidated situation, the full amount of each of the following:

(i) the individual permanent minimum capital requirement of each MIFIDPRU investment firm; and

(ii) where applicable, the base own funds requirement or initial capital requirement of any other relevant financial undertaking; and

(b) for entities that are subject to proportional consolidation under the consolidated situation, the relevant proportion of each of the amounts specified in (a).

(3)  For the purposes of (2):

(a) references to a MIFIDPRU investment firm include a third country entity within the investment firm group which would fall within that definition if it were established in the UK; and

(b) the individual permanent minimum capital requirement, base own funds requirement or initial capital requirement of any third country entity in (a) shall be deemed to be the individual requirement that would apply if that entity were established in the UK.

[Note: article 10 of the draft consolidation RTS.]

Consolidated K-Factor Requirement

2.5.28  G  (1)  The general principle is that the consolidated K-factor requirement should be calculated on the basis of the consolidated situation of a UK parent entity, such that the entities included in the consolidated situation are treated as if they form a single MIFIDPRU investment firm. This is subject to any rules in this section which require a modified approach to the relevant calculation on a consolidated basis.

(2)  As is the case when calculating the K-factor requirement on an individual basis, the K-factor metrics that are relevant to the consolidated situation will depend upon the investment services
and/or activities (or equivalent activities in the case of a third country entity) undertaken by relevant entities within the investment firm group. The consolidated K-factor requirement should be calculated in accordance with the relevant provisions in MIFIDPRU 4 applicable to those K-factor metrics, but on the basis of the consolidated situation.

(3) MIFIDPRU 2.5.6G contains additional guidance on how the consolidated K-factor requirement applies in relation to tied agents which are included within the consolidated situation.

[Note: article 11(1) to 11(2) of the draft consolidation RTS.]

Consolidated K-AUM, K-COH and K-DTF requirements

2.5.29 R (1) This rule applies for the purposes of a UK parent entity’s calculation on a consolidated basis in accordance with MIFIDPRU 2.5.7R of the following:

(a) the K-AUM requirement;
(b) the K-COH requirement; and
(c) the K-DTF requirement.

(2) For the purposes of (1), the consolidated AUM, COH or DTF is the sum of the following:

(a) the full amount of the relevant individual K-factor metrics of each MIFIDPRU investment firm which is fully consolidated within the consolidated situation; and

(b) the relevant proportion of the relevant individual K-factor metrics of each MIFIDPRU investment firm which is subject to proportional consolidation on a consolidated basis.

(3) For the purposes of (2):

(a) references to a MIFIDPRU investment firm shall be deemed to include a third country entity within the investment firm group which would fall within that definition if it were established in the UK; and

(b) the relevant individual K-factor metric of any third country entity in (a) shall be deemed to be the individual K-factor metric that would be attributable to that entity if that entity were established in the UK.

(4) Where the consolidated AUM, COH or DTF under (2) includes amounts attributable to transactions or arrangements between two or more entities included within the consolidated situation,
the UK parent entity may adjust the consolidated K-factor metric figure to the extent necessary to avoid double-counting of such amounts.

Consolidated K-CMH and K-ASA requirements

2.5.30  R  The consolidated K-CMH requirement and consolidated K-ASA requirement for an investment firm group must be calculated in accordance with the following:

(1) the contribution of any individual MIFIDPRU investment firm to the consolidated situation must be determined by applying the relevant rules for calculating CMH and ASA in MIFIDPRU [4.8] and [4.9] to that individual firm; and

(2) the contribution of any other entity ("X") in the investment firm group to the consolidated situation must be determined by:

(a) identifying:

(i)  any money held by X that was received from its clients; or

(ii) any assets held by X belonging to its clients;

in the course of, or in connection with, business which would be MiFID business if it were carried on by a MIFIDPRU investment firm in the UK;

(b) subject to (3), treating:

(i)  the amounts identified in (a)(i) as CMH;

(ii) the amounts identified in (a)(ii) as ASA;

and applying the calculation rules in MIFIDPRU [4.8] or [4.9] to those amounts; and

(c) where an amount under (a) was originally received by X from a client in the form of money but has subsequently been placed in a collective investment undertaking to meet segregation requirements, treating the relevant amount as:

(i) ASA if, on the insolvency of X, the relevant client would be considered to have a direct proprietary interest in the relevant units, shares or equivalent interests in the collective investment undertaking; or

(ii) CMH in any other circumstance.
Editor's note: The draft Handbook provisions relating to the calculation of client money held (CMH) are not included in this instrument, but will be published in a subsequent consultation. It is currently anticipated that the conditions for a segregated account in those rules will be broadly equivalent to the conditions contained in article 1 of the European Banking Authority’s draft regulatory technical standards on the definition of a segregated account, contained in EBA CP/2020/06 published on 4 June 2020.

(3) when applying the calculation rules in MIFIDPRU [4.8], an arrangement operated by X in relation to client money may be classified as a segregated account only if (ignoring MIFIDPRU [4.8.xE], which does not apply for these purposes) it meets the conditions in MIFIDPRU [4.8.xR].

2.5.31 Where the UK parent entity of the investment firm group has been unable to ascertain whether:

(1) the money or assets referred to in MIFIDPRU 2.5.30R(2)(a) were received or are held in the course of, or in connection with, business which would be MiFID business if it were carried on by a MIFIDPRU investment firm in the UK, it must treat such amounts as if they were received or are held in connection with such business;

(2) any amount treated as CMH held by X under MIFIDPRU 2.5.30R(2) is held in an account which meets the conditions to be classified as a segregated account, it must treat the relevant amount as held in a non-segregated account; and

(3) a client would be considered to have a direct proprietary interest in a unit, share or equivalent interest in a collective investment undertaking on the insolvency of X for the purposes of MIFIDPRU 2.5.30R(2)(c), it must treat the relevant amount as CMH.

Consolidated K-NPR and K-CMG requirements

2.5.32 A UK parent entity must apply the relevant provisions for the calculation of the K-NPR requirement in MIFIDPRU 4 to a position or exposure included in the consolidated situation unless a rule in this section:

(1) permits the UK parent entity to include that position or exposure within the calculation of the consolidated K-CMG requirement; or

(2) otherwise permits the position or exposure to be excluded from the calculation of the consolidated K-NPR requirement.
2.5.33 G For the K-NPR requirement there is no coefficient in MIFIDPRU 4. The requirement is instead based upon the concept of positions and exposures.

2.5.34 R (1) This rule applies to a UK parent entity when calculating the K-NPR requirement on a consolidated basis in accordance with MIFIDPRU 2.5.7R.

(2) The UK parent entity may only use positions in one undertaking to offset positions in another undertaking if it has obtained permission to do so in accordance with (3).

(3) The permission in (2) will only be granted where:
   
   (a) the UK parent entity has applied to the FCA in accordance with (4); and

   (b) the application in (a) has demonstrated to the satisfaction of the FCA that the conditions in article 325b of the UK CRR have been met.

(4) An entity that is seeking permission under (3) must submit an application to [Editor’s note: contact details to be inserted] using the form in [Editor’s note: a reference to the relevant permissions form will be inserted following consultation on the form in a future consultation paper].

2.5.35 G The effect of MIFIDPRU 2.5.34R is that there is no automatic offsetting of positions held by different undertakings within an investment firm group for the purposes of applying the K-NPR requirement on a consolidated basis. If a UK parent entity has not obtained the necessary permission under MIFIDPRU 2.5.34R, it must include all positions held by the relevant undertakings within the investment firm group within its calculation of the consolidated K-NPR requirement without netting such positions.

2.5.36 G (1) MIFIDPRU 2.5.37R to 2.5.42R explain the circumstances in which a UK parent entity may calculate a K-CMG requirement when applying MIFIDPRU 4 on a consolidated basis. Where a UK parent entity is not permitted to calculate a K-CMG requirement in relation to a relevant position included within its consolidated situation, it must include that position within its calculation of the consolidated K-NPR requirement.

(2) MIFIDPRU 4.13 permits a MIFIDPRU investment firm on an individual basis to calculate a K-CMG requirement for a portfolio in trading book if it has obtained a K-CMG permission from the FCA. A MIFIDPRU investment firm must calculate a K-NPR requirement in relation to all other trading book positions, and positions other than trading book positions where such positions give rise to foreign exchange risk or commodity
risk. Such positions must be included within the calculation of the consolidated K-NPR requirement.

2.5.37 R A UK parent entity may calculate a consolidated K-CMG requirement for the purposes of MIFIDPRU 2.5.7R in relation to portfolios that form part of its consolidated situation in accordance with MIFIDPRU 2.5.38R to 2.5.42R.

2.5.38 R (1) This rule applies where a MIFIDPRU investment firm:

(a) is included within the consolidated situation of a UK parent entity; and

(b) has been granted a K-CMG permission in relation to a portfolio on an individual basis.

(2) Where this rule applies, the UK parent entity may include the portfolio in (1)(b) within its calculation of the consolidated K-CMG requirement without requiring a further K-CMG permission.

2.5.39 G MIFIDPRU 2.5.38R sets out the only circumstance in which a UK parent entity can include a portfolio of a MIFIDPRU investment firm within the calculation of the consolidated K-CMG requirement. Unlike for designated investment firms under MIFIDPRU 2.5.40R and third country entities under MIFIDPRU 2.5.41R, it is not possible to make a separate application to calculate a K-CMG requirement in relation to such a portfolio only on a consolidated basis. This reflects the FCA’s view that the choice of whether to calculate a K-NPR requirement or a K-CMG requirement in relation to a specific portfolio must be applied consistently on both an individual and consolidated level.

2.5.40 R (1) This rule applies where a designated investment firm (“A”) is included within the consolidated situation of a UK parent entity.

(2) A UK parent entity may include a portfolio of A within the calculation of the UK parent entity’s consolidated K-CMG requirement if:

(a) the UK parent entity, or a MIFIDPRU investment firm within the same investment firm group, has applied to the FCA in accordance with MIFIDPRU 2.5.42R; and

(b) the application in (a) has demonstrated to the satisfaction of the FCA that A would meet the requirements in MIFIDPRU 4.13 as modified by (3) to obtain a K-CMG permission in respect of the portfolio on an individual basis.
(3) For the purposes of (2), the following modifications shall apply to the rules relating to the calculation of the K-CMG requirement in MIFIDPRU 4.13:

(a) references to the “MIFIDPRU investment firm” or “firm” shall be read as references to A;

(b) the clearing member in MIFIDPRU 4.13.9R(2)(c) may be one of the following:
   (i) A itself;
   (ii) another designated investment firm; or
   (iii) a credit institution;

(c) the reference in MIFIDPRU 4.13.12R to MIFIDPRU 4.13.9R should be read as a reference to MIFIDPRU 4.13.9R as modified by this rule; and

(d) the requirement in MIFIDPRU 4.13.13R(1)(b) does not apply, but A must ensure that its ongoing processes and systems for assessing the nature and level of risks to which it is, or might be, exposed take into account the understanding of relevant individuals within A of the margin model for the purposes of considering whether:
   (i) the resulting consolidated K-CMG requirement for the portfolio(s) is sufficient to cover the relevant risks to which A is exposed; and
   (ii) the K-CMG permission remains appropriate in relation to the portfolio(s) in respect of which it was granted.

2.5.41 R (1) This rule applies where a third country entity (“B”) is included within the consolidated situation of a UK parent entity.

(2) A UK parent entity may include a portfolio of B within the calculation of the UK parent entity’s consolidated K-CMG requirement if:

(a) the UK parent entity, or a MIFIDPRU investment firm within the same investment firm group, has applied to the FCA in accordance with MIFIDPRU 2.5.42R; and

(b) the application in (a) has demonstrated to the satisfaction of the FCA that B would meet the requirements in MIFIDPRU 4.13 as modified by (3) to obtain a K-CMG permission in respect of the portfolio on an individual basis.
Editor's note: The FCA will consult on the content of the individual capital and risk assessment process and other risk management and governance requirements in MIFIDPRU 7 in a subsequent consultation paper.
MIFIDPRU 2.5.40R(3) in relation to a portfolio of a designated investment firm or MIFIDPRU 2.5.41R(3) in relation to a portfolio of a third country entity) are satisfied in respect of each such portfolio.

(3) Any UK parent entity or MIFIDPRU investment firm which submits an application under (1) must have the necessary authority to make the application on behalf of all entities within the investment firm group whose portfolios are the subject of that application.

Consolidated K-TCD requirement

2.5.43 G (1) For the K-TCD requirement there is no coefficient in MIFIDPRU 4. The requirement is instead based upon the concept of positions and exposures. The relevant provisions in MIFIDPRU 4 for calculating the K-TCD requirement should therefore also be applied to transactions included in the consolidated situation.

(2) For the avoidance of doubt, when calculating the K-TCD requirement on a consolidated basis, transactions between counterparties included in the consolidated situation are disregarded. This is the case irrespective of whether the exclusion in MIFIDPRU 4.14.6R applies to a transaction when a MIFIDPRU investment firm is calculating its K-TCD requirement on an individual basis.

2.5.44 R (1) When calculating its K-TCD requirement on a consolidated basis in accordance with MIFIDPRU 2.5.7R, a UK parent entity may only net offsetting transactions entered into between one or more entities included in the consolidated situation and a third-party counterparty if the conditions in MIFIDPRU 4.14.28R, as modified by (2), are met.

(2) When applying MIFIDPRU 4.14.28R on the basis of the consolidated situation, the following modifications apply:

(a) any netting agreement or netting contract referenced in that rule must cover all entities included in the consolidated situation whose transactions with the same third-party counterparty are being netted;

(b) any references in that rule to the rights and obligations of the “firm” should be read as references to the rights and obligations of the entities included in the consolidated situation whose transactions with the same third-party counterparty are being netted; and

(c) the legal opinion referenced in MIFIDPRU 4.14.28R(3)(c):
(i) may be obtained by the *UK parent entity* or any *MIFIDPRU investment firm* in the *investment firm group*; but

(ii) must address the relevant claims and obligations of all entities included in the *consolidated situation* whose transactions with the same third-party counterparty are being netted.

Consolidated K-CON requirement

2.5.45 G (1) The *K-CON requirement* under *MIFIDPRU 5* applies to a *MIFIDPRU investment firm* on an individual basis in relation to positions held in its *trading book*. Broadly, the *K-CON requirement* is calculated by reference to all relevant *trading book* exposures that exceed the *concentration risk soft limit*.

(2) *MIFIDPRU 2.5.46R* explains how the *K-CON requirement* applies on a *consolidated basis*.

2.5.46 R When a *UK parent entity* is calculating a *K-CON requirement* on the basis of its *consolidated situation* in accordance with *MIFIDPRU 2.5.7R*, the provisions in *MIFIDPRU 5* shall apply, subject to the following:

(1) the *exposure value* with regard to an individual *client* or *group of connected clients* shall be calculated on the basis of all relevant exposures included in the *consolidated situation*;

(2) to the extent that the calculation *rules* for the *K-NPR requirement* or *K-TCD requirement* are relevant to the calculation of an *exposure value* under *MIFIDPRU 5.4* or the *OFR* under *MIFIDPRU 5.7.3R(2)*, the *UK parent entity* must apply the methods for the calculation of the consolidated *K-NPR requirement* in *MIFIDPRU 2.5.32R* to *2.5.34R* and consolidated *K-TCD requirement* in *2.5.43G* to *2.5.44R*; and

(3) the *own funds* to be used for the purposes of calculating the limits in *MIFIDPRU 5.5* and *MIFIDPRU 5.9* on a *consolidated basis* shall be the consolidated *own funds* of the *investment firm group*, as calculated in accordance with *MIFIDPRU 2.5.7R* and the *guidance* in *MIFIDPRU 2.5.23G*.

Prudential consolidation in practice: liquidity

2.5.47 R When applying *MIFIDPRU 6* on a *consolidated basis* in accordance with *MIFIDPRU 2.5.11R*, a *UK parent entity* must ensure that the total *liquid assets* held by the *UK* entities included within the *consolidated situation* are equal to or greater than the consolidated *liquid assets requirement*. 
2.5.48 G (1) **MIFIDPRU 2.5.11R** requires a *UK parent entity* to comply with the liquidity requirements in **MIFIDPRU 6** on the basis of its *consolidated situation*. In practice, this means that the *UK parent entity* must ensure that the *investment firm group* holds *liquid assets* equivalent to one third of the consolidated *fixed overhead requirement*, plus 1.6% of the total amount of any guarantees provided to *clients* by entities included within the *consolidated situation*.

(2) As stated in **MIFIDPRU 2.5.47R**, the required amount of consolidated liquid assets must be held by the *UK entities* included within the *consolidated situation*. This means that while *third country* entities may contribute to the consolidated *liquid assets* requirement (due to their contribution to the consolidated *fixed overheads requirement*), any *liquid assets* held by a *third country* entity cannot count towards the *liquid assets* held by the *investment firm group* for the purposes of meeting that requirement.

(3) *UK parent entities* are reminded that:

(a) the consolidated *liquid assets* requirement applies only where the *UK parent entity* is subject to consolidation obligations under **MIFIDPRU 2.5.11R**. It does not apply where the *group capital test* under **MIFIDPRU 2.6** applies to an *investment firm group* instead (although **MIFIDPRU 6** will continue to be relevant to *MIFIDPRU investment firms* within that *investment firm group* on an individual basis in such circumstances); and

(b) a *UK parent entity* that is subject to consolidation obligations under **MIFIDPRU 2.5.11R** will be exempt from the consolidated liquidity requirement if the conditions in **MIFIDPRU 2.5.19R** are met.

Prudential consolidation in practice: disclosure by investment firms

[2.5.49] [Editor’s note: content to be consulted on at a later date.]

Prudential consolidation in practice: reporting by investment firms

2.5.50 G Under **MIFIDPRU 2.5.7R**, a *UK parent entity* is required to comply with the reporting obligations in **MIFIDPRU 9** on a *consolidated basis*. In practice, this involves reporting the same categories of information that would be reported by a *MIFIDPRU investment firm* to the FCA on an individual basis, but using the figures that result from applying the relevant requirements on a *consolidated basis* in accordance with this section.

Prudential consolidation in practice: governance requirements
2.5.51 [x] [Editor’s note: content to be consulted on at a later date.]

Prudential consolidation in practice: ICARA requirements

2.5.52 [x] [Editor’s note: content to be consulted on at a later date.]

2.6 The group capital test

2.6.1 R This section applies to an investment firm group which has been granted permission by the FCA to apply the group capital test in accordance with MIFIDPRU 2.4.17R.

Group capital test: requirements

2.6.2 R For the purposes of MIFIDPRU 2.6:

(1) ‘own funds instruments’ means own funds as defined in MIFIDPRU 3, without applying the deductions referred to in point (i) of Article 36(1), point (d) of Article 56, and point (d) of Article 66 of the UK CRR;

(2) the terms ‘investment firm’, ‘financial institution’, ‘ancillary services undertaking’, ‘tied agent’ and ‘relevant financial undertaking’ shall also include undertakings established in third countries, which, were they established in the UK, would meet those definitions.

[Note: article 8(2) of the IFR.]

2.6.3 G The definition of ‘own funds instruments’ for the purpose of MIFIDPRU 2.6.2R ensures that significant investments in common equity tier 1 instruments, additional tier 1 instruments and tier 2 instruments of financial sector entities in the investment firm group do not need to be deducted by a parent undertaking when applying the group capital test. This is to avoid ‘double counting’ of the same amount.

2.6.4 G MIFIDPRU 3.7 contains rules and guidance on the composition of capital for parent undertakings subject to the group capital test.

2.6.5 R Where the FCA has granted an application under MIFIDPRU 2.4.17R, a UK parent entity and any other parent undertakings incorporated in the UK or with their registered office (or if they have no registered office, their head office) in the UK that are relevant financial undertakings in the investment firm group must hold own funds instruments sufficient to cover at least the sum of the following:

(1) the sum of the full book value of their holdings, subordinated claims and instruments referred to in point (i) of article 36(1), point (d) of article 56, and point (d) of article 66 of UK CRR in relevant financial undertakings in the investment firm group; and
(2) the total amount of their contingent liabilities in favour of relevant financial undertakings in the investment firm group.

[Note: article 8(3) of the IFR.]

2.6.6 G (1) Each parent undertaking in the investment firm group which is a relevant financial undertaking must satisfy the group capital test, not only the UK parent entity. The group capital test therefore applies at each level within the group structure. This mitigates the risk of leverage or capital gearing being introduced at levels underneath the ultimate parent undertaking in the UK.

(2) The requirement in MIFIDPRU 2.6.5R only applies directly to parent undertakings in the UK. However, in order to ensure that leverage and capital gearing are not introduced into the investment firm group through intermediate parent undertakings established in a third country, MIFIDPRU 2.6.7R imposes obligations on parent undertakings in the UK in relation to their subsidiaries which are parent undertakings established in a third country.

2.6.7 R (1) This rule applies where:

(a) an investment firm group has been granted permission to apply the group capital test in accordance with MIFIDPRU 2.4.17R; and

(b) a parent undertaking in that investment firm group is an undertaking which:

(i) is established in a third country; and

(ii) is a relevant financial undertaking in accordance with MIFIDPRU 2.6.2R(2).

(2) Where this rule applies, the responsible UK parent must either:

(a) ensure that the undertaking in (1)(b) holds own funds instruments sufficient to cover at least the sum of the amounts in MIFIDPRU 2.6.5R(1) and (2) as they would apply to that third country undertaking; or

(b) hold own funds instruments sufficient to cover at least the sum of the amounts in MIFIDPRU 2.6.5R(1) and (2) as they:

(i) apply to the responsible UK parent itself; and

(ii) would apply to the undertaking in (1)(b).
2.6.8  G  (1) The effect of **MIFIDPRU 2.6.7R** can be illustrated through the example of a hypothetical *investment firm group* which contains the following *undertakings*:

(a) a *UK parent entity* (“A”);

(b) an *intermediate investment holding company* (“B”), which is incorporated in the *UK* and is a direct *subsidiary* of A;

(c) an *undertaking* established in a *third country* (“C”) which would be an *investment holding company* if it were established in the *UK* and which is a direct *subsidiary* of B;

(d) an *undertaking* established in a *third country* (“D”) which would be a **MIFIDPRU investment firm** if it were established in the *UK* and which is a direct *subsidiary* of C;

(e) a **MIFIDPRU investment firm** (“E”) which is a direct *subsidiary* of D;

(f) a *tied agent* (“F”) which is established in the *UK* and which is a direct *subsidiary* of B; and

(g) an *undertaking* established in a *third country* (“G”) which would be a *financial institution* if it were established in the *UK* and which is a direct *subsidiary* of C.

(2) The *group capital test*:

(a) applies directly to A and B because they are both *parent undertakings* incorporated in the *UK* or with their registered offices (or if they have no registered office, their head office) in the *UK*;

(b) applies only indirectly to C and D, by virtue of the obligations imposed on the *responsible UK parent*, because C and D are *parent undertakings* established in a *third country*; and

(c) does not apply to E, F or G because they are not *parent undertakings*.

(3) In this example, B is the *responsible UK parent* because:

(a) B has two *subsidiaries* (a direct *subsidiary*, C, and an indirect *subsidiary*, D) which are both *parent undertakings* established in a *third country* and which
would be relevant financial undertakings if they were established in the UK; and

(b) B does not have a subsidiary in the UK which is the parent undertaking of C or D. (Although F is a UK subsidiary of B, F is not a parent undertaking.) This means that there is no intermediate UK parent undertaking between B and either of C or D.

(4) A is not a responsible UK parent in this example because A has a subsidiary, B, which is a parent undertaking of C and D and which is incorporated in the UK. B is therefore an intermediate UK parent undertaking between A on the one hand and C and D on the other.

(5) B is a responsible UK parent. Note that B is the responsible UK parent of both C and D, even though D is only an indirect subsidiary of B. This is because there is no parent undertaking between C and D which is established in the UK and the definition of a subsidiary includes subsidiaries of subsidiaries.

(6) Under MIFIDPRU 2.6.7R(2), B therefore has the choice of whether to:

(a) ensure that both C and D comply with the requirements of the group capital test as it would apply to them if they were established in the UK; or

(b) hold own funds instruments that are sufficient to cover the sum of the requirements of the group capital test that apply to B and would apply to C and D if they were established in the UK.

(7) If B chooses the approach in (6)(a), B must:

(a) hold sufficient own funds instruments to cover the sum of B’s holdings in, and contingent liabilities in favour of, C and F;

(b) ensure that C holds sufficient own funds instruments to cover the sum of C’s holdings in, and contingent liabilities in favour of, D and G; and

(c) ensure that D holds sufficient own funds instruments to cover the sum of D’s holdings, and contingent liabilities in favour of, in E.

(8) If B chooses the approach in (6)(b), B must hold sufficient own funds instruments to cover the sum of:
(a) B’s holdings in, and contingent liabilities in favour of, C and F;

(b) C’s holdings in, and contingent liabilities in favour of, D and G; and

(c) D’s holdings, and contingent liabilities in favour of, in E.

2.6.9 R A UK parent entity must have systems in place to monitor and control the sources of capital and funding of all relevant financial undertakings within the investment firm group.

[Note: article 8(5) of the IFR.]

Group capital test: reporting requirements

2.6.10 R (1) Where the FCA has granted an application under MIFIDPRU 2.4.17R, a UK parent entity and any other parent undertakings in the UK that are relevant financial undertakings in the investment firm group must comply with the reporting requirements in (2).

(2) Each parent undertaking in (1) must:

(a) report in accordance with MIFIDPRU 9 in respect of how that parent undertaking meets the group capital test; and

(b) if the parent undertaking is a responsible UK parent, also report in accordance with MIFIDPRU 9 in respect of how:

(i) the undertaking established in a third country in MIFIDPRU 2.6.7R(1)(b) holds at least the amount of own funds instruments referenced in MIFIDPRU 2.6.7R(2)(a); or

(ii) the parent undertaking holds at least the amount of own funds instruments to cover the amount applicable to the undertaking established in a third country, as referenced in MIFIDPRU 2.6.7R(2)(b).

2.6.11 R For the purposes of MIFIDPRU 2.6.10R, an investment firm group may designate one parent undertaking in the UK to submit reports to the FCA on behalf of the other parent undertakings in the group subject to that rule.

Inclusion of holding companies in supervision of compliance with the group capital test
2.6.12 G For the avoidance of doubt, *UK investment holding companies* and *UK mixed financial holding companies* are included in the FCA’s supervision of compliance with the *group capital test*.

[Note: article 51 of the *IFD*.]

2.7 **Investment holding companies, mixed financial holding companies and mixed-activity holding companies**

Qualifications of directors

2.7.1 G Under [section 143R]\(^{13}\) of the *Act*, a *UK investment holding company*, *UK mixed financial holding company* or *UK mixed activity holding company* must take reasonable care to ensure that the members of its *management body* are of sufficiently good repute and possess sufficient knowledge, skills and experience to perform their duties effectively.

[Note: article 52 of the *IFD*.]

Mixed-activity holding companies

2.7.2 G (1) Under section 165 of the *Act*, the FCA may require a *parent undertaking* of a *MIFIDPRU investment firm* to provide such information as may be relevant for the FCA’s supervision of the *MIFIDPRU investment firm*.

(2) Under section 167 of the *Act*, in appropriate cases, the FCA may appoint an investigator to verify the information received from a *parent undertaking* of a *MIFIDPRU investment firm* and any *subsidiaries* of that *parent undertaking*.

(3) The powers in (1) and (2) extend to, amongst other *undertakings*, a *mixed-activity holding company*.

[Note: article 53(1)(a) and article 53(2) of the *IFD*.]

2.7.3 R Where the **parent undertaking** of a **MIFIDPRU investment firm** is a **UK mixed-activity holding company**, the **MIFIDPRU investment firm** must have in place adequate risk management processes and internal control mechanisms, including sound reporting and accounting procedures to identify, measure, monitor and control transactions between the **firm**, the **UK mixed-activity holding company** and the **subsidiaries** of the latter.

[Note: article 53(1)(b) of the *IFD*.]

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\(^{13}\) *Editor’s note*: References in this chapter to sections 143O, 143R and 143W of the Financial Services and Markets Act 2000 are to those sections as they would be inserted by the Financial Services Bill, which was introduced in the House of Commons on 20 October 2020. These references may change if the Bill is amended during the parliamentary process.
Sanctions

2.7.4 G Under [section 143W] of the Act, the FCA may impose disciplinary measures aiming to end or mitigate breaches of the requirements imposed on UK investment holding companies, UK mixed financial holding companies and UK mixed-activity holding companies, or the members of the management body of such entities by rules in the MIFIDPRU sourcebook or by [section 143R] of the Act.

[Note: article 54 of the IFD.]

Application to FCA for an exemption from application of specific requirements on an individual basis

2 Annex 1 R [Editor's note: the form can be found at this address: https://www.fca.org.uk/publication/forms/[xxx]]

Application to FCA for an exemption from liquidity requirements on a consolidated basis

2 Annex 2 R [Editor's note: the form can be found at this address: https://www.fca.org.uk/publication/forms/[xxx]]

Application to FCA to be subject to the group capital test

2 Annex 3 R [Editor's note: the form can be found at this address: https://www.fca.org.uk/publication/forms/[xxx]]

3 Own funds

3.1 Application and purpose

Application

3.1.1 R This chapter applies to:

1. a MIFIDPRU investment firm; and

2. a UK parent entity that is required by MIFIDPRU 2.5.7R to comply with MIFIDPRU 3 on the basis of its consolidated situation.
3.1.2 R This chapter also applies to a parent undertaking that is subject to the group capital test in accordance with MIFIDPRU 2.6.5R, but with the following modifications:

(1) the definitions in MIFIDPRU 2.6.2R apply when calculating the own funds instruments of the parent undertaking for the purposes of the group capital test; and

(2) MIFIDPRU 3.2.2R and MIFIDPRU 3.2.3R do not apply, but MIFIDPRU 3.7 applies instead.

3.1.3 R For the purposes of this chapter:

(1) where a term is not italicised but is defined in the UK CRR, the definition given to that term in the UK CRR shall apply;

(2) where this chapter applies to a parent undertaking that is not a firm, any reference to a “MIFIDPRU investment firm” or a “firm” includes a reference to that parent undertaking; and

(3) where this chapter applies on the basis of the consolidated situation of an entity under MIFIDPRU 3.1.1R(2), any reference in this chapter to a “firm” is to be interpreted as a reference to the hypothetical single MIFIDPRU investment firm created under the consolidated situation.

Purpose

3.1.4 G This chapter contains requirements relating to the calculation of a MIFIDPRU investment firm’s own funds for the purposes of MIFIDPRU. These requirements are based on the provisions in Title I of Part Two of the UK CRR, but with the modifications set out in this chapter.

3.2 Composition of own funds and initial capital

3.2.1 R The own funds of a firm are the sum of its:

(1) common equity tier 1 capital;

(2) additional tier 1 capital; and

(3) tier 2 capital.

[Note: article 9(1) of the IFR.]

3.2.2 R A firm must, at all times, have own funds which meet all of the following conditions:
(1) the firm’s common equity tier 1 capital must be equal to or greater than 56% of the firm’s own funds requirement under MIFIDPRU 4.3;

(2) the sum of the firm’s:
   (a) common equity tier 1 capital; and
   (b) additional tier 1 capital;
   must be equal to or greater than 75% of the firm’s own funds requirement under MIFIDPRU 4.3; and

(3) the firm’s own funds must be equal to or greater than 100% of the firm’s own funds requirement under MIFIDPRU 4.3.

[Note: article 9(1) of the IFR.]

3.2.3 R A firm’s initial capital must be comprised of own funds.

[Note: article 11 of the IFD.]

3.2.4 G For the purposes of this chapter, the categorisation and the valuation of assets and off-balance sheet items should be undertaken in accordance with the applicable accounting framework, except to the extent that a rule directs otherwise.

3.3 Common equity tier 1 capital

3.3.1 R (1) A firm must determine its common equity tier 1 capital in accordance with Chapter 2 of Title I of Part Two of the UK CRR, as modified by the rules in this section.

(2) Any reference to the UK CRR in this section is to the UK CRR as applied by (1) and modified by the rules in this section.

[Note: article 9(1) of the IFR.]

Prior permission to include interim profits or year-end profits in common equity tier 1 capital

3.3.2 R A firm that wishes, in accordance with article 26(2) of the UK CRR, to apply for permission to include interim or year-end profits in its common equity tier 1 capital before the firm has taken a formal decision confirming the final profit or loss for the year must submit the form in [Editor’s note: a reference to the relevant permissions form will be inserted following consultation on the form in a future consultation paper] to the FCA.

Prior permission and notification of issuances of common equity tier 1 capital
3.3.3 R A firm that wishes, in accordance with article 26(3) of the UK CRR, to apply for permission to classify an issuance of capital instruments as common equity tier 1 capital must submit the form in [Editor’s note: a reference to the relevant permissions form will be inserted following consultation on the form in a future consultation paper] to the FCA.

3.3.4 G (1) Under article 26(3) of the UK CRR, a firm must normally obtain the FCA’s permission before classifying an issuance of capital instruments as common equity tier 1 capital.

(2) However, that provision also states that where a firm has already obtained permission from the FCA for a previous issuance of instruments that have been classified as common equity tier 1 capital, the firm is not required to obtain the FCA’s permission for a subsequent issuance of the same form of instruments provided that:

(a) the provisions governing the subsequent issuance are substantially the same as the provisions governing the issuance for which the firm has already received permission; and

(b) the firm has notified the FCA of the subsequent issuance sufficiently far in advance of the classification of the relevant instruments as common equity tier 1 capital.

(3) The FCA generally expects to receive a notification of a subsequent issuance of an existing form of common equity tier 1 capital instruments under article 26(3) of the UK CRR no fewer than 20 business days before the firm intends to classify that issuance as common equity tier 1 capital.

Deductions from common equity tier 1 capital

3.3.5 R For the purposes of MIFIDPRU:

(1) MIFIDPRU 3.3.6R applies in substitution for article 36 of the UK CRR; and

(2) any reference to article 36 of the UK CRR (or where applicable, any part of article 36 of the UK CRR) contained in:

(a) another provision of the UK CRR which is incorporated by reference into any part of MIFIDPRU; or

(b) in any applicable technical standard that applies to a MIFIDPRU investment firm under a provision of the UK CRR to which (a) applies;

is to be read as a reference to MIFIDPRU 3.3.6R (or where applicable, to the equivalent part of that rule).
3.3.6 R A *MIFIDPRU* investment firm must deduct the following from its common equity tier 1 items:

(1) losses for the current financial year;

(2) intangible assets;

(3) deferred tax assets that rely on future profitability;

(4) defined benefit pension fund assets on the balance sheet of the firm;

(5) direct, indirect and synthetic holdings by the *firm* of its own *common equity tier 1 instruments*, including own *common equity tier 1 instruments* that the *firm* is under an actual or contingent obligation to purchase by virtue of an existing contractual obligation;

(6) direct, indirect and synthetic holdings of the *common equity tier 1 instruments* of financial sector entities where those entities have a reciprocal cross holding with the *firm* that the *FCA* considers has been designed to inflate artificially the own funds of the *firm*;

(7) the applicable amount of direct, indirect and synthetic holdings by the *firm* of *common equity tier 1 instruments* of financial sector entities where the *firm* does not have a significant investment in those entities;

(8) the applicable amount of direct, indirect and synthetic holdings by the *firm* of the *common equity tier 1 instruments* of financial sector entities where the *firm* has a significant investment in those entities;

(9) the amount of items required to be deducted from additional tier 1 items pursuant to article 56 of the *UK CRR* that exceeds the additional tier 1 items of the *firm*; and

(10) any tax charge relating to common equity tier 1 items foreseeable at the moment of its calculation, except where the *firm* suitably adjusts the amount of common equity tier 1 items insofar as such tax charges reduce the amount up to which those items may be used to cover risks or losses.

Deferred tax assets that rely on future profitability

3.3.7 R A *firm* must deduct deferred tax assets that rely on future profitability from its common equity tier 1 items under *MIFIDPRU* 3.3.6R(3) without applying:
(1) article 39 of the UK CRR (tax overpayments, tax loss carry backs and deferred tax assets that do not rely on future profitability); or

(2) article 48 of the UK CRR (threshold exemptions from deduction from common equity tier 1 items).

[Note: article 9(2)(a) of the IFR.]

Defined benefit pension fund assets on the firm’s balance sheet

3.3.8 R A firm must deduct defined benefit pension fund assets on its balance sheet from its common equity tier 1 items under MIFIDPRU 3.3.6R(4) without applying article 41 of the UK CRR (deduction of defined benefit pension fund assets).

[Note: article 9(2)(b) of the IFR.]

Holdings of common equity tier 1 instruments of financial sector entities

3.3.9 R (1) This rule applies to a firm’s holdings of capital instruments which are not held in its trading book.

(2) Subject to MIFIDPRU 3.3.13R, a firm must deduct its direct, indirect and synthetic holdings of common equity tier 1 instruments of financial sector entities under MIFIDPRU 3.3.6R(7) without applying article 46 of the UK CRR (deduction of holdings of common equity tier 1 instruments where an institution does not have a significant investment in a financial sector entity).

[Note: article 9(2)(c) of the IFR.]

3.3.10 R The following provisions do not apply in relation to common equity tier 1 instruments held in the trading book of a firm:

(1) MIFIDPRU 3.3.6R(7); and

(2) article 46 of the UK CRR.

[Note: article 9(2)(e)(ii) of the IFR.]

3.3.11 R Subject to MIFIDPRU 3.3.13R, a firm must deduct its direct, indirect and synthetic holdings in the common equity tier 1 instruments of financial sector entities under MIFIDPRU 3.3.6R(8) without applying article 48 of the UK CRR (threshold exemptions from deduction from common equity tier 1 items).

[Note: article 9(2)(d) of the IFR.]
3.3.12 R Article 49 of the **UK CRR** (requirement for deduction where consolidation, supplementary supervision or institutional protection schemes are applied) does not apply for the purposes of this section.

[**Note:** article 9(2)(e)(i) of the **IFR.**]

Holdings of common equity tier 1 instruments issued by a financial sector entity within an investment firm group

3.3.13 R A firm is not required to deduct holdings of common equity tier 1 instruments issued by a financial sector entity from the firm’s common equity tier 1 items in accordance with **MIFIDPRU 3.3.6R** where all of the following conditions are met:

1. the financial sector entity forms part of the same **investment firm group** as the firm;
2. there is no current or foreseen material, practical or legal impediment to the prompt transfer of capital or repayment of liabilities by the financial sector entity;
3. the risk evaluation, measurement and control procedures of the parent undertaking include the financial sector entity; and
4. the group capital test under **MIFIDPRU 2.6** does not apply to the investment firm group.

[**Note:** article 9(5) of the **IFR.**]

Qualifying holdings outside the financial sector

3.3.14 R (1) A firm must deduct from its common equity tier 1 items any amounts in excess of the following limits:

(a) a qualifying holding in a non-financial sector entity which exceeds 15% of the firm’s own funds; and
(b) the total of all the qualifying holdings of the firm in non-financial sector entities which exceeds 60% of the firm’s own funds.

(2) When calculating any amounts in (1), the following shall not be included:

(a) shares in non-financial sector entities where any of the following conditions is met:

(i) those shares are held temporarily during a financial assistance operation referred to in article 79 of the **UK CRR**;
(ii) the holding of those shares is an underwriting position held for five business days or fewer; or

(iii) those shares are held in the name of the firm on behalf of others; and

(b) shares which are not fixed financial assets under Directive 86/635/EEC UK law (as defined in article 4(1)(128B) of the UK CRR).

[Note: article 10 of the IFR.]

Common equity tier 1 instruments of partnerships

3.3.15 R A partner’s account in relation to a firm that is a partnership will meet the conditions in article 28(1)(e) (perpetual) and article 28(1)(f) (reduction or repayment) of the UK CRR where the account is one:

(1) into which capital contributed by partners is paid; and

(2) from which under the terms of the partnership agreement an amount representing capital may be withdrawn by a partner (“A”) only if:

(a) A ceases to be a partner and an equal amount is transferred to another such account by A’s former partners or any person replacing A as their partner;

(b) the partnership is wound up or otherwise dissolved; or

(c) the firm has ceased to be authorised or no longer has a Part 4A permission.

Common equity tier 1 instruments of limited liability partnerships

3.3.16 R A member’s account in relation to a firm that is a limited liability partnership will meet the conditions in article 28(1)(e) (perpetual) and article 28(1)(f) (reduction or repayment) of the UK CRR where the account is one:

(1) into which capital contributed by the members is paid; and

(2) from which, under the terms of the limited liability partnership agreement, an amount representing capital may be withdrawn by a partner (“B”) only if:

(a) B ceases to be a member and an equal amount is transferred to another such account by B’s former fellow members or any person replacing B as a member;
(b) the limited liability partnership is wound up or otherwise dissolved; or

(c) the firm has ceased to be authorised or no longer has a Part 4A permission.

3.4 Additional Tier 1 capital

3.4.1 R (1) A firm must determine its additional tier 1 capital in accordance with Chapter 3 of Title I of Part Two of the UK CRR, as modified by the rules in this section.

(2) Any reference to the UK CRR in this section is to the UK CRR as applied by (1) and modified by the rules in this section.

[Note: article 9(1) of the IFR.]

Trigger events and write-down or conversion

3.4.2 R The following provisions of the UK CRR do not apply in relation to the additional tier 1 capital of a MIFIDPRU investment firm:

(1) article 54(1)(a); and

(2) article 54(4)(a).

3.4.3 R (1) A firm must specify one or more trigger events for the purposes of article 52(1)(n) of the UK CRR in the terms of an additional tier 1 instrument.

(2) The trigger events specified under (1) must at least include a trigger event that occurs where the common equity tier 1 capital of the firm falls below a level specified by the firm that is no lower than 64% of the firm’s own funds requirement.

(3) Article 54 of the UK CRR shall apply as if references to the trigger event in article 54(1)(a) of the UK CRR are references to the trigger event in (1).

(4) The full principal amount of an additional tier 1 instrument must be written down or converted upon the occurrence of a trigger event.

[Note: article 9(2)(e)(iii) and (iv) of the IFR.]

3.4.4 G MIFIDPRU 3.4.3R requires that the principal amount of an additional tier 1 instrument will convert into common equity tier 1 capital or will be written down where the firm’s common equity tier capital falls below a specified level, which must be set by the firm at no lower than 64% of the firm’s own funds requirement. The firm may therefore choose to set the relevant trigger at a higher level (such as 70% of its own funds requirement) if it wishes. The firm may also choose to
specify additional trigger events alongside the required trigger event in MIFIDPRU 3.4.3R(1).

Holdings of additional tier 1 instruments of financial sector entities

3.4.5 R (1) This rule applies to a firm’s holdings of capital instruments which are not held in its trading book.

(2) A firm must deduct its direct, indirect and synthetic holdings in additional tier 1 instruments of financial sector entities under article 56(c) of the UK CRR without applying article 60 of the UK CRR (deduction of holdings of additional tier 1 instruments where an institution does not have a significant investment in a financial sector entity).

(3) The requirement in article 56(c) of the UK CRR does not apply in the circumstances set out in MIFIDPRU 3.4.7R.

[Note: article 9(2)(c) of the IFR.]

3.4.6 R The following provisions do not apply in relation to additional tier 1 instruments held in the trading book of a firm:

(1) article 56(c) of the UK CRR; and

(2) article 60 of the UK CRR.

[Note: article 9(2)(e)(ii) of the IFR.]

Holdings of additional tier 1 instruments issued by a financial sector entity within an investment firm group

3.4.7 R A firm is not required to deduct holdings of additional tier 1 instruments issued by a financial sector entity from the firm’s additional tier 1 items in accordance with article 56 of the UK CRR where all of the following conditions are met:

(1) the financial sector entity forms part of the same investment firm group as the firm;

(2) there is no current or foreseen material, practical or legal impediment to the prompt transfer of capital or repayment of liabilities by the financial sector entity;

(3) the risk evaluation, measurement and control procedures of the parent undertaking include the financial sector entity; and

(4) the group capital test under MIFIDPRU 2.5 does not apply to the investment firm group.

[Note: article 9(5) of the IFR.]
3.5 Tier 2 capital

3.5.1 R (1) A firm must determine its tier 2 capital in accordance with Chapter 4 of Title I of Part Two of the UK CRR, as modified by the rules in this section.

(2) Any reference to the UK CRR in this section is to the UK CRR as applied by (1) and modified by the rules in this section.

[Note: article 9(1) of the IFR.]

Holdings of tier 2 instruments of financial sector entities

3.5.2 R (1) This rule applies to a firm’s holdings of capital instruments which are not held in its trading book.

(2) A firm must deduct its direct, indirect and synthetic holdings in the tier 2 instruments of financial sector entities under article 66(c) of the UK CRR without applying article 70 of the UK CRR (deduction of tier 2 instruments where an institution does not have a significant investment in the relevant entity).

(3) The requirement in article 66(c) of the UK CRR does not apply in the circumstances set out in MIFIDPRU 3.5.4R.

[Note: article 9(2)(c) of the IFR.]

3.5.3 R The following provisions do not apply in relation to tier 2 instruments held in the trading book of the firm:

(1) article 66(c) of the UK CRR; and

(2) article 70 of the UK CRR.

[Note: article 9(2)(e)(ii) of the IFR.]

Holdings of tier 2 instruments issued by a financial sector entity within an investment firm group

3.5.4 R A firm is not required to deduct holdings of tier 2 instruments issued by a financial sector entity from the firm’s tier 2 items in accordance with article 66 of the UK CRR where all of the following conditions are met:

(1) the financial sector entity forms part of the same investment firm group as the firm;

(2) there is no current or foreseen material, practical or legal impediment to the prompt transfer of capital or repayment of liabilities by the financial sector entity;
(3) the risk evaluation, measurement and control procedures of the parent undertaking include the financial sector entity; and

(4) the group capital test under MIFIDPRU 2.6 does not apply to the investment firm group.

[Note: article 9(5) of the IFR.]

3.6 General requirements for own funds instruments

3.6.1 R  (1) A firm must comply with the provisions in Chapter 6 of Title I of Part Two of the UK CRR, as modified by the rules in this section.

  (2) Any reference to the UK CRR in this section is to the UK CRR as applied by (1) and modified by the rules in this section.

[Note: article 9(3) of the IFR.]

Reduction of own funds instruments

3.6.2 R  A firm that wishes to apply for permission for the purposes of articles 77 and 78 of the UK CRR to:

  (1) reduce, redeem or repurchase any of its common equity tier 1 instruments;

  (2) reduce, distribute or reclassify as another own funds item the share premium accounts related to any of its own funds instruments; or

  (3) effect the call, redemption, repayment or repurchase of its additional tier 1 instruments or tier 2 instruments prior to the date of their contractual maturity;

must submit the form in [Editor’s note: reference to the applicable form to be inserted. The FCA intends to consult on the relevant form in a subsequent CP] to the FCA.

3.6.3 R  Permission under MIFIDPRU 3.6.2R will be deemed to have been granted where the following conditions are met:

  (1) either of the conditions in MIFIDPRU 3.6.4R apply;

  (2) the firm has notified the FCA of:

    (a) the proposed reduction, repurchase, call or redemption; and

    (b) the basis on which the firm has concluded that the circumstances in (1) apply;
no later than the 20th business day before the day on which the reduction, repurchase, call or redemption is proposed to occur using the form in [Editor’s note: reference to the applicable form to be inserted. The FCA intends to consult on the relevant form in a subsequent CP]; and

(3) the FCA has not notified the firm of any objections to the proposal before the day on which the reduction, repurchase, call or redemption is proposed to occur.

3.6.4 R The conditions referred to in MIFIDPRU 3.6.3R are that:

(1) earlier than or at the same time as the reduction, repurchase, call or redemption, the firm replaces the relevant own funds instruments with own funds instruments of equal or higher quality at terms that are sustainable for the income capacity of the firm; or

(2) the firm is redeeming additional tier 1 instruments or tier 2 instruments within five years of their date of issue and either of the following applies:

   (a) there is a change in the regulatory classification of those instruments which would be likely to result in their exclusion from own funds or reclassification as a lower quality form of own funds, and both the following conditions are met:

      (i) there are reasonable grounds to conclude that the change is sufficiently certain; and

      (ii) the regulatory reclassification of the instruments was not reasonably foreseeable at the time of their issuance; or

   (b) there is a change in the applicable tax treatment of those instruments which is material and was not reasonably foreseeable at the time of their issuance.

[Note: article 9(3) of the IFR.]

3.7 Composition of capital for parent undertakings subject to the group capital test

3.7.1 R This section applies to a parent undertaking in accordance with MIFIDPRU 3.1.2R.

3.7.2 R A parent undertaking must, at all times, have own funds instruments which meet the following conditions:
(1) the parent undertaking’s common equity tier 1 capital must be at least equal to:

(a) the sum of the book value of the parent undertaking’s holdings of the common equity tier 1 capital of the relevant financial undertakings under MIFIDPRU 2.6.5R; plus

(b) the total amount of all the parent undertaking’s contingent liabilities in favour of the relevant financial undertakings under MIFIDPRU 2.6.5R;

(2) the sum of common equity tier 1 capital and additional tier 1 capital of the parent undertaking must be at least equal to the sum of:

(a) the amounts in (1)(a) and (1)(b); plus

(b) the sum of the book value of the parent undertaking’s holdings in the additional tier 1 capital of the relevant financial undertakings under MIFIDPRU 2.6.5R; and

(3) the sum of the parent undertaking’s own funds instruments must be at least equal to the total requirement under MIFIDPRU 2.6.5R.

[Note: article 8(2)(a) and article 9 of the IFR.]

3.7.3 G As explained in MIFIDPRU 2.6.6G, a separate group capital test applies to each parent undertaking within an investment firm group. In effect, therefore, the group capital test applies at the level of each intermediate parent undertaking, as well as to the ultimate parent undertaking of the investment firm group.

4 Own funds requirements

4.1 Application

4.1.1 R This chapter applies to:

(1) a MIFIDPRU investment firm; and

(2) a UK parent entity that is required by MIFIDPRU 2.5.7R to comply with MIFIDPRU 4 on the basis of its consolidated situation.

4.1.2 R Where this chapter applies on the basis of the consolidated situation of a UK parent entity, it applies with the following modifications:
(1) **MIFIDPRU** 4.2.1R (Initial capital requirement) does not apply; and

(2) any references to a “firm” or “MIFIDPRU investment firm” in this chapter are to be interpreted as references to the hypothetical single **MIFIDPRU investment firm** created under the **consolidated situation**.

4.1.3 G **MIFIDPRU** 2.5 contains additional guidance on how a UK parent entity should apply the requirements in this chapter on a consolidated basis.

4.2 Initial capital requirement

4.2.1 R (1) At the point at which a **firm** is first authorised as a **MIFIDPRU investment firm**, it must hold initial capital of not less than the amount in (2).

(2) The relevant amount is the permanent minimum capital requirement that would apply if the **firm** had been granted the permissions that it has requested in its application for authorisation.

[Note: article 9 of the **IFD**.]

4.2.2 G (1) The initial capital requirement in **MIFIDPRU** 4.2.1R applies only at the point at which the **FCA** is first granting permission to a **MIFIDPRU investment firm** to carry on investment services and/or activities. After a **firm** has been authorised as a **MIFIDPRU investment firm**, the permanent minimum capital requirement applies on an ongoing basis instead.

(2) Where a **MIFIDPRU investment firm** applies to vary its permissions to add new investment services and/or activities that would result in an increase in its permanent minimum capital requirement, the **FCA** would generally expect to refuse the application unless the **firm** demonstrates that it can comply with the new permanent minimum capital requirement.

(3) The **FCA**’s approach to the application of the initial capital requirement under **MIFIDPRU** is based on the existence of the permanent minimum capital requirement for **MIFIDPRU investment firms**. For the avoidance of doubt, this guidance does not affect the **FCA**’s approach to whether the initial capital requirement under another prudential sourcebook applies on an ongoing basis.

4.3 Own funds requirement

4.3.1 R A **MIFIDPRU investment firm** must at all times maintain own funds that are at least equal to its own funds requirement.
4.3.2 R  The own funds requirement of a non-SNI MIFIDPRU investment firm is the highest of:

(1) its permanent minimum capital requirement under MIFIDPRU 4.4;

(2) its fixed overheads requirement under MIFIDPRU 4.5; or

(3) its K-factor requirement under MIFIDPRU 4.6.

[Note: article 11(1) of the IFR.]

4.3.3 R  The own funds requirement of an SNI MIFIDPRU investment firm is the higher of:

(1) its permanent minimum capital requirement under MIFIDPRU 4.4; or

(2) its fixed overheads requirement under MIFIDPRU 4.5.

[Note: article 11(2) of the IFR.]

4.4 Permanent minimum capital requirement

4.4.1 R  (1) Where a MIFIDPRU investment firm has permission to carry on any of the investment services and/or activities in (2), its permanent minimum capital requirement is £750,000.

(2) The relevant investment services and/or activities are:

(a) dealing on own account;

(b) underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis; or

(c) operating an organised trading facility, if the firm is not subject to a limitation that prevents it from carrying on the activities otherwise permitted by MAR 5A.3.5R.

[Note: article 9(1) and (4) of the IFD.]

4.4.2 G  (1) Under MAR 5A.3.5R (Proprietary trading), a firm that has permission to operate an organised trading facility may deal on own account in the following ways without requiring separate permissions for dealing on own account:

(a) by undertaking matched principal trading in the course of operating the OTF; or

(b) by dealing on own account in relation to sovereign debt instruments for which there is no liquid market.
(2) A firm that is operating an organised trading facility and does not wish to carry on the activities in (1) may apply to the FCA under section 55H of the Act for a limitation that prohibits the firm from carrying on those activities in reliance on that permission.

(3) The effect of MIFIDPRU 4.4.1R(2)(c) is that if a firm is operating an organised trading facility and is not subject to the limitation described in (2), the firm's permanent minimum capital requirement will be £750,000.

4.4.3 R  (1) Where a MIFIDPRU investment firm meets the conditions in (2), its permanent minimum capital requirement is £150,000.

(2) The relevant conditions are:

(a) the firm has permission to do any of the following:
   (i) operating a multilateral trading facility;
   (ii) operating an organised trading facility, if the firm is subject to a limitation that prevents it from carrying on the activities otherwise permitted by MAR 5A.3.5R;
   (iii) holding client money and/or client assets in the course of MiFID business; and

(b) the firm does not have permission to do any of the following:
   (i) dealing on own account;
   (ii) underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis;
   (iii) operating an organised trading facility, if the firm is not subject to a limitation that prevents it from carrying on the activities otherwise permitted by MAR 5A.3.5R.

[Note: article 9(3) of the IFD.]

4.4.4 R  (1) Where a MIFIDPRU investment firm meets the conditions in (2), its permanent minimum capital requirement is £75,000.

(2) The relevant conditions are:
the only investment services and/or activities that the firm has permission to carry on are one or more of the following:

(i) reception and transmission of orders in relation to one or more financial instruments;
(ii) execution of orders on behalf of clients;
(iii) portfolio management;
(iv) investment advice; or
(v) placing of financial instruments without a firm commitment basis; and

(b) the firm is not permitted to hold client money or client assets in the course of MiFID business.

[Note: article 9(2) of the IFD.]

4.5 Fixed overheads requirement

[Editor's note: The provisions in this section will be published in a subsequent consultation paper.]

4.6 Overall K-factor requirement

4.6.1 R The K-factor requirement of a MIFIDPRU investment firm is the sum of each of the following that apply to the firm:

(1) K-AUM requirement;
(2) K-CMH requirement;
(3) K-ASA requirement;
(4) K-COH requirement;
(5) K-NPR requirement;
(6) K-CMG requirement;
(7) K-TCD requirement;
(8) K-DTF requirement; and
(9) K-CON requirement.

[Note: article 15(1) of the IFR.]

4.7 K-AUM requirement
4.8 K-CMH requirement

[Editor’s note: The provisions in this section will be published in a subsequent consultation paper.]

4.9 K-ASA requirement

[Editor’s note: The provisions in this section will be published in a subsequent consultation paper.]

4.10 K-COH requirement

[Editor’s note: The provisions in this section will be published in a subsequent consultation paper.]

4.11 Trading book and dealing on own account: general provisions

4.11.1 References to trading book positions in MIFIDPRU include all trading book positions of the firm, including positions in:

(1) equity instruments;

(2) debt instruments (including securitisation instruments);

(3) collective investment undertakings;

(4) foreign exchange;

(5) gold; and

(6) commodities and emissions allowances.

[Note: article 21(3) of the IFR.]

4.11.2 For the purposes of the definition of a position held with trading intent in relation to the trading book, positions arising from client servicing include those arising out of contracts in relation to which a firm is acting as principal (even in the context of activity described as ‘broking’ or ‘customer business’). This applies even if the nature of the business means that the only risks incurred by the firm are counterparty risks (i.e. no market risk charges apply).

(2) If the nature of the business means that the only risks incurred by the firm are counterparty risks, the position will generally still be a position held with trading intent.

(3) The FCA understands that business carried out under International Uniform Brokerage Execution (“Give-Up”)
Agreements involve back to back trades as principal. If so, positions arising out of business carried out under such agreements should be allocated to a firm’s trading book.

4.11.3 R (1) A MIFIDPRU investment firm must manage its trading book in accordance with Chapter 3 of Title I of Part Three of the UK CRR, with the following modifications:

(a) if a firm is unsure whether a position is a position held with trading intent or is held to hedge a position held with trading intent, the firm must include that position within its trading book;

(b) the following provisions of the UK CRR do not apply:

(i) article 102(1);
(ii) article 102(4);
(iii) article 104(2)(g); and
(iv) article 106;

(c) the reference in article 104(1) of the UK CRR to “policies and procedures for determining which position to include in the trading book” shall be read as “policies and procedures for identifying which positions form part of the trading book”.

(2) Any reference to the UK CRR in this rule is to the UK CRR as applied and modified by (1).

[Note: article 21(2) of the IFR.]

4.11.4 R The following requirements only apply to a firm that deals on own account, whether on its own behalf or on behalf of its clients:

(1) the K-NPR requirement;
(2) the K-CMG requirement;
(3) the K-TCD requirement; and
(4) the K-DTF requirement.

4.11.5 G MIFIDPRU investment firms that deal on own account are reminded that they are also subject to the K-CON requirement in accordance with MIFIDPRU 5.

4.11.6 G A MIFIDPRU investment firm that has permission to operate an organised trading facility may rely on that permission to:
(1) engage in matched principal trading in certain types of financial instruments with client consent, in accordance with MAR 5A.3.5R(1); and

(2) deal on own account in illiquid sovereign debt instruments in accordance with MAR 5A.3.5R(2).

In either case, the firm will be dealing on own account and is therefore subject to the requirements in MIFIDPRU 4.11.4R to the extent relevant to the transactions it undertakes. MIFIDPRU 5 explains how the K-CON requirement applies to such firms.

4.11.7 R A firm to which MIFIDPRU 4.11.4R applies is required to calculate its K-NPR requirement and K-CMG requirement only in relation to:

(1) trading book positions; and

(2) positions other than trading book positions where such positions give rise to foreign exchange risk or commodity risk.

[Note: article 21(1) and (4) of the IFR.]

4.11.8 R A firm to which MIFIDPRU 4.11.4R applies is required to calculate its K-TCD requirement only in relation to the following:

(1) transactions that form part of its trading book; and

(2) transactions of the type specified in MIFIDPRU 4.14.3R(7).

4.12 K-NPR requirement

4.12.1 R A MIFIDPRU investment firm must calculate its K-NPR requirement by reference to every position referred to in MIFIDPRU 4.11.7R that does not form part of a portfolio for which the firm has been granted a K-CMG permission.

4.12.2 R (1) The K-NPR requirement of a MIFIDPRU investment firm must be calculated in accordance with Title IV of Part Three of the UK CRR in the form in which it stood at [Editor’s note: insert date immediately before the earlier of the date that the MIFIDPRU sourcebook begins to apply or the date that the CRR 2 amendments to the UK CRR take effect].

(2) Any reference in this section to the UK CRR is to the UK CRR as applied by (1) and modified by the rules in this section.

(3) When applying the UK CRR in accordance with (1):

(a) any provision in the UK CRR relating to the effect that the market risk of a position has on the “own funds requirement” should be interpreted as relating instead to
the effect that the position has on the K-NPR requirement of the MIFIDPRU investment firm;

(b) article 363 of the UK CRR does not apply;

(c) any references in Title IV of Part Three of the UK CRR to:

(i) article 363 of the UK CRR (permission to use internal models) shall be deemed to refer to MIFIDPRU 4.12.4R to MIFIDPRU 4.12.7R; and

(ii) permissions granted under article 363 of the UK CRR shall be deemed to refer to equivalent permissions granted under MIFIDPRU 4.12.4R to MIFIDPRU 4.12.7R.

[Note: articles 22 and 57(2) of the IFR.]

Instruments for which no treatment is specified in the UK CRR

4.12.3 R (1) Where a MIFIDPRU investment firm has a position in a financial instrument for which no treatment has been specified in the UK CRR, it must consider whether:

(a) the position is sufficiently similar to a position for which an existing treatment has been specified in the UK CRR; and

(b) the application of the treatment in (a) would be prudent and appropriate.

(2) If there is a treatment in the UK CRR that meets the conditions in (1), the firm must calculate the K-NPR requirement resulting from that position by applying that treatment.

(3) If there are multiple treatments in the UK CRR that meet the conditions in (1), the firm must calculate the K-NPR requirement resulting from that position by applying the most appropriate treatment.

(4) If there are no appropriate treatments in the UK CRR, the firm must add an appropriate percentage of the current value of the position to its overall K-NPR requirement. An appropriate percentage is either 100%, or a percentage that takes into account the characteristics of the position.

(5) A firm must document its policies and procedures for calculating the K-NPR requirement in respect of positions to which this rule applies in its trading book policy statement.
Permission to use internal models

4.12.4 R (1) A firm must obtain the prior permission of the FCA before using an internal model to calculate any of the following requirements under Part Three, Title IV, Chapter 5 of the UK CRR:

(a) general risk of equity instruments;
(b) specific risk of equity instruments;
(c) general risk of debt instruments;
(d) specific risk of debt instruments;
(e) foreign exchange risk; and
(f) commodities risk.

(2) To obtain the permission referred to in (1), a firm must:

(a) complete the application form in [Editor’s note: a reference to the relevant permissions form will be inserted following consultation on the form in a future consultation paper] and submit it in accordance with the instructions in that form; and

(b) as part of the application in (a), demonstrate to the satisfaction of the FCA that:

(i) the relevant conditions for the use of the internal model specified in Part Three, Title IV, Chapter 5 of the UK CRR, as supplemented by the rules and guidance in this section, are met; and

(ii) the internal model for which permission is sought covers a significant share of the positions of the relevant risk category in (1).

(3) A firm must obtain a separate permission under this rule in relation to each risk category in (1).

4.12.5 G MIFIDPRU 4.12.8R to 4.12.65G contain rules and guidance setting out requirements for internal models and explaining the factors that the FCA will consider when deciding whether to grant permission to use an internal model.

4.12.6 R (1) A firm which has obtained a permission under MIFIDPRU 4.12.4R must obtain the approval of the FCA before doing the following in relation to the model to which that permission relates:
(a) implementing a material change to the use of the model; or

(b) making a material extension to the use of the model.

(2) To determine if a change or extension is material for the purposes of (1), a firm must apply the criteria and methodology set out in articles 3, 7a and 7b of the Market Risk Model Extensions and Changes RTS.

(3) To obtain the approval in (1), a firm must:

(a) complete the application form in [Editor’s note: a reference to the relevant permissions form will be inserted following consultation on the form in a future consultation paper] and submit it in accordance with the instructions in that form; and

(b) perform an initial calculation of stressed value-at-risk in accordance with article 365(2) of the UK CRR on the basis of the model as changed or extended and submit the results of that calculation as part of the application in (a).

4.12.7 R (1) A firm which has obtained a permission under MIFIDPRU 4.12.4R must notify the FCA before:

(a) implementing a change to the use of the model to which that permission relates which is not a material change; or

(b) extending the use of the model to which that permission relates in a manner which is not material.

(2) A firm should make the notification in (1) using the form in [Editor’s note: a reference to the relevant notification form will be inserted following consultation on the form in a future consultation paper] and submit it in accordance with the instructions in that form.

Use of internal models: risk capture

4.12.8 R A MIFIDPRU investment firm that has a permission to use an internal model in accordance with Part Three, Title IV, Chapter 5 of the UK CRR:

(1) must identify any material risks (or group of risks that when considered in aggregate are material) that are not captured by those models;
must ensure that it holds own funds to cover those risk(s) in addition to the own funds required to meet its K-NPR requirement calculated in accordance with Part Three, Title IV, Chapter 5 of the UK CRR; and

must ensure that it holds additional own funds for value at risk (VaR) and stressed VaR models that apply to the firm.

4.12.9 G

(1) The methodology for identifying the risks in MIFIDPRU 4.12.8R and calculating those additional own funds for value-at-risk (VaR) and stressed value-at-risk (stressed VaR) models is called the “Risks not in VaR (RNIV) framework”. A firm is responsible for identifying these additional risks and this should be an opportunity for risk managers and the firm’s management to better understand the shortcomings of the firm’s models. Following this initial assessment, the FCA will engage with the firm to provide challenge and ensure an appropriate outcome.

(2) The RNIV framework is intended to ensure that own funds are held to meet all risks that are not captured, or not captured adequately, by the firm’s VaR and stressed VaR models. These include, but are not limited to, missing and/or illiquid risk factors such as cross-risks, basis risks, higher-order risks, and calibration parameters. The RNIV framework is also intended to cover event risks that could adversely affect the relevant business.

(3) A firm should systematically identify and measure all risks that are not captured, or not captured adequately. This analysis should be carried out at least quarterly, or more frequently if requested by the FCA. The measurement of these risks should capture the losses that could arise due to the risk factor(s) of all products that are within the scope of the relevant internal model permission, but are not adequately captured by the relevant internal models.

(4) On a quarterly basis, the firm should identify and assess individual risk factors covered by the RNIV framework. The FCA will review the results of this exercise and may require that firms identify additional risk factors as being eligible for measurement.

(5) (a) Where sufficient data is available, and where it is appropriate to do so, the FCA expects a firm to calculate a VaR and stressed VaR metric for each risk factor within scope of the framework. The stressed period for the RNIV framework should be consistent with that used for stressed VaR. No offsetting or diversification may be recognised across risk factors included in the
RNIV framework. The multipliers used for VaR and stressed VaR should be applied to generate a \textit{K-NPR requirement}.

(b) If it is not appropriate to calculate a VaR and stressed VaR metric for a risk factor, a firm should instead measure the size of the risk based on a stress test. The confidence level and capital horizon of the stress test should be commensurate with the liquidity of the risk, and should be at least as conservative as comparable risk factors under the internal model approach. The capital charge should be at least equal to the losses arising from the stress test.

Standardised approach for options

4.12.10 R A \textit{MIFIDPRU investment firm} may use its own estimates for delta for the purposes of the standardised approach for options under article 329 of the \textit{UK CRR} if:

(1) the model the firm uses meets the minimum standards set out in \textit{MIFIDPRU} 4.12.12G to \textit{MIFIDPRU} 4.12.18G (Minimum standards for own estimates of delta) for each type of option for which it calculates delta; and

(2) the firm has notified the FCA that the minimum standards in (1) are met before the firm begins to use its own estimates for the relevant delta.

4.12.11 G If a \textit{MIFIDPRU investment firm} has notified the FCA under \textit{MIFIDPRU} 4.12.10R that a model meets the minimum standards for a particular option type, but is subsequently unable to demonstrate to the FCA that the model meets those minimum standards, the FCA may apply a capital add-on and agree a risk mitigation plan. If a firm is unable to comply with the risk mitigation plan within the mandated time-frame, the FCA may take further supervisory measures. This may include variation of a firm’s Part 4A permission so that it is no longer allowed to trade those particular types of options for which it does not meet the minimum standards.

Minimum standards for own estimates of delta

4.12.12 G The level of sophistication of the pricing models used to calculate own estimates of delta for use in the standardised approach for options should be proportionate to the complexity and risk of each option, and the overall risk of the firm’s options trading business. In general, the FCA considers that the risk of sold options will be higher than the risk of the same options when bought.
4.12.13 G Delta should be re-calculated at least daily. A firm should also recalculate delta promptly following significant movements in the market parameters used as inputs to calculate delta.

4.12.14 G The pricing model used to calculate delta should be:

(1) based on appropriate assumptions that have been assessed and challenged by suitably qualified parties independent of the development process;

(2) independently tested, including validation of the mathematics, assumptions, and software implementation; and

(3) developed or approved independently of the trading desk.

4.12.15 G A firm should use generally accepted industry standard pricing models for the calculation of own deltas where these are available, such as for relatively simple options.

4.12.16 G The IT systems used to calculate delta should be sufficient to ensure that delta can be calculated accurately and reliably.

4.12.17 G A firm should have adequate systems and controls in place when using a pricing model to calculate a delta. This should include the following documented policies and procedures:

(1) clearly defined responsibilities of the various areas involved in the calculation;

(2) frequency of independent testing of the accuracy of the model used to calculate delta; and

(3) guidelines for the use of unobservable inputs, where relevant.

4.12.18 G A firm should ensure its risk management functions are aware of weaknesses of the model used to calculate a delta. Where a firm identifies weaknesses, it should ensure that estimates of delta result in a prudent contribution to the K-NPR requirement. The outcome should be prudent across the whole portfolio of options and underlying positions at all times.

Netting: convertible

4.12.19 R The netting of a convertible and an offsetting position in the underlying instrument is permitted for the purposes of article 327(2) of the UK CRR (Netting).

4.12.20 G For the purposes of article 327(2) of the UK CRR, the convertible should be:

(1) treated as a position in the equity into which it converts; and
(2) the component of the firm’s K-NPR requirement attributable to the general and specific risk in its equity instruments should be adjusted by making:

(a) an addition equal to the current value of any loss that the firm would make if it did convert to equity; or

(b) a deduction equal to the current value of any profit that the firm would make if it did convert to equity (subject to a maximum deduction equal to the K-NPR requirement that would be attributable to the notional position underlying the convertible).

Offsetting derivative instruments

4.12.21 G Article 331(2) of the UK CRR (Interest rate risk in derivative instruments) states conditions that must be met before a firm not using interest rate pre-processing models can fully offset interest-rate risk on derivative instruments. One of the conditions is that the reference rate (for floating-rate positions) or coupon (for fixed-rate positions) should be ‘closely matched’. The FCA will normally consider a difference of less than 15 basis points as indicative of the reference rate or coupon being ‘closely matched’ for the purposes of this requirement.

Exclusion of overshootings when determining multiplication factor addends

4.12.22 G (1) The FCA’s starting assumption is that all overshootings should be taken into account for the purpose of the calculation of addends. If a firm believes that an overshooting should not count for that purpose, then it should seek a variation of its VaR model permission from the FCA in accordance with MIFIDPRU 4.12.4R in order to exclude that particular overshooting.

(2) One example of when a firm’s overshooting might properly be disregarded is when it has arisen as a result of a risk that is not captured in its VaR model but against which own funds are already held.

Derivation of notional positions for standardised approaches: general

4.12.23 G MIFIDPRU 4.12.24G to MIFIDPRU 4.12.38G set out guidance for the derivation of notional positions for standardised approaches to market risk under the UK CRR.

Futures and forwards on a basket or index of debt securities

4.12.24 G Futures or forwards on a basket or index of debt securities should be converted into forwards on single debt securities as follows:
(1) futures or forwards on a single currency basket or index of debt securities should be treated as either:

(a) a series of forwards, one for each of the constituent debt securities in the basket or index, of an amount that is a proportionate part of the total underlying the contract, according to the weighting of the relevant debt security in the basket; or

(b) a single forward on a notional debt security; and

(2) futures or forwards on multiple currency baskets or indices of debt securities should be treated as either:

(a) a series of forwards (using the method in (1)(a)); or

(b) a series of forwards, each one on a notional debt security to represent one of the currencies in the basket or index, of an amount that is a proportionate part of the total underlying the contract according to the weighting of the relevant currency in the basket.

4.12.25 G Notional debt securities derived through this treatment should be assigned a specific risk position risk adjustment and a general market risk position risk adjustment equal to the highest that would apply to the debt securities in the basket or index.

4.12.26 G The debt security with the highest specific risk position risk adjustment within the basket might not be the same as the one with the highest general market risk position risk adjustment. A firm should select the highest percentages, even where they relate to different debt securities in the basket or index, and regardless of the proportion of those debt securities in the basket or index.

Bonds where coupons and principal are paid in different currencies

4.12.27 G Where a debt security pays coupons in one currency but will be redeemed in a different currency, it should be treated as:

(1) a debt security denominated in the coupon’s currency; and

(2) a foreign currency forward to capture the fact that the debt security’s principal will be repaid in a different currency from that in which it pays coupons, specifically:

(a) a notional forward sale of the coupon currency and purchase of the redemption currency, in the case of a long position in the debt security; or
(b) a notional forward purchase of the coupon currency and sale of the redemption currency, in the case of a short position in the debt security.

Interest rate risk on other futures, forwards and swaps

<table>
<thead>
<tr>
<th>Instrument</th>
<th>Notional positions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Foreign currency forward or future</strong></td>
<td>A long position denominated in the currency purchased and A short position denominated in the currency sold</td>
</tr>
<tr>
<td><strong>Gold forward or future</strong></td>
<td>A long position if the forward or future involves an actual (or notional) sale of gold or A short position if the forward or future involves an actual (or notional) purchase of gold</td>
</tr>
<tr>
<td><strong>Equity forward or future</strong></td>
<td>A long position if the contract involves an actual (or notional) sale of the underlying equity or A short position if the contract involves an actual (or notional) purchase of the underlying equity</td>
</tr>
</tbody>
</table>

Deferred start interest rate swaps or foreign currency swaps
4.12.30 G Interest-rate swaps or foreign currency swaps with a deferred start should be treated as the two notional positions (one long, one short). The paying leg should be treated as a short position in a zero specific risk security with a coupon equal to the fixed rate of the swap. The receiving leg should be treated as a long position in a zero specific risk security that also has a coupon equal to the fixed rate of the swap.

4.12.31 G The maturities of the notional positions are shown in the table in MIFIDPRU 4.12.32G.

4.12.32 G This table belongs to MIFIDPRU 4.13.31G.

<table>
<thead>
<tr>
<th></th>
<th>Paying leg</th>
<th>Receiving leg</th>
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</thead>
<tbody>
<tr>
<td>Receiving fixed and paying floating</td>
<td>The maturity equals the start date of the swap</td>
<td>The maturity equals the end date of the swap</td>
</tr>
<tr>
<td>Paying fixed and receiving floating</td>
<td>The maturity equals the end date of the swap</td>
<td>The maturity equals the start date of the swap</td>
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Swaps where only one leg is an interest rate leg

4.12.33 G For interest-rate risk, a firm should treat a swap (such as an equity swap) with only one interest rate leg as a notional position in a zero specific risk security:

1. with a coupon equal to that on the interest rate leg;
2. with a maturity equal to the date that the interest rate will be reset; and
3. that is a long position if the firm is receiving interest payments and short if making interest payments.

Foreign exchange forwards, futures and contracts for differences

4.12.34 G (1) A firm should treat a foreign currency forward, future or contract for differences as two notional currency positions as follows:

(a) a long notional position in the currency that the firm has contracted to buy; and
(b) a short notional position in the currency that the firm has contracted to sell.

(2) In (1), the notional positions should have a value equal to either:

(a) the contracted amount of each currency to be exchanged in a forward, future or contract for differences held outside the trading book; or

(b) the present value of the amount of each currency to be exchanged in a forward, future or contract for differences held in the trading book.

Foreign currency swaps

4.12.35 G (1) A firm should treat a foreign currency swap as:

(a) a long notional position in the currency in which the firm has contracted to receive interest and principal; and

(b) a short notional position in the currency in which the firm has contracted to pay interest and principal.

(2) In (1), the notional positions should have a value equal to either:

(a) the nominal amount of each currency underlying the swap if it is held outside the trading book; or

(b) the present value amount of all cash flows in the relevant currency in the case of a swap held in the trading book.

Futures, forwards and contract for differences on a single commodity

4.12.36 G Where a forward, future or contract for differences settles according to:

(1) the difference between the price set on trade date and that prevailing at contract expiry, then the notional position should:

(a) equal the total quantity underlying the contract; and

(b) have a maturity equal to the expiry date of the contract;

(2) the difference between the price set on trade date and the average of prices prevailing over a certain period up to contract expiry, then a notional position should be derived for
each of the reference dates used in the averaging period to calculate the average price, that:

(a) equals a fractional share of the total quantity underlying the contract; and

(b) has a maturity equal to the relevant reference date.

Buying or selling a single commodity at an average of spot prices prevailing in the future

4.12.37 G Commitments to buy or sell at the average spot price of the commodity prevailing over some period between trade date and maturity should be treated as a combination of:

(1) a position equal to the full amount underlying the contract with a maturity equal to the maturity date of the contract, which should be:

(a) long, where the firm will buy at the average price; or

(b) short, where the firm will sell at the average price; and

(2) a series of notional positions, one for each of the reference dates where the contract price remains unfixed, each of which should:

(a) be long if the position under (1) is short, or short if the position under (1) is long;

(b) equal to a fractional share of the total quantity underlying the contract; and

(c) have a maturity date of the relevant reference date.

Cash legs of repurchase agreements and reverse repurchase agreements

4.12.38 G The forward cash leg of a repurchase agreement or reverse repurchase agreement should be treated as a notional position in a zero specific risk security that:

(1) is a short notional position in the case of a repurchase agreement and a long notional position in the case of a reverse repurchase agreement;

(2) has a value equal to the market value of the borrowing or deposit;

(3) has a maturity equal to that of the borrowing or deposit, or the next date the interest rate is reset (if earlier); and

(4) has a coupon equal to:
(a) zero, if the next interest payment date coincides with the maturity date; or

(b) the interest rate on the borrowing or deposit, if any interest is due to be paid before the maturity date.

Expectations relating to internal models

4.12.39 G MIFIDPRU 4.12.40G to MIFIDPRU 4.12.65G describe some of the standards that the FCA expects to be met when it is considering an application under MIFIDPRU 4.12.4R.

High-level standards

4.12.40 G A firm should be able to demonstrate that it meets the risk management standards in article 368 of the UK CRR (Qualitative requirements) on a legal entity and business-line basis where appropriate. This is particularly important for a subsidiary in a group subject to matrix management where the business lines cut across legal entity boundaries.

Categories of position

4.12.41 G A VaR model permission will generally set out the broad classes of position within each risk category in its scope. It may also specify how individual products within one of those broad classes may be brought into or taken out of scope of the VaR model permission. These broad classes of permission are as follows:

(1) linear products, which comprise securities with linear pay-offs (such as bonds and equities) and derivative products which have linear pay-offs in the underlying risk factor (such as interest rate swaps, FRAs, and total return swaps);

(2) European, American and Bermudan put and call options (including caps, floors, and swaptions) and investments with these features;

(3) Asian options, digital options, single barrier options, double barrier options, look-back options, forward-starting options, compound options and investments with these features; and

(4) all other option-based products (such as basket options, quantos, outperformance options, timing options, and correlation-based products) and investments with these features.

Data standards

4.12.42 G A firm should ensure that the data series used by its VaR model is reliable. Where a reliable data series is not available, proxies or any
other reasonable value-at-risk measurement may be used if the firm meets the requirements in article 367(2)(e) of the UK CRR (Requirements for risk measurement). The technique must be appropriate and must not materially understate the modelled risks.

4.12.43 G Data may be deemed insufficient if, for example, it contains missing data points, or data points that contain stale data. For less liquid risk factors or positions, the FCA expects the firm to make a conservative assessment of those risks, using a combination of prudent valuation techniques and alternative VaR estimation techniques to ensure there is a sufficient cushion against risk over the close-out period, that takes account of the illiquidity of the risk factor or position.

4.12.44 G A firm is expected to update data sets to ensure standards of reliability are maintained in accordance with the frequency set out in its VaR model permission, or more frequently if volatility in market prices or rates necessitates more frequent updating. This is in order to ensure a prudent calculation of the VaR measure.

Aggregating VaR measures

4.12.45 G (1) In determining whether it is appropriate for a firm to use empirical correlations within risk categories and across risk categories within a model, the FCA will consider whether such an approach is sound and implemented with integrity. In general, the FCA expects a firm to determine the aggregate VaR measure by adding the relevant VaR measure for each category, unless the firm’s permission provides for a different method of aggregating VaR measures that is empirically sound.

(2) The FCA does not expect a firm to use the square root of the sum of the squares approach when aggregating measures across risk categories unless the assumption of zero correlation between these categories is empirically justified. If correlations between risk categories are not empirically justified, the VaR measures for each category should simply be added to determine its aggregate VaR measure. However, to the extent that a firm’s VaR model permission provides for a different way of aggregating VaR measures:

(a) that method applies instead; and

(b) if the correlations between risk categories used for that purpose cease to be empirically justified then the firm is expected to notify the FCA immediately.

Testing prior to model validation

4.12.46 G The FCA expects a firm to provide evidence of its ability to comply with the requirements for a VaR model permission. In general, a firm
should demonstrate this by having a back-testing programme in place and should provide 3 months of back-testing history.

4.12.47 G The FCA expects a firm to carry out a period of initial monitoring or live testing before the FCA will recognise a VaR model. This will be agreed on a firm-by-firm basis.

4.12.48 G The FCA will take into account the results of internal model validation procedures used by the firm to assess the VaR model when assessing the firm’s VaR model and risk management.

Back-testing

4.12.49 G MIFIDPRU 4.12.50G to MIFIDPRU 4.12.53G provide further guidance on how a firm should comply with the requirements in article 366 of the UK CRR (Regulatory back testing and multiplication factors).

4.12.50 G If the day on which a loss is made is day n, the value-at-risk measure for that day will be calculated on day n-1, or overnight between day n-1 and day n. Profit and loss figures are produced on day n+1, and back-testing also takes place on day n+1. The firm’s supervisor should be notified of any overshootings by close of business on day n+2.

4.12.51 G Any overshooting initially counts for the purpose of the calculation of the plus factor, even if subsequently the FCA agrees to exclude it. Thus, where the firm experiences an overshooting and already has four or more overshootings during the previous 250 business days, changes to the multiplication factor arising from changes to the plus factor become effective at day n+3.

4.12.52 G A longer time period generally improves the power of back-testing. However, a longer time period may not be desirable if the VaR model or market conditions have changed to the extent that historical data is no longer relevant.

4.12.53 G The FCA will review, as part of a firm’s VaR model permission application under MIFIDPRU 4.12.4R, the processes and documentation relating to the derivation of profit and loss used for back-testing. A firm’s documentation should clearly set out the basis for cleaning profit and loss. To the extent that certain profit and loss elements are not updated every day (for example, certain reserve calculations) the documentation should clearly set out how such elements are included in the profit and loss series.

Planned changes to the VaR model

4.12.54 G In accordance with MIFIDPRU 4.12.6R, a firm will need to provide to, and discuss with, the FCA details of any significant planned changes to the VaR model before those changes are implemented.
These details must include detailed information about the nature of the change, including an estimate of the impact on VaR numbers and the incremental risk charge. Firms are reminded that material changes to internal models or material extensions to the use of internal models will require prior approval from the FCA.

Bias from overlapping intervals for 10-day VaR and stressed VaR

4.12.55 G The use of overlapping intervals of 10-day holding periods for article 365 of the UK CRR (VaR and stressed VaR (sVaR) calculation) introduces an autocorrelation into the data that would not exist should truly independent 10-day periods be used. This may give rise to an under-estimation of the volatility and the VaR at the 99% confidence level. To obtain clarity on the materiality of the bias, a firm should measure the bias arising from the use of overlapping intervals for 10-day VaR and sVaR when compared to using independent intervals. A report on the analysis, including a proposal for a multiplier on VaR and sVaR to adjust for the bias, should be submitted to the FCA for review and approval.

Stressed VaR calculation

4.12.56 G Article 365 of the UK CRR (VaR and sVaR calculation) requires a firm that uses an internal model for calculating its K-NPR requirement to calculate, at least weekly, a sVaR of their current portfolio. The FCA would expect a sVaR internal model to contain the features in MIFDIPRU 4.12.57G to MIFIDPRU 4.12.60G before the FCA will grant permission to use the relevant model.

Quantile estimator

4.12.57 G The firm should calculate the sVaR measure to be greater than or equal to the average of the 2nd and 3rd worst loss in a 12-month time series comprising of 250 observations. The FCA expects, as a minimum, that a corresponding linear weighting scheme should be applied if the firm uses a larger number of observations.

Meaning of ‘period of significant financial stress relevant to the institution’s portfolio’

4.12.58 G The firm should ensure that the sVaR period chosen is equivalent to the period that would maximise VaR, given the firm’s portfolio. There is an expectation that a stressed period should be identified at each legal entity level at which capital is reported. Therefore, group level sVaR measures should be based on a period that maximises the group level VaR, whereas entity level sVaR should be based on a period that maximises VaR for that entity.

Antithetic data
4.12.59 G The firm should consider whether the use of antithetic data in the calculation of the sVaR measure is appropriate to the firm’s portfolio. The firm should provide a justification to the FCA for using or not using antithetic data as part of an application to use an internal model.

Absolute and relative shifts

4.12.60 G In its application to use an internal model, the firm should explain the rationale for the choice of absolute or relative shifts for both VaR and sVaR methodologies. In particular, the firm should evidence the statistical processes driving the risk factor changes for both VaR and sVaR.

4.12.61 R A firm that is using an internal model must submit the following information to the FCA on a quarterly basis:

1. analysis to support the equivalence of the firm’s current approach to a VaR-maximising approach on an ongoing basis;

2. the rationale behind the selection of key major risk factors used to find the period of significant financial stress;

3. summary of ongoing internal monitoring of stressed period selection with respect to current portfolio;

4. analysis to support capital equivalence of upscaled 1-day VaR and sVaR measures to corresponding full 10-day VaR and sVaR measures;

5. a graphed history of sVaR/VaR ratio;

6. analysis to demonstrate accuracy of partial revaluation approaches specifically for sVaR purposes (for firms using revaluation ladders or spot/vol-matrices), which should include a review of the ladders/matrices or spot/vol-matrices, ensuring that they are extended to include wider shocks to risk factors that incur in stress scenarios; and

7. minutes of risk committee meeting or other form of evidence to reflect governance and senior management oversight of stressed VaR methodology.

4.12.62 G Article 372 of the UK CRR (Requirement to have an internal IRC model) requires a firm that uses an internal model for calculating own funds requirements for specific risk of traded debt instruments to also have an internal incremental default and migration risk (IRC) model in place to capture the default and migration risk of its trading book positions that are incremental to the risks captured by its VaR model. When the FCA considers a firm’s application for permission to use an IRC internal model under MIFIDPRU 4.12.4R, it expects that the
matters in *MIFIDPRU* 4.12.63G to *MIFIDPRU* 4.12.65G will be included to demonstrate compliance with the standards in article 372.

### Basis risks for migration

4.12.63  G  The FCA expects the IRC model to capitalise pre-default basis risk. In this respect, the model should reflect that in periods of stress the basis could widen substantially. The firm should disclose to the FCA its material basis risks that are incremental to those already captured in existing market risk capital measures (VaR-based and others). This must take actual close-out periods during periods of illiquidity into account.

### Price/spread change model

4.12.64  G  The price/spread change model used to capture the profit and loss impact of migration should calibrate spread changes to long-term averages of differences between spreads for relevant ratings. These should either be conditioned on actual rating events, or using the entire history of spreads regardless of migration. Point-in-time estimates are not considered acceptable, unless they can be shown to be as conservative as using long-term averages.

### Dependence of the recovery rate on the economic cycle

4.12.65  G  To achieve a soundness standard comparable to those under the IRB approach, loss given default (LGD) estimates should reflect the economic cycle. Therefore, the FCA expects a firm to incorporate dependence of the recovery rate on the economic cycle into the IRC model. If the firm uses a conservative parameterisation to comply with the IRB standard of the use of downturn estimates, the firm should submit evidence of this in quarterly reporting to the FCA, bearing in mind that for trading portfolios, which contain long and short positions, downturn estimates would not in all cases be a conservative choice.

### 4.13  K-CMG requirement

4.13.1  R  (1)  Subject to (2), the *K-CMG requirement* applies to a *MIFIDPRU investment firm* in relation to portfolios for which the firm has been granted a *K-CMG permission*.

(2)  A *MIFIDPRU investment firm* must include a position specified in *MIFIDPRU* 4.11.7R within the calculation of its *K-NPR requirement* if that position:

(a)  is included in a portfolio for which the firm has been granted a *K-CMG permission*;

(b)  is a proprietary position of the firm that results from a trade that has settled;
(c) is not included in the calculation of the required margin under the margin model of the clearing member or authorised central counterparty in MIFIDPRU 4.13.9R(2)(b); and

(d) is not a position to which the clearing member or authorised central counterparty has applied a “haircut” of the type specified in MIFIDPRU 4.13.6R(2).

4.13.2 GMIFIDPRU 4.13.1R(2) is intended to cover the risks arising from proprietary trades that form part of a portfolio for which a firm has a K-CMG permission. Where such trades have settled, the resulting proprietary position of the firm may no longer be included within the margin requirement calculated by the clearing member or authorised central counterparty for that portfolio and therefore would not contribute to the firm’s K-CMG requirement. The firm should therefore include such positions within its calculation of the K-NPR requirement to take account of the resulting market risk. For these purposes, a firm is not required to apply this approach to a position that results from client servicing.

4.13.3 G As part of any application for a K-CMG permission, a firm will need to identify each portfolio for which it wishes to calculate a K-CMG requirement.

4.13.4 G MIFIDPRU investment firms that deal on own account are reminded that MIFIDPRU 4.11.7R(2) includes positions held outside the trading book that give rise to foreign exchange or commodities risk. The FCA considers that it is unlikely that such positions would be eligible for a K-CMG permission. Therefore, even if the FCA has granted a K-CMG permission in relation to all portfolios in the firm’s trading book, a firm may still need to calculate a K-NPR requirement in relation to positions it holds outside of the trading book.

4.13.5 R The K-CMG requirement of a MIFIDPRU investment firm must be determined in accordance with the following formula:

\[
K\text{-CMG requirement} = TM \times 1.3
\]

where TM is the third highest amount of total margin as calculated under MIFIDPRU 4.13.6R required from the firm on a daily basis over the preceding 3 months.

[Note: article 23(2) of the IFR.]

4.13.6 R For the purposes of MIFIDPRU 4.13.5R, the total margin must be calculated as the sum of the following in relation to all clearing members and (to the extent that MIFIDPRU 4.13.9R(2)(c)(i) applies) all authorised central counterparties:
(1) the amount of margin required by the margin model referenced in MIFIDPRU 4.13.9R(2)(e); plus

(2) the value of any “haircut” applied by the clearing member or authorised central counterparty to positions included in the portfolio that represent settled trades and which the clearing member or authorised central counterparty is treating as collateral to secure the present or future obligations of the MIFIDPRU investment firm.

4.13.7 G MIFIDPRU 4.13.6R requires a MIFIDPRU investment firm to determine the amount of margin that is required under the relevant margin model of each clearing member (or, for a self-clearing firm, of each authorised central counterparty) for portfolios in respect of which the firm has been granted a K-CMG permission. For these purposes, the clearing member’s (or, where applicable, authorised central counterparty’s) margin model must meet the criteria in MIFIDPRU 4.13.14R. The effect of MIFIDPRU 4.13.6R is that if, notwithstanding the requirement under the margin model, the MIFIDPRU investment firm agrees with the clearing member or authorised central counterparty to provide a different amount of margin, it is the amount required under the model that must be used for the purposes of calculating the firm’s K-CMG requirement and not the amount of margin that is actually provided by the firm. This ensures that the firm’s K-CMG requirement is not artificially reduced by subsequent commercial negotiations that may result in the clearing member or authorised central counterparty accepting a lower amount of margin than the model requires on any given day.

4.13.8 G The calculation in MIFIDPRU 4.13.5R means that for each trading day during the relevant calculation period, the firm must calculate the total combined margin (as determined in accordance with MIFIDPRU 4.13.6R) provided to all clearing members in aggregate in respect of the relevant portfolios. The K-CMG requirement is then calculated on the basis of the third highest daily aggregate amount.

4.13.9 R To obtain a K-CMG permission in relation to a portfolio, a firm must:

(1) complete the application form in [Editor’s note: a reference to the relevant permissions form will be inserted following consultation on the form in a future consultation paper] and submit it in accordance with the instructions in that form;

(2) as part of the application in (1), demonstrate to the satisfaction of the FCA that all the following conditions are met:

(a) the firm is not part of a group containing a credit institution;
(b) the clearing and settlement of the transactions in the relevant portfolio take place under the responsibility of a clearing member of an authorised central counterparty;

(c) the clearing member in (b) is one of the following:

(i) the firm itself;

(ii) a UK credit institution; or

(iii) a designated investment firm;

(d) transactions in the relevant portfolio are either:

(i) centrally cleared in an authorised central counterparty; or

(ii) settled on a delivery-versus-payment basis under the responsibility of the clearing member in (b);

(e) the firm is required to provide total margin calculated on the basis of a margin model that satisfies the criteria in MIFIDPRU 4.13.14R and is operated by:

(i) in the case of a firm that is a self-clearing firm under (c)(i), the authorised central counterparty in (b); or

(ii) in any other case, the relevant clearing member in (b);

(f) the rationale for the firm’s choice of calculating a K-CMG requirement in relation to the portfolio has been clearly documented and has been approved by the firm’s management body or risk management function; and

(g) the choice of the portfolio to be subject to a K-CMG requirement has not been made with a view to engaging in regulatory arbitrage between the K-NPR requirement and the K-CMG requirement in a disproportionate or prudentially unsound manner.

[Note: article 23(1), first subparagraph of the IFR.]

4.13.10 R A firm that has been granted a K-CMG permission in respect of a portfolio must notify the FCA immediately if it becomes aware that any of the conditions in MIFIDPRU 4.13.9R have ceased to be met in relation to the portfolio.

4.13.11 G The FCA may revoke a K-CMG permission in respect of a portfolio where one or more of the conditions in MIFIDPRU 4.13.9R ceases to be met in relation to that portfolio. The FCA would expect to review
the appropriateness of any K-CMG permissions as part of any SREP it undertakes in relation to the firm in accordance with MIFIDPRU [7]14.

4.13.12 R A firm that is an indirect client of a clearing member may obtain a K-CMG permission provided that:

(1) the indirect clearing arrangement satisfies all of the conditions in MIFIDPRU 4.13.9R; and

(2) the FCA is satisfied that the relevant arrangement does not otherwise result in undue risks.

4.13.13 R (1) A firm that is relying on a K-CMG permission must ensure that:

(a) the relevant individuals within the firm who are responsible for the firm’s risk management function, or for the oversight of that function, have a reasonable understanding of the operation of the margin model referred to in MIFIDPRU 4.13.9R(2)(e); and

(b) the firm integrates such understanding of the relevant margin model into its ICARA process for the purposes of considering whether:

(i) the resulting K-CMG requirement is sufficient to cover the relevant risks to which the firm is exposed; and

(ii) the K-CMG permission remains appropriate in relation to the portfolio(s) in respect of which it was granted.

(2) For the purposes of (1), a firm may use suitable advice or analysis provided by an appropriate third party, but the firm retains ultimate responsibility for ensuring that the individuals in (1)(a) have the necessary knowledge and understanding of the margin model.

(3) An appropriate third party under (2) may include:

(a) a suitably qualified professional adviser;

(b) the relevant clearing member; or

(c) another undertaking within the same investment firm group as the firm where individuals within that undertaking have the requisite knowledge and understanding of the margin model.

14 Editor’s note: The FCA will consult on the content of MIFIDPRU 7 in a subsequent consultation paper.
The criteria referred to in MIFIDPRU 4.13.9R(2)(e) are that:

(a) the margin requirements are sufficient to cover losses that may result from at least 99% of the exposures movements over an appropriate time horizon with at least a two-business day holding period; and

(b) the margin model used by the clearing member or authorised central counterparty to call the margin is always designed to achieve a level of prudence similar to that required in the provisions on margin requirements in article 41 of EMIR.

(2) If the parameters of a margin model operated by a clearing member or authorised central counterparty do not meet the criteria in (1)(a), those criteria shall nonetheless be deemed to be met if:

(a) an adjustment mechanism is applied to produce an alternative margin requirement; and

(b) the alternative requirement in (a) is at least equivalent to the margin requirement that would be produced by a margin model that meets the criteria in (1)(a).

(3) Any adjustment mechanism under (2) may be applied by either of the following, provided that the conditions in (4) are met:

(a) the relevant clearing member; or

(b) the MIFIDPRU investment firm that has been granted the relevant K-CMG permission.

(4) The conditions are that the MIFIDPRU investment firm that has been granted the relevant K-CMG permission:

(a) can provide to the FCA upon request a reasonable explanation of the adjustment that has been applied under (2); and

(b) monitors and reviews the effectiveness of the adjustment mechanism on an ongoing basis as part of its ICARA process.

[Note: article 23(1), third subparagraph of the IFR.]

MIFIDPRU 4.13.14R(2) permits the output of a margin model of a clearing member or authorised central counterparty to be adjusted to meet the criteria in MIFIDPRU 4.13.14R(1)(a). For the avoidance of doubt, such an adjustment is used solely
to determine the **K-CMG requirement** of a **firm**. It does not affect the actual amount of margin that the **clearing member** or **authorised central counterparty** will receive from the **firm**, which will continue to be determined by the underlying (unadjusted) model.

**(2)** For example, the **clearing member’s** or **authorised central counterparty’s** original margin model may produce margin requirements that are sufficient to cover losses that may result from at least 95% of the exposures movements over a two-business day holding period. This would not meet the minimum criteria in **MIFIDPRU 4.13.14R(1)(a)**. To determine the **firm’s K-CMG requirement**, the output of that model may be adjusted to produce a requirement that would cover losses that may result from at least 99% of the exposures movements over that same holding period. Provided that the conditions in **MIFIDPRU 4.13.14R(3)** and (4) are satisfied, the minimum criteria in **MIFIDPRU 4.13.14R(1)(a)** will be deemed to be met when the adjustment is applied. This is the case even though the actual margin received by the **clearing member** or **authorised central counterparty** continues to be determined by the original (unadjusted) model.

**4.13.16** Where the margin model of a **clearing member** uses parameters that are more conservative than the minimum criteria in **MIFIDPRU 4.13.14R(1)**, the output of the model may be adjusted downwards under **MIFIDPRU 4.13.14R(2)** to produce margin requirements that are consistent with the minimum criteria. The requirements in **MIFIDPRU 4.13.14R(3)** and (4) still apply to any such adjustment. For the avoidance of doubt, a **firm** is not required to apply a downwards adjustment to a more conservative model.

**4.13.17** The **FCA** will consider whether the **firm’s** rationale for choosing a **K-CMG requirement** under **MIFIDPRU 4.13.9R(2)(f)** has taken adequate account of the nature of, and risks arising from, the **firm’s** trading activities, including whether:

1. the main activities of the **firm** are essentially trading activities that are subject to clearing and margining under the responsibility of a **clearing member**; and

2. other activities performed by the **firm** are immaterial in comparison to those main activities.

[Note: article 23(1)(d) of the **IFR**.]

**4.13.18** (1) For the purposes of **MIFIDPRU 4.13.9R(2)(g)**, the fact that the application of a **K-CMG permission** to a **portfolio** may result in a **K-CMG requirement** that is lower than the equivalent **K-NPR requirement** for that **portfolio** does not necessarily mean that the choice to apply a **K-CMG**
requirement has been made with a view to engaging in regulatory arbitrage in a disproportionate or prudentially unsound manner.

(2) When considering whether the condition in MIFIDPRU 4.13.9R(2)(g) is satisfied, a firm should consider whether the K-CMG requirement that would result from the relevant K-CMG permission more closely reflects the underlying economic risk of the relevant portfolio when compared with the equivalent K-NPR requirement for the same portfolio.

(3) The FCA considers that even in circumstances where the K-CMG requirement is considerably lower than the equivalent K-NPR requirement, this does not automatically prevent a firm from meeting the conditions for a K-CMG permission. In certain situations, a significant difference between the two requirements may result from the calculation of the K-CMG requirement being better adapted for capturing the economic risks of the particular portfolio in question. For example, the margin model underlying the K-CMG requirement may have been specifically designed for firms that specialise in trading the relevant type of portfolio. However, the FCA expects a firm to provide a clear explanation of how the conditions in MIFIDPRU 4.13.9R(2) are satisfied in respect of any portfolio for which a K-CMG permission is sought and the firm should keep the appropriateness of a K-CMG permission under regular review as part of its ICARA process.

4.13.19 R (1) Except where (2) applies, a firm that has obtained a K-CMG permission in relation to a portfolio must calculate a K-CMG requirement for that portfolio for a continuous period of at least 24 months from the date that the permission is granted.

(2) The requirement in (1) ceases to apply if:

(a) the FCA revokes the relevant K-CMG permission in relation to that portfolio on its own initiative in the circumstances described in MIFIDPRU 4.13.11G; or

(b) the business strategy or operations of the trading desk with responsibility for the relevant portfolio have changed to such an extent that it has become a different trading desk.

4.13.20 R (1) Where a firm that has been granted a K-CMG permission in relation to a portfolio subsequently chooses to calculate a K-NPR requirement for that portfolio instead, the firm must submit the notification in (2) to the FCA before the firm begins to calculate the K-NPR requirement.

(2) The notification in (1) must:
(a) confirm that the requirement in MIFIDPRU 4.13.19R(1) has been met in relation to the portfolio, or that the circumstance in MIFIDPRU 4.13.19R(2)(b) applies instead; and

(b) specify the date on which the relevant K-CMG permission should cease to apply to the firm.

4.13.21 G Where a firm has submitted the notification in MIFIDPRU 4.13.20R(2) to the FCA in relation to a portfolio, the FCA will not normally grant another K-CMG permission in relation to the same portfolio until at least 24 months after the previous K-CMG permission ceased to apply.

4.14 K-TCD requirement

4.14.1 R (1) The K-TCD requirement of a MIFIDPRU investment firm shall be an amount equal to the sum of the TCD own funds requirement for all transactions specified in (2).

(2) This rule applies to the transactions in MIFIDPRU 4.14.3R where those transactions:

(a) are recorded in the trading book of a firm dealing on own account (whether for itself or on behalf of a client); or

(b) in the case of the transactions specified in MIFIDPRU 4.14.3R(7), are undertaken by a firm that has the necessary permissions to deal on own account.

[Note: article 24 of the IFR.]

4.14.2 G (1) The effect of MIFIDPRU 4.14.1R(2)(b) is that where a firm is authorised to deal on own account, it must include in the calculation of its K-TCD requirement any transactions of the type specified in MIFIDPRU 4.14.3R(7), even where the firm’s involvement in the specific transaction may not constitute dealing on own account and the transaction may not be recorded in its trading book.

(2) However, a firm that is not authorised to deal on own account is not subject to the K-TCD requirement under MIFIDPRU 4.14.1R, even though it may be involved in a transaction that would otherwise fall within MIFIDPRU 4.14.3R(7).

Transactions to which K-TCD applies

4.14.3 R Subject to MIFIDPRU 4.14.5R, the transactions to which MIFIDPRU 4.14.1R applies are as follows:
(1) derivative contracts listed in Annex II to the UK CRR, with the exception of the following:

(a) derivative contracts directly or indirectly cleared through a central counterparty, where all of the following conditions are met:

(i) the positions and assets of the firm related to those contracts are distinguished and segregated, at the level of both the clearing member and the central counterparty, from the position and assets of both the clearing member and the other clients of that clearing member and, as a result of that distinction and segregation, those positions and assets are bankruptcy remote under applicable law in the event of default or insolvency of the clearing member or one or more of its other clients;

(ii) the legal requirements applicable to or binding the clearing member facilitate the transfer of the client’s positions relating to those contracts and of the corresponding collateral to another clearing member within the applicable margin period of risk in the event of default or insolvency of the original clearing member; and

(iii) the firm has obtained an independent, written and reasoned legal opinion that concludes that, in the event of a legal challenge, the firm would bear no losses on account of the insolvency of its clearing member or of any of its clearing member’s clients;

(b) exchange-traded derivative contracts; and

(c) derivative contracts held for hedging a position of the firm resulting from an activity outside the trading book;

(2) long settlement transactions;

(3) repurchase transactions;

(4) securities or commodities lending or borrowing transactions;

(5) margin lending transactions;

(6) any other types of securities financing transactions; and
4.14.4 R A derivative contract that is directly or indirectly cleared through an
authorised central counterparty shall be deemed to meet the
conditions in MIFIDPRU 4.14.3R(1)(a).

[Note: article 25(1), second paragraph of the IFR.]

4.14.5 R The K-TCD requirement does not apply to transactions with the
following types of counterparties:

(1) central governments and central banks, where the underlying
exposures would receive a 0% risk weight under article 114 of
the UK CRR;

(2) multilateral development banks listed in article 117(2) of the
UK CRR; or

(3) international organisations listed in article 118 of the UK
CRR.

[Note: article 25(2) of the IFR.]

4.14.6 R (1) With the prior consent of the FCA, a firm may exclude
transactions with the following counterparties from the
calculation of its K-TCD requirement under MIFIDPRU
4.14.1R:

(a) its parent undertaking;

(b) its subsidiary;

(c) a subsidiary of its parent undertaking; or

(d) an undertaking with which the firm is linked by majority
common management.

(2) In order to obtain the FCA consent in (1), the firm must
demonstrate all of the following to the satisfaction of the FCA:

(a) the counterparty is subject to appropriate prudential
requirements and is one of the following:
(i) a credit institution;

(ii) an investment firm; or

(iii) a financial institution;

(b) the counterparty is:

(i) included in the same prudential consolidation group as the firm on a full basis in accordance with the UK CRR or the consolidation provisions in MIFIDPRU 2.5; or

(ii) supervised along with the firm for compliance with the group capital test in MIFIDPRU 2.6;

(c) the counterparty is subject to the same risk evaluation, measurement and control procedures as the firm;

(d) the counterparty is established in the UK; and

(e) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities from the counterparty to the firm.

(3) A firm wishing to apply for FCA consent for the purposes of this rule must complete the form in [Editor’s note: a reference to the relevant permissions form will be inserted following consultation on the form in a future consultation paper] and submit it in accordance with the instructions on that form.

[Note: article 25(3) of the IFR.]

Calculation of TCD own funds requirement

4.14.7 R The TCD own funds requirement for each transaction or netting set must be determined in accordance with the following formula:

\[
TCD \text{ own funds requirement} = \alpha \times EV \times RF \times CVA
\]

where:

(1) \( \alpha = 1.2 \)

(2) \( EV = \) the exposure value calculated in accordance with MIFIDPRU 4.14.8R

(3) \( RF = \) the risk factor applicable to the counterparty type as set out in the table in MIFIDPRU 4.14.29R
(4) CVA = the credit valuation adjustment calculated in accordance with MIFIDPRU 4.14.30R.

[Note: article 26 of the IFR.]

Exposure value

4.14.8 R The exposure value must be determined in accordance with the following formula:

\[
\text{Exposure value} = \text{Max } (0; \text{RC} + \text{PFE} - C)
\]

where:

(1) \( \text{RC} = \) the replacement cost calculated in accordance with MIFIDPRU 4.14.9R

(2) \( \text{PFE} = \) potential future exposure calculated in accordance with MIFIDPRU 4.14.10R

(3) \( C = \) collateral as determined in accordance with MIFIDPRU 4.14.24R and 4.14.25R

[Note: article 27 of the IFR.]

Replacement cost

4.14.9 R (1) A \textit{firm} must calculate the replacement cost for all transactions referred to in MIFIDPRU 4.14.3R.

(2) The replacement cost must be determined as follows:

(a) for derivative contracts, the replacement cost is the \textit{CMV};

(b) for long settlement transactions, the replacement cost is the settlement amount of cash to be paid or to be received by the \textit{firm} upon settlement, with a receivable being treated as a positive amount and a payment being treated as a negative amount;

(c) unless (d) applies, for repurchase transactions and securities or commodities lending or borrowing transactions, the replacement cost is the amount of cash lent or borrowed, with cash lent by the \textit{firm} being treated as a positive amount and cash borrowed by the \textit{firm} being treated as a negative amount;

(d) for securities financing transactions, where both legs of the transaction are securities, the replacement cost is the \textit{CMV} of the security lent by the \textit{firm}, increased by the
corresponding volatility adjustment in \textit{MIFIDPRU} 4.14.25R; and

(e) for \textit{margin lending transactions} and the credits and loans referred to in \textit{MIFIDPRU} 4.14.3R(7), the replacement cost is the book value of the asset in accordance with the applicable accounting framework.

\textbf{Note:} article 28 of the \textit{IFR}.

\textbf{Potential future exposure}

4.14.10 \textbf{R} (1) A \textit{firm} is only required to calculate potential future exposure for derivative contracts.

(2) A \textit{firm} must calculate the potential future exposure for derivative contracts in a \textit{netting set} using one of the following approaches:

(a) the hedging approach in \textit{MIFIDPRU} 4.14.14R; or

(b) the derivative netting ratio approach in \textit{MIFIDPRU} 4.14.18R.

\textbf{Note:} article 29(1) and (8) of the \textit{IFR}.

4.14.11 \textbf{R} Where a single derivative contract cannot be allocated to a \textit{netting set} with other derivative contracts, it must be treated as a separate \textit{netting set} for the purposes of \textit{MIFIDPRU} 4.14.10R.

4.14.12 \textbf{R} A \textit{firm} must apply its chosen approach under \textit{MIFIDPRU} 4.14.10R:

(1) continuously for at least 24 \textit{months}; and

(2) consistently across all its \textit{netting sets}.

\textbf{Potential future exposure: hedging approach}

4.14.13 \textbf{G} (1) If a derivative contract has a negative replacement cost, a \textit{firm} should still calculate a potential future exposure (PFE) in relation to that contract if it is possible for the replacement cost to become positive before the maturity date.

(2) As the replacement cost of an individual written option can never be a positive amount, written options are exempt from the requirement to calculate a PFE, unless they are subject to netting with other derivative contracts for the purposes of calculating PFE in accordance with \textit{MIFIDPRU} 4.14.14R and \textit{MIFIDPRU} 4.14.16R.
(3) If a written option is subject to netting for the purposes of calculating PFE, the PFE in relation to that option is capped at an amount that would result in a replacement cost of zero.

4.14.14 R (1) For the purposes of calculating the PFE of derivative contracts included within a netting set under MIFIDPRU 4.14.16R, a firm must:

(a) calculate the effective notional amount of each contract (EN) in accordance with MIFIDPRU 4.14.20R;

(b) allocate each derivative contract to an asset class in accordance with (2) and (3); and

(c) calculate a separate net notional amount for each asset class in (b) by netting the EN of all derivative contracts allocated to that asset class.

(2) Subject to (3), a firm must assign derivative contracts to separate asset classes as follows:

(a) except as specified in (b) – (d), a derivative contract must be allocated to the relevant asset class specified in the table in MIFIDPRU 4.14.22R;

(b) interest rate derivatives must be allocated to separate asset classes according to their currency;

(c) foreign exchange derivatives must be allocated to separate asset classes according to each currency pair; and

(d) derivative contracts falling within the “other” class in MIFIDPRU 4.14.22R may be allocated to the same class if their primary risk driver is identical, but otherwise must each be treated as a separate class.

(3) Derivative contracts that would fall within a specific asset class under (2) must be allocated to a separate asset class where:

(a) they reference the basis between two risk factors and are denominated in a single currency (i.e. they are basis transactions), in which case all basis transactions referencing that same pair of risk factors must be allocated to a separate asset class; or

(b) they reference the volatility of a risk factor (i.e. they are volatility transactions), in which case all volatility transactions referencing that same risk factor must be allocated to a separate asset class.
4.14.15 G (1) *MIFIDPRU* 4.14.14R(2) defines the main asset classes to which derivative contracts should be assigned to calculate the potential future exposure of a netting set. For example, a single name equity derivative would be allocated to the equity single name asset class in *MIFIDPRU* 4.14.22R, while a credit derivative would be allocated to the credit asset class in that rule.

(2) *MIFIDPRU* 4.14.14R(3) requires basis transactions or volatility swaps that would otherwise fall within one of the main asset classes in *MIFIDPRU* 4.14.14R(2) to be allocated to separate asset classes. Those separate asset classes are defined according to the relevant risk factor or pair of risk factors.

(3) For example, an equity index future on Equity Index A and another equity index future on Equity Index B would be allocated to the same asset class under *MIFIDPRU* 4.14.14R(2)(a), as they both fall within the asset class (i.e. equity indices) in *MIFIDPRU* 4.14.22R. However, a volatility swap that references Equity Index A must be allocated to a separate class under *MIFIDPRU* 4.14.14R(3)(b), but can be grouped with another volatility swap that also references Equity Index A (i.e. the same risk factor).

4.14.16 R For the purposes of *MIFIDPRU* 4.14.10R(2)(a), a firm must calculate the potential future exposure of derivative contracts included within a netting set by:

(1) multiplying the net notional amount under *MIFIDPRU* 4.14.14R(1)(c) for each asset class within the netting set by the supervisory factor for that asset class specified in *MIFIDPRU* 4.14.22R;

(2) adding together the product of the calculation in (1) for all asset classes within the netting set; and

(3) multiplying the sum under (2) by:

(a) 0.42, for netting sets of transactions with financial or non-financial counterparties for which, if required, collateral is exchanged bilaterally with the counterparty in accordance with the conditions laid down in article 11 of *EMIR*; or

(b) 1, for other netting sets.

Potential future exposure: derivative netting ratio approach

4.14.17 G (1) If a derivative contract has a negative replacement cost, a firm should still calculate a potential future exposure (PFE) in
relation to that contract if it is possible for the replacement cost to become positive before the maturity date.

(2) As the replacement cost of an individual written option can never be a positive amount, written options are exempt from the requirement to calculate a PFE, unless they are subject to netting with other derivative contracts for the purposes of calculating PFE in accordance with MIFIDPRU 4.14.18R.

4.14.18 R A firm must calculate a net potential future exposure for each netting set in accordance with the following formula:

\[
PFEnet = \frac{RCnet}{RCgross} \cdot PFEGross
\]

where:

(1) PFEnet = the net potential future exposure for the netting set

(2) PFEGross = the sum of the potential future exposure of all derivative contracts included in the netting set, calculated by multiplying the effective notional amount of each derivative contract (as calculated in accordance with MIFIDPRU 4.14.20R) by the relevant supervisory factor for the corresponding asset class specified in MIFIDPRU 4.14.22R.

(3) RCnet = the sum of the replacement cost (as determined in accordance with MIFIDPRU 4.14.9R) of all transactions included in the netting set, unless that sum is a negative amount, in which case RCnet shall be zero.

(4) RCgross = the sum of the replacement cost (as determined in accordance with MIFIDPRU 4.14.9R) of all transactions included in the netting set that have a positive CMV.

4.14.19 R For the purposes of MIFIDPRU 4.14.10R(2)(b), the potential future exposure for the derivative contracts included within a netting set is the product of multiplying PFEnet (as determined in accordance with MIFIDPRU 4.14.18R) by:

(1) 0.42, for netting sets of transactions with financial or non-financial counterparties for which, if required, collateral is exchanged bilaterally with the counterparty in accordance with the conditions laid down in article 11 of EMIR; or

(2) 1, for other netting sets.

Effective notional amount

4.14.20 R (1) The effective notional amount must be calculated as follows:
Effective notional amount = N * D * SD

where:

(a) N = the notional amount, determined in accordance with (2);

(b) D = the duration, calculated in accordance with (3);

(c) SD = the supervisory delta, calculated in accordance with (5).

(2) The notional amount, unless clearly stated and fixed until maturity, must be determined as follows:

(a) for foreign exchange derivative contracts:

(i) if one leg of the contract is in the domestic currency, the notional amount is the notional amount of the foreign currency leg of the contract, converted into the domestic currency;

(ii) if both legs of the contract are denominated in currencies other than the domestic currency, the notional amount of each leg must be converted into the domestic currency and the leg with the larger value in the domestic currency is the notional amount; and

(iii) the term “domestic currency”, when used in this rule, refers to the currency in which the firm reports to the FCA;

(b) for equity and commodity derivatives contracts and emissions allowances and derivatives thereof, the notional amount is the product of the market price of one unit of the instrument and the number of units referenced by the trade;

(c) for transactions with multiple pay-offs that are state contingent including digital options or target redemption forwards, a firm must calculate the notional amount for each state and use the largest resulting calculation;

(d) where the notional is a formula of market values, the firm must use the CMVs to determine the trade notional amount;

(e) for variable notional swaps such as amortising and accreting swaps, a firm must use the average notional
over the remaining life of the swap as the trade notional amount;

(f) leveraged swaps must be converted to the notional amount of the equivalent unleveraged swap so that where all the rates in a swap are multiplied by a factor, the stated notional amount is multiplied by the factor on the interest rates to determine the notional amount; and

(g) for a derivative contract with multiple exchanges of principal, the stated notional amount must be multiplied by the number of exchanges of principal in the derivative contract to determine the notional amount.

(3) The duration must be determined in accordance with the following:

(a) for all derivative contracts other than interest rate contracts and credit derivative contracts, the duration is 1;

(b) for interest rate contracts and credit derivative contracts, the duration is determined in accordance with the following formula in which the time to maturity is specified in years:

\[
\text{Duration} = \frac{1 - \exp(-0.05 \times \text{time to maturity})}{0.05}
\]

(4) The maturity of a contract must be determined as follows:

(a) for an option, the maturity is the latest contractual exercise date as specified by the contract;

(b) for a derivative contact that is structured such that on specified dates, any outstanding exposure is settled and the terms are reset so that the fair value of the contract is zero, the remaining maturity is the time until the next reset date;

(c) for any other derivative contract, the maturity is the latest date on which the contract may still be executed; and

(d) in each case, if the derivative contract references the value of another interest rate or credit instrument, the time period must be determined on the basis of that underlying instrument.

(5) The supervisory delta must be determined as follows:
(a) for options and swaptions, the *firm* may calculate the supervisory delta itself by using an appropriate model if:

(i) the model the *firm* uses meets the minimum standards set out in *MIFIDPRU* 4.12.12G to 4.12.18G (Minimum standards for own estimates of delta), as modified by *MIFIDPRU* 4.14.21R, for each type of option or swaption for which it calculates delta; and

(ii) the *firm* has notified the *FCA* that the minimum standards in (i) are met before the *firm* begins to use its own estimates for the relevant supervisory delta;

(b) for transactions other than options and swaptions, or transactions in respect of which a *firm* is unable to use an appropriate model in accordance with (a), the supervisory delta shall be 1.

[Note: article 29(2) to (6) of the *IFR*.]

4.14.21 R (1) When applying the minimum standards in *MIFIDPRU* 4.12.12G to 4.12.18G for the purposes of *MIFIDPRU* 4.14.20R(5)(a), those standards apply with the following modifications:

(a) references to the “standardised approach” should be read as references to the *rules* in this section relating to the calculation of the *K-TCD requirement*; and

(b) references to the *K-NPR requirement* should be read as references to the *K-TCD requirement*.

(2) In addition to the minimum standards in *MIFIDPRU* 4.12.12G to 4.12.18G a *firm* must also confirm to the *FCA* that the relevant model estimates the rate of change of the value of the option with respect to small changes in the market value of the underlying.

[Note: article 29(6) of the *IFR*.]

4.14.22 R The supervisory factor for each asset class is set out in the following table:

<table>
<thead>
<tr>
<th>Asset class</th>
<th>Supervisory factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest rate</td>
<td>0.5%</td>
</tr>
<tr>
<td>Asset Class</td>
<td>Percentage</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>------------</td>
</tr>
<tr>
<td>Foreign exchange</td>
<td>4%</td>
</tr>
<tr>
<td>Credit</td>
<td>1%</td>
</tr>
<tr>
<td>Equity single name</td>
<td>32%</td>
</tr>
<tr>
<td>Equity index</td>
<td>20%</td>
</tr>
<tr>
<td>Commodity and emission allowance</td>
<td>18%</td>
</tr>
<tr>
<td>Other</td>
<td>32%</td>
</tr>
</tbody>
</table>

[Note: article 29(7) of the IFR.]

4.14.23 R Transactions relating to gold or gold derivatives must be allocated to the foreign exchange asset class in MIFIDPRU 4.14.22R.

Value of collateral

4.14.24 R (1) This rule applies for the purposes of determining the value of C under MIFIDPRU 4.14.8R.

(2) For the transactions specified in MIFIDPRU 4.14.3R(1), (5) and (7), the value of the C is the notional amount of collateral received by the firm, decreased in accordance with the relevant volatility adjustment specified in MIFIDPRU 4.14.25R.

(3) Unless (4) applies, for the transactions specified in MIFIDPRU 4.14.3R(2), (3), (4) and (6), the value of the C is the sum of:

(a) the CMV of the security leg; and

(b) the net amount of collateral posted or received by the firm.

(4) For securities financing transactions where both legs of the transaction are securities, the value of the C is the CMV of the security borrowed by the firm.

(5) Where the firm is purchasing or has lent the security, the CMV of the security shall be treated as a negative amount and shall be decreased to a larger negative amount, using the volatility adjustment specified in MIFIDPRU 4.14.25R.

(6) Where the firm is selling or has borrowed the security, the CMV of the security shall be treated as a positive amount and be decreased by the volatility adjustment specified in MIFIDPRU 4.14.25R.
(7) Where different types of transactions are covered by a contractual netting agreement that meets the requirements in MIFIDPRU 4.14.28R(3), the applicable volatility adjustments in column C (volatility adjustment other transactions) of the table in MIFIDPRU 4.14.25R must be applied to the respective amounts calculated under (3)(a) and (b) on an issuer basis within each asset class.

(8) Where there is a currency mismatch between the transaction and the collateral received or posted, an additional currency mismatch volatility adjustment of 8% shall apply.

[Note: article 30(2) and (3) of the IFR.]

<table>
<thead>
<tr>
<th>(A)</th>
<th>Volatility adjustment: repurchase transactions and securities lending and borrowing transactions</th>
<th>Volatility adjustment: other transactions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debt securities issued by central governments or central banks</td>
<td></td>
<td></td>
</tr>
<tr>
<td>≤ 1 year</td>
<td>0.707%</td>
<td>1%</td>
</tr>
<tr>
<td>&gt; 1 year ≤ 5 years</td>
<td>2.121%</td>
<td>3%</td>
</tr>
<tr>
<td>&gt; 5 years</td>
<td>4.243%</td>
<td>6%</td>
</tr>
<tr>
<td>Debt securities issued by other entities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>≤ 1 year</td>
<td>1.414%</td>
<td>2%</td>
</tr>
<tr>
<td>&gt; 1 year ≤ 5 years</td>
<td>4.243%</td>
<td>6%</td>
</tr>
<tr>
<td>&gt; 5 years</td>
<td>8.485%</td>
<td>12%</td>
</tr>
<tr>
<td>Securitisation positions (excluding re-securitisation positions)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>≤ 1 year</td>
<td>2.828%</td>
<td>4%</td>
</tr>
<tr>
<td>&gt; 1 year ≤ 5 years</td>
<td>8.485%</td>
<td>12%</td>
</tr>
<tr>
<td>&gt; 5 years</td>
<td>16.970%</td>
<td>24%</td>
</tr>
<tr>
<td>Listed equities and convertibles</td>
<td>14.143%</td>
<td>20%</td>
</tr>
</tbody>
</table>
### Other financial instruments (including re-securitisation positions) and commodities

<table>
<thead>
<tr>
<th></th>
<th>17.678%</th>
<th>25%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gold</td>
<td>10.607%</td>
<td>15%</td>
</tr>
<tr>
<td>Cash</td>
<td>0%</td>
<td>0%</td>
</tr>
</tbody>
</table>

[Note: article 30(1) of the IFR.]

4.14.26 G The references to years in column A of the table in MIFIDPRU 4.14.25R are references to the remaining maturity of the relevant security or position.

4.14.27 G The following is an example of how the volatility adjustment under MIFIDPRU 4.14.24R and 4.14.25R applies in practice. A firm enters into an OTC derivative contract and receives collateral in the form of a debt security issued by a central bank with a maturity of 6 years. The notional value of the debt security is 100. MIFIDPRU 4.14.24R(2) requires the notional value of the collateral to be decreased by the applicable volatility adjustment. In accordance with the table in MIFIDPRU 4.14.25R, the relevant volatility adjustment is 6%. The resulting value of the collateral after the volatility adjustment had been applied is therefore 94.

### Netting

4.14.28 R For the purposes of calculating its K-TCD requirement under this section, a firm may, in the following order:

1. first, treat perfectly matching contracts included in a netting agreement as if they were a single contract with a notional principal equivalent to the net receipts;

2. second, net other transactions subject to novation under which all obligations between the firm and its counterparty are automatically amalgamated in such a way that the novation legally substitutes one set single net amount for the previous gross obligations; and

3. third, net other transactions where the firm ensures that the following conditions have been met:

   a. those transactions are covered by netting contract with the counterparty, or by another agreement that creates a single legal obligation, such that the firm would have either a claim to receive, or obligation to pay, only the net sum of the positive and negative mark-to-market values of the individual transactions if a counterparty fails to perform due to any of the following:
Counterparty type

<table>
<thead>
<tr>
<th>Counterparty type</th>
<th>Risk factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central governments, central banks and public sector entities</td>
<td>1.6%</td>
</tr>
<tr>
<td>Credit institutions and investment firms</td>
<td>1.6%</td>
</tr>
<tr>
<td>Other counterparties</td>
<td>8%</td>
</tr>
</tbody>
</table>

Credit valuation adjustment
4.14.30 R (1) For the purposes of this rule, the “credit valuation adjustment” (CVA) means an adjustment to the mid-market valuation of the portfolio of transactions with a counterparty that reflects the CMV of the credit risk of the counterparty to the firm, but does not reflect the CMV of the credit risk of the firm to the counterparty.

(2) The CVA for all transactions is 1.5, except for the transactions in (3).

(3) The CVA for the following transactions is 1:

(a) the following transactions, if they do not exceed the clearing threshold specified in article 10(3) and (4) of EMIR:

(i) transactions with non-financial counterparties (as defined in point (9) of article 2 of EMIR); or

(ii) transactions with non-financial counterparties established in a third country;

(b) intra-group transactions as provided for in article 3 of EMIR;

(c) long settlement transactions;

(d) securities financing transactions unless the FCA has notified the firm that the firm’s CVA risk exposures arising from those transactions are material;

(e) credits and loans referred to in MIFIDPRU 4.14.3R(7).

[Note: article 32 of the IFR.]

4.15 K-DTF requirement

4.15.1 R (1) The K-DTF requirement of a MIFIDPRU investment firm is equal to the sum of:

(a) 0.1% of DTF attributable to cash trades; and

(b) 0.01% of DTF attributable to derivatives trades.

(2) A firm must calculate its DTF in accordance with the rules in this section.

[Note: article 15 of the IFR.]
4.15.2 G (1) The definition of DTF includes transactions that a firm enters into when dealing on own account or when executing client orders in the firm’s own name.

(2) A firm that has permission to operate an organised trading facility may engage in:

(a) matched principal trading in certain types of financial instruments with client consent, in accordance with MAR 5A.3.5R(1); and/or

(b) dealing on own account in illiquid sovereign debt instruments in accordance with MAR 5A.3.5R(2).

Where a firm engages in either activity, it must include those transactions in the calculation of its DTF.

(3) Except for the transactions in (2), DTF does not include orders that a firm handles in the course of operating an organised trading facility. However, DTF will include transactions entered into by a firm in its own name through an organised trading facility where the firm is not operating that organised trading facility.

4.15.3 R A firm must calculate its K-DTF requirement on the first business day of each month.

[Note: article 33(1), third paragraph of the IFR.]

4.15.4 R (1) A firm must calculate the amount of its DTF as:

(a) the rolling average of the value of the total daily trading flow;

(b) measured throughout each business day over the previous 9 months;

(c) excluding the most recent 3 months,

(2) A firm must calculate the rolling average in (1) as the arithmetic mean of the daily values for the remaining 6 months, after the values in (1)(c) have been excluded.

[Note: article 33(1), first and second paragraphs of the IFR.]

4.15.5 R (1) When measuring its DTF, a firm must use the sum of the absolute value of each buy order and sell order, as determined in accordance with the remainder of this rule.

(2) For cash trades relating to financial instruments, the value of the order is the amount paid or received on the trade.
(3) For derivatives trades other than orders relating to interest rate derivatives, the value of the order is the notional amount of the contract, determined in accordance with MIFIDPRU 4.14.20R(2).

(4) For orders relating to interest rate derivatives, the value of the order is the notional amount of the contract determined in accordance with MIFIDPRU 4.14.20R(2), adjusted in accordance with MIFIDPRU 4.15.7R.

4.15.6 G For cash trades relating to exchange-traded options, the amount paid or received on the trade under MIFIDPRU 4.15.5R(2) is the premium paid for the option.

4.15.7 R (1) For the purposes of MIFIDPRU 4.15.5R(4), a firm must adjust the notional amount of an interest rate derivative by multiplying that notional amount by the duration.

(2) For the purposes of (1), the duration must be determined in accordance with the following formula:

\[\text{Duration} = \frac{\text{time to maturity (in years)}}{10}\]

[Note: article 33(2), second subparagraph of the IFR.]

4.15.8 G When calculating DTF for the purposes of MIFIDPRU 4.15.4R, a firm must:

(a) include transactions executed by a firm in its own name either for itself or on behalf of a client; and

(b) exclude transactions executed by the firm for the purpose of providing portfolio management services on behalf of investment funds.

[Note: article 33(3) of the IFR.]

4.15.9 R (1) This rule applies where a firm has had a daily trading flow for less than 9 months.

(2) For the purposes of its calculation of DTF under MIFIDPRU 4.15.4R, a firm must use:

(a) historical data for the relevant period as soon as such data becomes available; or

(b) such other amounts as the FCA may specify to replace any missing data points, based on the business projections that the firm submitted to the FCA when obtaining permission to perform the relevant activities.
4.16 K-CON requirement

4.16.1 G MIFIDPRU 5 contains the provisions relating to the calculation of the K-CON requirement of a MIFIDPRU investment firm.

5 Concentration risk

5.1 Application and purpose

Application: Who?

5.1.1 R This chapter applies to:

(1) a MIFIDPRU investment firm; and

(2) a UK parent entity that is required by MIFIDPRU 2.5.7R to comply with MIFIDPRU 5 on the basis of its consolidated situation.

5.1.2 R Where this chapter applies on the basis of the consolidated situation of the UK parent entity, any references to a “firm” or “MIFIDPRU investment firm” in this chapter are to be interpreted as references to the hypothetical single MIFIDPRU investment firm created under the consolidated situation.

5.1.3 G MIFIDPRU 2.5.45G and 2.5.46G contain additional guidance on how a UK parent entity should apply the requirements in this chapter on a consolidated basis.

5.1.4 G MIFIDPRU 5.2 to 5.10 do not apply to a commodity and emission allowance dealer in the circumstances set out in MIFIDPRU 5.11.

Application: What?

5.1.5 R MIFIDPRU 5.2 applies to all of a firm's activities which may give rise to concentration risk.

5.1.6 G MIFIDPRU 5.2 is therefore relevant to a MIFIDPRU investment firm that deals on own account and one that does not (e.g. an SNI MIFIDPRU investment firm).

5.1.7 R MIFIDPRU 5.3 to 5.10 apply to a firm when dealing on own account in relation to transactions which are recorded in the trading book.

[Note: article 24 of the IFR.]

5.1.8 G MIFIDPRU 5.3 to 5.10 apply whether a firm is dealing on own account for itself or on behalf of a client.
5.1.9 A MIFIDPRU investment firm that has permission to operate an organised trading facility may rely on that permission to:

(1) engage in matched principal trading in certain types of financial instruments with client consent, in accordance with MAR 5A.3.5R(1); and

(2) deal on own account in illiquid sovereign debt instruments in accordance with MAR 5A.3.5R(2).

In either case, the firm will be dealing on own account and is therefore subject to the requirements in MIFIDPRU 5.3 to 5.10 to the extent relevant to the transactions it undertakes.

Purpose

5.1.10 This chapter contains:

(1) Rules and guidance on how a MIFIDPRU investment firm must monitor and control concentration risk (MIFIDPRU 5.2).

(2) Rules and guidance on the concentration risk requirements that apply to the trading book exposures of a MIFIDPRU investment firm that is dealing on own account (MIFIDPRU 5.3 to 5.10). An overview of these requirements is set out in MIFIDPRU 5.3.

(3) Rules and guidance on when a commodity and emission allowance dealer will be exempt from the requirements of this chapter (MIFIDPRU 5.11).

Interpretation

5.1.11 In this chapter, references to client include any counterparty of the firm.

5.1.12 Subject to MIFIDPRU 5.1.13R to MIFIDPRU 5.1.16R, a group of connected clients means:

(1) two or more persons who, unless it is shown otherwise, constitute a single risk because one of them, directly or indirectly, has control over the other or others; or

(2) two or more persons between whom there is no relationship of control as described in (1) but who are to be regarded as constituting a single risk because they are so interconnected that, if one of them were to experience financial problems, in particular funding or repayment difficulties, the other or all of the others would also be likely to encounter funding or repayment difficulties.

5.1.13 Where a central government has direct control over, or is directly interconnected with, more than one person, they do not all have to be
treated as a single group of connected clients. Instead, the existence of a group of connected clients may be assessed separately at the level of each person directly controlled by or directly interconnected with the central government, which must include all of the natural and legal persons which are controlled by or interconnected with that person, including the central government.

5.1.14 R Regional governments and local authorities may be treated in the same way as central governments under MIFIDPRU 5.1.13 if there is no difference in the risk they pose compared to central governments.

5.1.15 G (1) There may be no difference in the risk posed by a regional government or local authority if it has specific revenue-raising powers, or if there are specific institutional arrangements which reduce the risk of default.

(2) The PRA maintains a list of all regional governments and local authorities within the United Kingdom which it treats as exposures to the central government of the United Kingdom, in accordance with Article 115 of the UK CRR.

5.1.16 R Two or more persons do not constitute a single group of connected clients solely because of their direct exposure to the same central counterparty for clearing purposes.

[Note: article 4(1)(19) of the IFR.]

Exposures to trustees

5.1.17 R For the purposes of this chapter, if a firm has an exposure to a person ('A') when A is acting on its own behalf, and also an exposure to A when A acts in the capacity of trustee, custodian or general partner of an investment trust, unit trust, venture capital or other investment fund, pension fund or a similar fund (a “fund”), the firm may treat the latter exposure as if it was to the fund as a separate client, unless such treatment would be misleading.

5.1.18 G When considering whether such treatment would be misleading, a firm should consider factors such as:

(1) the degree of independence of control of the fund, including the relation of the fund’s board and senior management to the firm or to other funds or to both;

(2) the terms on which the counterparty, when acting as trustee, is able to satisfy its obligation to the firm out of the fund of which it is trustee;

(3) whether the beneficial owners of the fund are connected to the firm, or related to other funds managed within the firm’s group, or both; and
5.1.19 G In deciding whether a transaction is at arm’s length, the following factors should be taken into account:

(1) the extent to which the person to whom the firm has an exposure (‘A’) can influence the firm’s operations through, for example, the exercise of voting rights;

(2) the management role of A where A is also a director of the firm; and

(3) whether the exposure would be subject to the firm’s usual monitoring and recovery procedures if repayment difficulties emerged.

5.2 Monitoring obligation

5.2.1 R A firm must monitor and control its concentration risk by means of sound administrative and accounting procedures and robust internal control mechanisms.

[Note: article 35(1) of the IFR.]

5.2.2 G MIFIDPRU 5.2.1R requires a firm to monitor and control all sources of concentration risk. This is not limited to trading book exposures, but also encompasses any concentration in assets not recorded in a trading book (for example, trade debts) and off-balance sheet items. It also includes any concentration risk that may arise from the following aspects:

(1) the location of client money;

(2) the location of custody assets;

(3) a firm’s own cash deposits; and

(4) earnings.

5.3 Overview of concentration risk requirements for dealing on own account

5.3.1 G MIFIDPRU 5.4 to 5.10 contain the concentration risk requirements which apply to the trading book exposures of a MIFIDPRU investment firm that is dealing on own account:

(1) MIFIDPRU 5.4 explains how a firm should calculate the value of its exposure to each client or group of connected clients (the exposure value or EV).
MIFIDPRU 5.5.1R explains how a firm should calculate the concentration risk soft limit for its exposure to a client or group of connected clients.

MIFIDPRU 5.5.3R explains how a firm should calculate the value by which its exposure to each client or group of connected clients exceeds the concentration risk soft limit (the exposure value excess or EVE). The EVE is relevant to the calculation of the K-CON requirement.

MIFIDPRU 5.6 contains the obligation to calculate the K-CON requirement and to notify the FCA if the value of a firm’s exposure to a client or group of connected clients exceeds the concentration risk soft limit.

MIFIDPRU 5.7 explains how to calculate the K-CON requirement.

MIFIDPRU 5.8 contains rules designed to prevent firms from avoiding the K-CON requirement.

MIFIDPRU 5.9 contains the ‘hard’ concentration risk limits, and associated provisions.

MIFIDPRU 5.10 excludes certain exposures from the concentration risk requirements in MIFIDPRU 5.4 to 5.9.

5.4 Calculation of exposure value (EV)

5.4.1 R For the purposes of MIFIDPRU 5.5 to 5.10, a firm must calculate an exposure value (EV) for each client or group of connected clients by adding together the following items:

1. the positive excess of the firm’s long positions over its short positions in all the trading book financial instruments issued by the client in question, using the approach specified for K-NPR in MIFIDPRU 4.12.2R to calculate the net position for each instrument; and

2. the exposure value of contracts and transactions referred to in MIFIDPRU 4.14.3R with the client in question, calculated using the approach specified for K-TCD in MIFIDPRU 4.14.8R.

[Note: article 36(1) of the IFR.]

5.4.2 R For the purposes of MIFIDPRU 5.4.1R(1), where a firm calculates a K-CMG requirement in relation to a portfolio, it must calculate its net position for the exposures in that portfolio using the approach specified for K-NPR in MIFIDPRU 4.12.2R.

[Note: article 36(1) of the IFR.]
5.4.3 R The exposure value with regard to a group of connected clients must be calculated by adding together the exposures to the individual clients within the group, which must be treated as a single exposure.

[Note: article 36(2) of the IFR.]

5.4.4 R When calculating exposure values, a firm must take all reasonable steps to identify underlying assets in relevant transactions and the counterparty of the underlying exposures.

[Note: article 36(3) of the IFR.]

5.5 The concentration risk soft limit and exposure value excess

The concentration risk soft limit

5.5.1 R (1) The concentration risk soft limit for exposure values to an individual client or group of connected clients is 25% of a firm’s own funds, subject to (2) and (3).

(2) Where an individual client is a MIFIDPRU-eligible institution, the concentration risk soft limit for that client is the higher of:

(a) 25% of the firm’s own funds; or

(b) £150 million or 100% of the firm’s own funds, whichever is the lower.

(3) Where a group of connected clients includes one or more MIFIDPRU-eligible institutions, the concentration risk soft limit for the group is the higher of:

(a) 25% of the firm’s own funds; or

(b) £150 million or 100% of the firm’s own funds, whichever is the lower, provided that for the sum of exposure values with regard to all connected clients that are not MIFIDPRU-eligible institutions, the concentration risk soft limit remains at 25% of the firm’s own funds.

[Note: article 37(1) of the IFR.]

5.5.2 G The Handbook definition of MIFIDPRU-eligible institution includes private or public undertakings, including the branches of such undertakings, provided that those undertakings, if they were established in the UK, would be UK credit institutions or MIFIDPRU investment firms, and provided that those undertakings have been authorised in a third country that applies prudential supervisory and regulatory requirements comparable to those applied in the UK.

[Note: article 35(2) of the IFR.]
The exposure value excess (EVE)

5.5.3 R (1) A firm that exceeds the concentration risk soft limit for a client or group of connected clients must calculate the exposure value excess (EVE).

(2) A firm must calculate the EVE for an individual client or group of connected clients in accordance with the following formula:

\[ EVE = EV - L \]

where:

L = the concentration risk soft limit specified in MIFIDPRU 5.5.1R.

[Note: article 37(2) of the IFR.]

5.6 Obligations for a firm that exceeds the concentration risk soft limit

5.6.1 R For as long as a firm exceeds the concentration risk soft limit for one or more clients or groups of connected clients, it must calculate the K-CON requirement.

5.6.2 R When a firm exceeds the concentration risk soft limit for a client or group of connected clients, it must notify the FCA without delay of the amount of the EVE, and the name of the individual client or group of connected clients.

[Note: article 37(2) of the IFR.]

5.6.3 R A firm must make the notification referred to in MIFIDPRU 5.6.2R using the form in MIFIDPRU 5 Annex 1R, and must submit it according to the instructions on the form.

5.7 Calculating K-CON

5.7.1 R The K-CON requirement of a MIFIDPRU investment firm is equal to the sum of the CON own funds requirements for each client or group of connected clients for which the EV exceeds the concentration risk soft limit.

[Note: article 39(1) of the IFR.]

5.7.2 R The CON own funds requirement for each client or group of connected clients in MIFIDPRU 5.7.1R must be calculated by:

(1) determining the OFRE in accordance with MIFIDPRU 5.7.3R; and

(2) applying the relevant multiplication factor or factors in accordance with MIFIDPRU 5.7.4R.
5.7.3 R (1) The OFRE must be calculated using the following formula:

\[ OFRE = \frac{OFR}{EV} \times EVE \]

(2) (a) The OFR for an individual client is the sum of:

(i) the TCD own funds requirement for exposures to that client; and

(ii) the K-NPR requirement for the exposures to that client, subject to (b).

(b) Where exposures arise from the positive excess of a firm’s long positions over its short positions in all the trading book financial instruments issued by the client in question, the net position of each instrument calculated in accordance with the approach specified for K-NPR in MIFIDPRU 4.12.2R shall only include specific-risk requirements.

(c) A firm that calculates a K-CMG requirement in relation to a portfolio must calculate the OFR using the approach specified for K-NPR in MIFIDPRU 4.12.2R, subject to (b).

(d) The OFR for a group of connected clients must be calculated by adding together the exposures to individual clients within the group, and then determining a single own funds requirement for exposures to the group as if the group were a single undertaking.

[Note: article 39(1) of the IFR.]

5.7.4 R (1) Where the excess has persisted for 10 business days or less, the CON own funds requirement is the OFRE multiplied by 200%.

(2) Where the excess has persisted for more than 10 business days:

(a) the EVE must be apportioned according to the tranches in each row of Column 1 of Table [X];

(b) the proportion of the EVE in each tranche must be calculated as a percentage of the overall EVE;

(c) the OFRE must be pro-rated according to the proportion of EVE falling within each tranche;

(d) each portion of the OFRE must be multiplied by the relevant Factor in Column 2 of Table [X]; and
(e) the CON own funds requirement is the sum of the amounts calculated in accordance with (d).

(3) Table [X]

<table>
<thead>
<tr>
<th>Column 1:</th>
<th>Column 2: Factors</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>EVE as a percentage of own funds</strong></td>
<td></td>
</tr>
<tr>
<td>For the amount up to and including 40 %</td>
<td>200 %</td>
</tr>
<tr>
<td>For the amount over 40 % up to and including 60 %</td>
<td>300 %</td>
</tr>
<tr>
<td>For the amount over 60 % up to and including 80 %</td>
<td>400 %</td>
</tr>
<tr>
<td>For the amount over 80 % up to and including 100 %</td>
<td>500 %</td>
</tr>
<tr>
<td>For the amount over 100 % up to and including 250 %</td>
<td>600 %</td>
</tr>
<tr>
<td>For the amount over 250 %</td>
<td>900 %</td>
</tr>
</tbody>
</table>

[Note: article 39(1) of the IFR.]

5.7.5 G

(1) K-CON is an additional K-factor own funds requirement in respect of concentration risk in the trading book.

(2) A firm must calculate a CON own funds requirement for each client or group of connected clients for which the exposure value exceeds the concentration risk soft limit. The CON own funds requirement for each client or group of connected clients is then added together to arrive at the K-CON requirement.

(3) Determining the CON own funds requirement for each client or group of connected clients involves a two-step calculation:

   (a) The first step involves an exposure-based calculation, known as the OFRE (the own funds requirement for the excess).

   (b) The second step involves applying a multiplying factor to the OFRE (or applying different multiplying factors to tranches of the OFRE) based on the length of time for which the excess has persisted and by how much (as a percentage of own funds) the exposure value exceeds the concentration risk soft limit.
(4) The reference to how long an excess has persisted for relates to how long a firm has had an exposure to a client or group of connected clients that exceeds the concentration risk soft limit, irrespective of whether the constituent parts that make up that total exposure change over the duration of that total exposure.

(5) The 10-business day period referred to in MIFIDPRU 5.7.4R runs from the start of the business day on which the excess occurred.

5.7.6 G The following example illustrates how to calculate the CON own funds requirement for an excess to a client that has persisted for 10 business days or less:

(1) A firm has:

(a) own funds of 1000;

(b) a concentration risk soft limit of 250 (25% of 1000);

(c) an EV of 262; and

(d) an EVE of 12 (262 - 250 = 12).

(2) The exposure is all due to debt securities which have a specific risk own funds requirement of 8% (according to Table 1 in Article 336 of UK CRR) for the purposes of K-NPR. There is zero K-TCD to this client.

In this example, the OFR = 262 × 8% = 20.96

(3) To calculate the OFRE:

\[OFRE = \frac{OFR}{EV \times EVE} = \frac{20.96}{262 \times 12} = 0.96\]

(4) As the excess has persisted for 10 business days or less:

\[CON \text{ own funds requirement} = 0.96 \times 200\% = 1.92\]

5.7.7 G The following example illustrates how to calculate the CON own funds requirement for an excess that has persisted for more than 10 business days:

(1) A firm has:

(a) own funds of 1000;

(b) a concentration risk soft limit of 250 (25% of 1000);

(c) an EV of 780; and

(d) an EVE of 530 (780 - 250 = 530).
(2) The exposure is all due to debt securities which have a specific risk own funds requirement of 8% (according to Table 1 in Article 336 of UK CRR) for the purposes of K-NPR. There is zero K-TCD to this client.

In this example, the \( OFR = 780 \times 8\% = 62.4 \)

(3) To calculate the \( OFRE \):

\[
OFRE = \frac{OFR}{EVE} \times EVE = \frac{62.4}{780} \times 530 = 42.4
\]

(4) As the excess has persisted for more than 10 business days, the \( CON \) own funds requirement is calculated by apportioning the \( OFRE \) in accordance with the relevant \( EVE \) tranche in Table [X], multiplying each part of the \( OFRE \) by the applicable factor, and then adding the resulting amounts together:

<table>
<thead>
<tr>
<th>Application of Table [X]</th>
<th>( EVE ) split by tranche</th>
<th>( OFRE ) allocated across K-CON tranche by ( EVE ) split</th>
<th>( CON ) own funds requirement ( (OFRE \times \text{factor in Table [X]}) )</th>
</tr>
</thead>
<tbody>
<tr>
<td>K-CON factor tranche as per Table [X]</td>
<td>( EVE ) split by tranche</td>
<td>( OFRE ) allocated across K-CON tranche by ( EVE ) split</td>
<td>( CON ) own funds requirement ( (OFRE \times \text{factor in Table [X]}) )</td>
</tr>
<tr>
<td>Up to 40%</td>
<td>400</td>
<td>( \frac{400}{530} \times 42.4 = 32 )</td>
<td>( 32 \times 200% = 64 )</td>
</tr>
<tr>
<td>40%-60%</td>
<td>130</td>
<td>( \frac{130}{530} \times 42.4 = 10.4 )</td>
<td>( 10.4 \times 300% = 31.2 )</td>
</tr>
<tr>
<td>Total:</td>
<td>530</td>
<td>42.4</td>
<td>95.2</td>
</tr>
</tbody>
</table>

(5) The \( CON \) own funds requirement is the total amount in the last column, 95.2.

5.8 Procedures to prevent investment firms from avoiding the K-CON own funds requirement

5.8.1 R A firm must not deliberately avoid the K-CON requirement by:

(1) undertaking artificial transactions to close out an exposure and create a new exposure; or

(2) temporarily transferring an exposure to another undertaking, whether within the same group or not.

[Note: article 40(1) of the IFR.]

5.8.2 R A firm must maintain systems which ensure that any closing out or
transfer that is prohibited by MIFIDPRU 5.8.1R is immediately reported to the FCA in accordance with SUP 15.7.

[Note: article 40(2) of the IFR.]

5.9 The ‘hard’ limits on concentration risk

5.9.1 R (1) Whilst an exposure exceeding the concentration risk soft limit has persisted for 10 business days or less, a firm’s EV for the individual client or group of connected clients must not exceed 500% of the firm’s own funds.

(2) Whilst a firm has one or more exposures exceeding the concentration risk soft limit that have persisted for more than 10 business days, the aggregate EVEs for all such exposures must not exceed 600% of the firm’s own funds.

[Note: article 37(3) of the IFR.]

5.9.2 G (1) An exposure exceeding the concentration risk soft limit persists for as long as the overall exposure exceeds the concentration risk soft limit, irrespective of whether the constituent parts that make up that total exposure change over the duration of that total exposure.

(2) For the purpose of MIFIDPRU 5.9.1R(2), the 600% limit applies to the aggregate of all individual EVEs for excesses that have persisted for more than 10 business days, irrespective of whether the individual concentrated exposures are connected to one another.

(3) The 10-business day period referred to in MIFIDPRU 5.9.1R runs from the start of the business day on which the excess occurred.

5.9.3 R If a firm breaches the requirement in MIFIDPRU 5.9.1R, it must notify the FCA without delay of:

(1) the amounts of the exposure or exposures which give rise to the breach;

(2) the name or names of the clients concerned; and

(3) any steps which the firm or any other person has taken or intends to take to rectify the breach and prevent any future potential occurrence.

[Note: article 38(1) of the IFR.]

5.9.4 R A firm must make the notification referred to in MIFIDPRU 5.9.3R using the form in MIFIDPRU 5 Annex 1R, and must submit it according to the instructions on the form.
5.10 Exclusions

5.10.1 The requirements in MIFIDPRU 5.4 to 5.9 do not apply to the following exposures:

(1) exposures which are entirely deducted from a MIFIDPRU investment firm's own funds;

(2) exposures incurred in the ordinary course of the settlement of payment services, foreign currency transactions, securities transactions and the provision of money transmission;

(3) exposures constituting claims against:

(a) central governments, central banks, public sector entities, international organisations or multilateral development banks and exposures guaranteed by or attributable to such persons, where those exposures would receive a 0% risk weight under Articles 114 to 118 of the UK CRR;

(b) the regional governments and local authorities of the UK; and

(c) central counterparties and default fund contributions to central counterparties;

(4) exposures incurred by a firm to its parent undertaking, to other subsidiaries or connected undertakings of that parent undertaking or to its own subsidiaries or connected undertakings, insofar as those undertakings are supervised on a consolidated basis in accordance with MIFIDPRU 2.5 or with UK CRR, are supervised for compliance with the group capital test in accordance with MIFIDPRU 2.6, or are supervised in accordance with comparable standards in force in a third country, and provided that the following conditions are met:

(a) there is no current or foreseen material practical or legal impediment to the prompt transfer of capital or repayment of liabilities; and

(b) the risk evaluation, measurement and control procedures of the parent undertaking include the firm and any relevant subsidiary or connected undertaking.

[Note: article 41 of the IFR.]

5.11 Exemption for commodity and emission allowance dealers
5.11.1 A commodity and emission allowance dealer is not required to comply with MIFIDPRU 5.2 to 5.10 where all of the following conditions are met:

(1) the other counterparty is a non-financial counterparty;

(2) both counterparties are subject to appropriate centralised risk evaluation, measurement and control procedures;

(3) the transaction can be assessed as reducing risks directly relating to the commercial activity or treasury financing activity of the non-financial counterparty or of that group; and

(4) the firm complies with MIFIDPRU 5.11.2R.

[Note: article 42(1) of the IFR.]

5.11.2 (1) Before relying on the exemption in MIFIDPRU 5.11.1R, a firm must notify the FCA.

(2) A firm must notify the FCA annually thereafter in order to continue to rely on the exemption in MIFIDPRU 5.11.1R.

(3) The notification must explain how the firm expects to meet or continue to meet the conditions in MIFIDPRU 5.11.1R.

(4) In the event of a material change to the information provided in (1) or (2), a firm must notify the FCA without delay.

(5) The notifications in (1), (2) and (4) must be made using the form in MIFIDPRU 5 Annex 2R, and must be submitted according to the instructions on the form.

[Note: article 42(2) of the IFR.]

Notification to FCA that limits for concentration risk have been exceeded
5 Annex R [Editor’s note: The form can be found at this address: https://www.fca.org.uk/publication/forms/[xxx]]

Notification to FCA of use of exemption for commodity and emission allowance dealers
5 Annex R [Editor’s note: The form can be found at this address: https://www.fca.org.uk/publication/forms/[xxx]]

9 Reporting

9.1 Application
9.1.1  R  This chapter applies to:

(1) a MIFIDPRU investment firm;

(2) a UK parent entity that is required under MIFIDPRU 2.5.7R to comply with MIFIDPRU 9 on the basis of its consolidated situation; and

(3) a parent undertaking that is required to submit reports on its compliance with the group capital test in accordance with MIFIDPRU 2.6.10R.

9.1.2  R  (1) The provisions of SUP 16.3 (General provisions on reporting) specified in (2) apply to reports submitted under this chapter as if such reports had been submitted under SUP 16.

(2) The provisions are:

(a) SUP 16.3.6R to SUP 16.3.10G (How to submit reports);

(b) SUP 16.3.11R to SUP 16.3.12G (Complete reporting); and

(c) SUP 16.3.14R to SUP 16.3.16G (Failure to submit reports).

9.1.3  G  Firms should note that under SUP 16.3.14R (as applied to reports under this chapter by MIFIDPRU 9.1.2R), a £250 administrative fee applies where a firm does not submit a complete report by the date on which that report is due in accordance with the applicable requirements and submission procedures. SUP 16.3.14AG explains that the FCA may also take disciplinary action in appropriate cases.

9.2  Periodic reporting requirements

9.2.1  R  A non-SNI MIFIDPRU investment firm must:

(1) submit the data items specified in column (A) of the table in MIFIDPRU 9.2.2R to the FCA with the frequency specified in column (C) of that table;

(2) complete the data items in (1) with data that reflect the position as at the relevant reporting reference date specified in column (D) of the table in MIFIDPRU 9.2.2R; and

(3) submit the data items in (1) before the submission deadline in column (E) of the table in MIFIDPRU 9.2.2R.

[Note: article 54(1) of the IFR.]

9.2.2  R  The following table belongs to MIFIDPRU 9.2.1R:
<table>
<thead>
<tr>
<th>(A) Data item</th>
<th>(B) Data item description</th>
<th>(C) Reporting frequency</th>
<th>(D) Reporting reference dates</th>
<th>(E) Submission deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td>MIF001</td>
<td>Capital</td>
<td>Quarterly</td>
<td>Last <em>business day</em> in:</td>
<td>20 <em>business days</em> after the reporting reference date</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(1) March;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(2) June;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(3) September;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(4) December</td>
<td></td>
</tr>
<tr>
<td>MIF002</td>
<td>Liquidity</td>
<td>Quarterly</td>
<td>Last <em>business day</em> in:</td>
<td>20 <em>business days</em> after the reporting reference date</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(1) March;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(2) June;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(3) September;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(4) December</td>
<td></td>
</tr>
<tr>
<td>MIF003</td>
<td>Metrics monitoring</td>
<td>Quarterly</td>
<td>Last <em>business day</em> in:</td>
<td>20 <em>business days</em> after the reporting reference date</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(1) March;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(2) June;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(3) September;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(4) December</td>
<td></td>
</tr>
<tr>
<td>MIF004</td>
<td>Non-K-CON concentration risk reporting</td>
<td>Quarterly</td>
<td>Last <em>business day</em> in:</td>
<td>20 <em>business days</em> after the reporting reference date</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(1) March;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(2) June;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(3) September;</td>
<td></td>
</tr>
</tbody>
</table>
9.2.3 R An SNI MIFIDPRU investment firm must:

1. submit the data items specified in column (A) of the table in MIFIDPRU 9.2.4R to the FCA with the frequency specified in column (C) of that table;

2. complete the data items in (1) with data that reflect the position as at the relevant reporting reference date specified in column (D) of the table in MIFIDPRU 9.2.4R; and

3. submit the data items in (1) before the submission deadline in column (E) of the table in MIFIDPRU 9.2.4R.

[Note: article 54(1), second paragraph and 54(2) third paragraph of the IFR.]

9.2.4 R The following table belongs to MIFIDPRU 9.2.3R:

<table>
<thead>
<tr>
<th>(A)</th>
<th>(B)</th>
<th>(C)</th>
<th>(D)</th>
<th>(E)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Data item</td>
<td>Data item description</td>
<td>Reporting frequency</td>
<td>Reporting reference dates</td>
<td>Submission deadline</td>
</tr>
<tr>
<td>MIF001</td>
<td>Capital</td>
<td>Quarterly</td>
<td>Last business day in: (1) March; (2) June; (3) September; (4) December</td>
<td>20 business days after the reporting reference date</td>
</tr>
<tr>
<td>MIF002 (Note 1)</td>
<td>Liquidity</td>
<td>Quarterly</td>
<td>Last business day in:</td>
<td>20 business days after the reporting reference date</td>
</tr>
<tr>
<td>----------------</td>
<td>-----------</td>
<td>-----------</td>
<td>----------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(1) March; (2) June; (3) September; (4) December</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MIF003</th>
<th>Metrics monitoring</th>
<th>Quarterly</th>
<th>Last business day in:</th>
<th>20 business days after the reporting reference date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>(1) March; (2) June; (3) September; (4) December</td>
<td></td>
</tr>
</tbody>
</table>

**Note 1**

If, exceptionally, the FCA has exempted an SNI MIFIDPRU investment firm from the liquidity requirements in MIFIDPRU [6]\(^{15}\), the firm is not required to submit MIF002.

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9.2.5 R Where a firm is required to submit any of data items MIF001 to MIF005 under MIFIDPRU 9.2.1R or 9.2.3R, it must submit those data items:

1. in the format specified in MIFIDPRU 9 Annex 1R; and
2. in accordance with the instructions in MIFIDPRU 9 Annex 2G.

9.2.6 R Where an investment firm group contains multiple MIFIDPRU investment firms, those firms may designate a single MIFIDPRU investment firm or the UK parent entity to submit all necessary data items under this section on their behalf.

9.2.7 G Where a MIFIDPRU investment firm (“A”) designates another MIFIDPRU investment firm or a UK parent entity (“B”) to submit

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\(^{15}\) *Editor’s note:* The FCA intends to consult on the liquidity requirements in MIFIDPRU 6 in a future consultation paper.
data items in accordance with MIFIDPRU 9.2.6R, A remains responsible for the timely submission and the accuracy of any data items submitted by B on A’s behalf.

9.3 Reporting on a consolidated basis

9.3.1 R (1) A UK parent entity that is required by MIFIDPRU 2.5.7R to comply with this chapter on a consolidated basis must:

(a) if it is treated as a non-SNI MIFIDPRU investment firm in accordance with MIFIDPRU 2.5.21R, submit data items in accordance with MIFIDPRU 9.2.1R on the basis of its consolidated situation; or

(b) if it is treated as an SNI MIFIDPRU investment firm in accordance with MIFIDPRU 2.5.21R, submit data items in accordance with MIFIDPRU 9.2.3R on the basis of its consolidated situation.

(2) For the purposes of (1), MIFIDPRU 9.2 applies with the following modifications:

(a) any reference to a “firm” is to be interpreted as a reference to the hypothetical single MIFIDPRU investment firm created under the consolidated situation; and

(b) the submission deadline for consolidated data items under column (E) of the tables in MIFIDPRU 9.2.2R and MIFIDPRU 9.2.4R is 30 business days after the reporting reference date.

9.3.2 G MIFIDPRU 2.5 contains guidance on how to apply the requirements in MIFIDPRU on the basis of the consolidated situation of a UK parent entity. That guidance may assist a UK parent entity in completing the data items required under this section.

9.4 Group capital test reporting

9.4.1 R A parent undertaking that is required to report on the group capital test under MIFIDPRU 2.6.10R must:

(1) submit the data item specified in column (A) of the table in MIFIDPRU 9.4.2R to the FCA with the frequency specified in column (C) of that table;

(2) complete the data item in (1) with data that reflect the position as at the relevant reporting reference date specified in column (D) of the table in MIFIDPRU 9.4.2R; and
(3) submit the data item in (1) before the submission deadline in column (E) of the table in MIFIDPRU 9.4.2R.

9.4.2 R The following table belongs to MIFIDPRU 9.4.1R:

<table>
<thead>
<tr>
<th>(A) Data item</th>
<th>(B) Data item description</th>
<th>(C) Reporting frequency</th>
<th>(D) Reporting reference dates</th>
<th>(E) Submission deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td>MIF006</td>
<td>Group capital test reporting</td>
<td>Quarterly</td>
<td>Last business day in:</td>
<td>20 business days after the reporting reference date</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(1) March; (2) June; (3) September; (4) December</td>
<td></td>
</tr>
</tbody>
</table>

9.4.3 R (1) This rule applies where:

(a) a parent undertaking is a responsible UK parent; and

(b) MIFIDPRU 2.6.10R(2)(b)(i) applies in relation to a subsidiary of that responsible UK parent which is a parent undertaking established in a third country.

(2) Where this rule applies, the responsible UK parent must submit an additional data item in accordance with MIFIDPRU 9.4.1R which reflects the position of the subsidiary in (1)(b).

9.4.4 R Where a parent undertaking is required to submit data item MIF006 under MIFIDPRU 9.4.1R or 9.4.3R, it must submit that data item:

(1) in the format specified in MIFIDPRU 9 Annex 1R; and

(2) in accordance with the instructions in MIFIDPRU 9 Annex 2G.

9.4.5 G Parent undertakings are reminded that under MIFIDPRU 2.6.11R, they may designate a single parent undertaking in the UK to submit data items to the FCA on behalf of all parent undertakings within the same investment firm group to which this section applies. However,
each parent undertaking remains responsible for ensuring the timely submission and the accuracy of any data items submitted on its behalf.

Data items for MIFIDPRU 9

9 Annex R This annex consists of forms which can be found through the following link:

[Editor’s note: insert link to document containing data items for MIFIDPRU 9 reporting]

Guidance notes on data items in MIFIDPRU 9 Annex 1R

9 Annex G This annex consists of guidance which can be found through the following link:

[Editor’s note: insert link to document containing guidance on completing data items in MIFIDPRU 9 Annex 1R]

TP 1 Own funds transitional provisions

Application

1.1 R MIFIDPRU TP 1 applies to:

(1) a MIFIDPRU investment firm; and

(2) a UK parent entity that is required by MIFIDPRU 2.5.7R to comply with MIFIDPRU 3 on the basis of its consolidated situation.

Purpose

1.2 G MIFIDPRU TP 1 contains transitional provisions relating to certain permissions granted by the FCA before [Editor’s note: insert date that MIFIDPRU sourcebook begins to apply] for the purposes of the own funds provisions of the UK CRR. These provisions set out where a firm with such a permission may continue to rely on it under the MIFIDPRU regime.

1.3 G MIFIDPRU TP 1 also contains transitional provisions relating to the potential continued eligibility of additional tier 1 instruments issued before [Editor’s note: insert date that MIFIDPRU sourcebook begins to apply] under the UK CRR (in the form in which the UK CRR stood prior to that date).

Continuing application of certain UK CRR permissions

1.4 R MIFIDPRU TP 1.5 applies for the duration of the relevant permission to which it relates, except to the extent that the FCA revokes, varies or replaces that permission.
1.5 R (1) This rule applies to any permission listed in column (A) of the table in MIFIDPRU TP 1.6R where that permission was granted to a firm by the FCA for the purposes of the UK CRR before [Editor’s note: insert date that MIFIDPRU sourcebook begins to apply].

(2) Where this rule applies, a permission in column (A) of the table in MIFIDPRU TP 1.6R shall be deemed to have been granted for its remaining duration on equivalent terms to the relevant firm by the FCA under the corresponding provision in column (B) in the same row of that table.

1.6 R This table belongs to MIFIDPRU TP 1.5R.

<table>
<thead>
<tr>
<th>(A) UK CRR permission granted before [Editor’s note: insert date that MIFIDPRU sourcebook begins to apply]</th>
<th>(B) Deemed basis for permission on or after [Editor’s note: insert date that MIFIDPRU sourcebook begins to apply]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 26(2) UK CRR: inclusion of interim or year-end profits in common equity tier 1 capital before the firm has taken a formal decision confirming the final profit or loss for the year</td>
<td>MIFIDPRU 3.3.2R</td>
</tr>
<tr>
<td>Article 26(3) UK CRR: classification of an issuance of capital instruments as common equity tier 1 capital</td>
<td>MIFIDPRU 3.3.3R</td>
</tr>
</tbody>
</table>

1.7 G The effect of MIFIDPRU TP 1.5 and MIFIDPRU TP 1.6 is that the relevant permission that was initially granted under article 26(2) or 26(3) of the UK CRR will continue to produce an equivalent effect under the corresponding provisions in MIFIDPRU 3.3. The duration of the original permission is not affected. For example, a relevant permission that was granted on 1 June 2021 for a one-year duration will be treated from [Editor’s note: insert date that MIFIDPRU sourcebook begins to apply] as if it had been granted under MIFIDPRU 3.3, but will still expire on 1 June 2022.

Additional tier 1 capital instruments issued before [Editor’s note: insert date that MIFIDPRU sourcebook begins to apply]

1.8 R (1) This rule applies where:
(a) a firm which became a MIFIDPRU investment firm on [Editor’s note: insert date that MIFIDPRU sourcebook begins to apply] issued instruments before that date which met the conditions to be classified as additional tier 1 instruments in accordance with the provisions of the UK CRR in the form in which it stood immediately before [Editor’s note: insert date that MIFIDPRU sourcebook begins to apply]; and

(b) the instruments in (1) remain in issue on [Editor’s note: insert date that MIFIDPRU sourcebook begins to apply].

(2) Where this rule applies, a MIFIDPRU investment firm must notify the FCA by no later than [Editor’s note: insert date one month after the date that MIFIDPRU sourcebook begins to apply] to confirm whether:

(a) the relevant instruments satisfy the conditions in MIFIDPRU 3.4 to be classified as additional tier 1 instruments for the purposes of MIFIDPRU;

(b) the relevant instruments do not satisfy the relevant conditions in MIFIDPRU 3.4 and the firm has therefore ceased to recognise them as forming part of its additional tier 1 capital for those purposes or has otherwise redeemed or replaced them; or

(b) the firm has applied to the FCA under section 138A of the Act for a modification of the relevant provisions in MIFIDPRU 3.4 to continue to allow the firm to classify the instruments as additional tier 1 instruments for the purposes of MIFIDPRU.

1.9 G (1) A MIFIDPRU investment firm that immediately before [Editor’s note: insert date that MIFIDPRU sourcebook begins to apply] was subject to the UK CRR may have issued additional tier 1 instruments before that date that met the conditions in the UK CRR (in the form in which it then stood) which remain in issue on [Editor’s note: insert date that MIFIDPRU sourcebook begins to apply].

(2) Although MIFIDPRU 3.4 contains provisions for the classification of instruments under MIFIDPRU as additional tier 1 instruments which are broadly equivalent to those in the UK CRR, the previous trigger event under article 54(1)(a) of the UK CRR does not apply under MIFIDPRU. This is because the own funds requirement under MIFIDPRU is calculated on a different basis and therefore the trigger event for conversion of
additional tier 1 instruments under MIFIDPRU must be defined by reference to different criteria.

1.10 G In certain circumstances, it is possible that an additional tier 1 instrument issued before [Editor’s note: insert date that MIFIDPRU sourcebook begins to apply] under the UK CRR may nonetheless meet the conditions in MIFIDPRU 3.4 so that it can be classified as an additional tier 1 instrument for the purposes of MIFIDPRU. This may depend upon how the trigger events were defined in the terms of the relevant instrument and whether additional trigger events (i.e. over and above the mandatory UK CRR trigger event that was applicable at the time of issuance) were also included.

1.11 G (1) A firm may apply to the FCA under section 138A of the Act to modify the provisions of MIFIDPRU 3.4 in relation to existing additional tier 1 instruments issued for the purposes of the UK CRR before [Editor’s note: insert date that MIFIDPRU sourcebook begins to apply], so as to allow those instruments to be recognised as additional tier 1 instruments under MIFIDPRU.

(2) The FCA would expect that an application of the type described in (1) would demonstrate how the conversion or write-down of the additional tier 1 instruments would function to enable the firm to continue to satisfy its own funds requirement under MIFIDPRU in times of financial stress.

(3) If the FCA grants a modification under section 138A of the Act in such circumstances, it may choose to do so on a temporary basis to facilitate the firm’s orderly transition to the MIFIDPRU regime.

TP 2 Own funds requirements: transitional

Application

2.1 R MIFIDPRU TP 2 applies to a MIFIDPRU investment firm on an individual basis.

2.2 R MIFIDPRU TP 2.23R applies to a UK parent entity when it is applying MIFIDPRU 4 on the basis of its consolidated situation in accordance with MIFIDPRU 2.5.

Purpose

2.3 G MIFIDPRU TP 2 contains temporary transitional provisions that permit certain MIFIDPRU investment firms to apply a lower own funds requirement than would otherwise apply under MIFIDPRU 4.3. These provisions are designed to provide a smoother transition for
firms from their regulatory capital requirements under previous prudential regimes to the requirements under MIFIDPRU.

2.4 G (1) MIFIDPRU TP 2 permits a firm (or, in the case of MIFIDPRU TP 2.23R, a UK parent entity) to substitute an alternative requirement in place of one or more of its standard permanent minimum capital requirement, its fixed overheads requirement or its K-factor requirement. Where a firm does so, the alternative requirement also replaces the standard requirement for the purposes of calculating the firm’s own funds requirement under MIFIDPRU 4.3.

(2) For example, under MIFIDPRU TP 2.21R, a former exempt BIPRU commodities firm may substitute separate alternative requirements for each of its fixed overheads requirement and its K-factor requirement. During the transitional period, the own funds requirement of the firm under MIFIDPRU 4.3.2R would be the highest of:

(a) its permanent minimum capital requirement;
(b) the alternative requirement substituted for its standard fixed overheads requirement; and
(c) the alternative requirement substituted for its standard K-factor requirement.

References to “UK CRR”

2.5 R Any reference in MIFIDPRU TP 2 to the “UK CRR” should be interpreted as a reference to the UK CRR in the form in which it stood on [Editor’s note: insert the day before the earlier of the date on which MIFIDPRU enters into force and the date on which the CRR 2 amendments take effect].

Duration of transitional arrangements

2.6 R MIFIDPRU TP 2 applies until [Editor’s note: insert date five years after MIFIDPRU begins to apply], except in the circumstances set out in MIFIDPRU TP 2.19R.

Transitional for fixed overheads requirement and K-factor requirement for former IFPRU investment firms and BIPRU firms

2.7 R (1) This rule applies to a MIFIDPRU investment firm that, under the rules in force on [Editor’s note: insert the date immediately before the day that MIFIDPRU begins to apply], was classified as:
(a) an IFPRU investment firm (other than an exempt IFPRU commodities firm or a collective portfolio management investment firm); or

(b) a BIPRU firm (other than an exempt BIPRU commodities firm or a collective portfolio management investment firm).

(2) A firm may substitute the alternative requirement in (3) for each of:

(a) its fixed overheads requirement under MIFIDPRU [4.5], and

(b) to the extent applicable, its K-factor requirement under MIFIDPRU 4.6.

(3) Subject to (4), the alternative requirement is an amount equal to twice the following, if it had continued to apply to the firm:

(a) for a former IFPRU investment firm, the own funds requirement in Chapter 1 of Title I of Part Three of the UK CRR; or

(b) for a former BIPRU firm, the variable capital requirement in GENPRU 2.1.40R and 2.1.45R.

(4) The alternative requirement in (3) is subject to:

(a) for a former IFPRU investment firm, article 93(1) of the UK CRR, with the reference to the initial capital requirement in that provision being read as a reference to the base own funds requirement that would have applied under IFPRU 3.1 if it had continued to apply to the firm; or

(b) for a former BIPRU firm, the base capital requirement that would have applied under GENPRU 2.1.47R and 2.1.48R.

[Note: article 57(3)(a) of the IFR.]

2.8 G (1) The effect of MIFIDPRU TP 2.7R(2) is that even where MIFIDPRU TP 2.7R applies, it does not affect the calculation of a MIFIDPRU investment firm's permanent minimum capital requirement under MIFIDPRU 4.4. The extent to which separate transitional arrangements may also apply to the permanent minimum capital requirement of a former IFPRU

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16 Editor’s note: The FCA will consult on the rules for calculating the fixed overheads requirement in MIFIDPRU 4.5 in a subsequent consultation.
investment firm or BIPRU firm is set out in MIFIDPRU TP 2.13R to 2.18R.

(2) Therefore, where the permanent minimum capital requirement (where applicable, as limited by MIFIDPRU TP 2.13R to 2.18R) is higher than the alternative requirement in MIFIDPRU TP 2.7R(3), the firm will still need to ensure that it has sufficient own funds to meet that higher permanent minimum capital requirement in accordance with MIFIDPRU 4.3.

2.9 G Where a MIFIDPRU investment firm chooses to apply the transitional arrangements in MIFIDPRU TP 2.7, the alternative requirement under MIFIDPRU TP 2.7R(3) reflects how the previous requirements under the UK CRR or GENPRU would otherwise apply to the firm on an ongoing basis. The firm should therefore recalculate the alternative requirement under the UK CRR or GENPRU regularly. The FCA considers that it would be appropriate for the firm to carry out such calculations at least as frequently as it reports information on its own funds requirement to the FCA in accordance with MIFIDPRU 9.

Transitional for fixed overheads requirement and K-factor requirement for former exempt CAD firms

2.10 R (1) This rule applies to a MIFIDPRU investment firm that under the rules in force on [Editor’s note: insert the date immediately before the day that MIFIDPRU begins to apply] was classified as an exempt CAD firm.

(2) A firm may substitute the alternative requirement in (3) in place of each of:

(a) its fixed overheads requirement under MIFIDPRU [4.5]; and

(b) to the extent applicable, its K-factor requirement under MIFIDPRU 4.6.

(3) The alternative requirement is:

(a) from [Editor’s note: insert the date that MIFIDPRU begins to apply] to [Editor’s note: insert the date one year after MIFIDPRU begins to apply minus one day], an amount equal to the firm’s permanent minimum capital requirement after any transitional relief that may apply under MIFIDPRU TP 2.12R has been taken into account; and

(b) from [Editor’s note: insert the date one year after MIFIDPRU begins to apply] to [Editor’s note: insert the date five years after MIFIDPRU begins to apply minus one day]:

Page 146 of 235
(i) in relation to the firm’s fixed overheads requirement, the relevant percentage specified in (4) of the firm’s fixed overheads requirement (as that requirement would be determined if the substitution in (2)(a) did not apply); and

(ii) in relation to the firm’s K-factor requirement, the relevant percentage specified in (4) of the firm’s K-factor requirement (as that requirement would be determined if the substitution in (2)(b) did not apply).

(4) The relevant percentage is:

(a) from [Editor’s note: insert the date one year after MIFIDPRU begins to apply] to [Editor’s note: insert the date two years after MIFIDPRU begins to apply minus one day]: 10%;

(b) from [Editor’s note: insert the date two years after MIFIDPRU begins to apply] to [Editor’s note: insert the date three years after MIFIDPRU begins to apply minus one day]: 25%;

(c) from [Editor’s note: insert the date three year after MIFIDPRU begins to apply] to [Editor’s note: insert the date four years after MIFIDPRU begins to apply minus one day]: 45%; and

(d) from [Editor’s note: insert the date four years after MIFIDPRU begins to apply] to [Editor’s note: insert the date five years after MIFIDPRU begins to apply minus one day]: 70%.

Transitional for K-factor requirement for firms not in existence before [Editor’s note: insert the date on which MIFIDPRU begins to apply]

2.11 R (1) This rule applies to a MIFIDPRU investment firm that immediately before [Editor’s note: insert the date on which MIFIDPRU begins to apply]:

(a) was not in existence; or

(b) did not have a Part 4A permission that permitted the firm to carry on any investment services and/or activities.

(2) A firm may substitute the alternative requirement in (3) in place of its K-factor requirement under MIFIDPRU 4.6 (to the extent that such a requirement applies).
(3) The alternative requirement is an amount equal to twice the fixed overheads requirement of the firm, as calculated in accordance with MIFIDPRU [4.5] from time to time.

[Note: article 57(3)(b) of the IFR.]

Transitional for permanent minimum capital requirement: former exempt CAD firms

2.12 R

(1) This rule applies to a MIFIDPRU investment firm that under the rules in force on [Editor’s note: insert the date immediately before the day on which MIFIDPRU begins to apply] was classified as an exempt CAD firm.

(2) A firm may substitute the alternative requirement in (3) in place of its permanent minimum capital requirement under MIFIDPRU 4.4.

(3) The alternative requirement is as follows:

(a) from [Editor’s note: insert the date on which MIFIDPRU begins to apply] to [Editor’s note: insert the date one year after MIFIDPRU begins to apply minus one day]: £50,000;

(b) from [Editor’s note: insert the date one year after MIFIDPRU begins to apply] to [Editor’s note: insert the date two years after MIFIDPRU begins to apply minus one day]: £55,000;

(c) from [Editor’s note: insert the date two years after MIFIDPRU begins to apply] to [Editor’s note: insert the date three years after MIFIDPRU begins to apply minus one day]: £60,000;

(d) from [Editor’s note: insert the date three years after MIFIDPRU begins to apply] to [Editor’s note: insert the date four years after MIFIDPRU begins to apply minus one day]: £65,000; and

(e) from [Editor’s note: insert the date four years after MIFIDPRU begins to apply] to [Editor’s note: insert the date five years after MIFIDPRU begins to apply minus one day]: £70,000.

(4) This rule is subject to MIFIDPRU TP 2.19R.

Transitional for permanent minimum capital requirement: former IFPRU investment firms
2.13 R

(1) Subject to (2), this rule applies to a MIFIDPRU investment firm that under the rules in force on [Editor’s note: insert the date immediately before the day on which MIFIDPRU begins to apply] was classified as an IFPRU 50K firm.

(2) This rule does not apply to a firm to which MIFIDPRU TP 2.18R applies.

(3) A firm may substitute the alternative requirement in (4) in place of its permanent minimum capital requirement under MIFIDPRU 4.4.

(4) The alternative requirement is as follows:

(a) from [Editor’s note: insert the date on which MIFIDPRU begins to apply] to [Editor’s note: insert the date one year after MIFIDPRU begins to apply minus one day]: £50,000;

(b) from [Editor’s note: insert the date one year after MIFIDPRU begins to apply] to [Editor’s note: insert the date two years after MIFIDPRU begins to apply minus one day]: £55,000;

(c) from [Editor’s note: insert the date two years after MIFIDPRU begins to apply] to [Editor’s note: insert the date three years after MIFIDPRU begins to apply minus one day]: £60,000;

(d) from [Editor’s note: insert the date three years after MIFIDPRU begins to apply] to [Editor’s note: insert the date four years after MIFIDPRU begins to apply minus one day]: £65,000; and

(e) from [Editor’s note: insert the date four years after MIFIDPRU begins to apply] to [Editor’s note: insert the date five years after MIFIDPRU begins to apply minus one day]: £70,000.

(5) This rule is subject to MIFIDPRU TP 2.19R.

[Note: article 57(4)(b) of the IFR.]
(3) A firm may substitute the alternative requirement in (4) in place of its permanent minimum capital requirement under MIFIDPRU 4.4.

(4) The alternative requirement is as follows:

(a) from [Editor’s note: insert the date on which MIFIDPRU begins to apply] to [Editor’s note: insert the date one year after MIFIDPRU begins to apply minus one day]: £125,000;

(b) from [Editor’s note: insert the date one year after MIFIDPRU begins to apply] to [Editor’s note: insert the date two years after MIFIDPRU begins to apply minus one day]: £130,000;

(c) from [Editor’s note: insert the date two years after MIFIDPRU begins to apply] to [Editor’s note: insert the date three years after MIFIDPRU begins to apply minus one day]: £135,000;

(d) from [Editor’s note: insert the date three year after MIFIDPRU begins to apply] to [Editor’s note: insert the date four years after MIFIDPRU begins to apply minus one day]: £140,000; and

(e) from [Editor’s note: insert the date four years after MIFIDPRU begins to apply] to [Editor’s note: insert the date five years after MIFIDPRU begins to apply minus one day]: £145,000.

(5) This rule is subject to MIFIDPRU TP 2.19R.

[Note: article 57(4)(b) of the IFR.]

2.15 R (1) This rule applies to a MIFIDPRU investment firm that under the rules in force on [Editor’s note: insert the date immediately before the day on which MIFIDPRU begins to apply] was classified as an IFPRU 730K firm.

(2) A firm may substitute the alternative requirement in (3) in place of its permanent minimum capital requirement under MIFIDPRU 4.4.

(3) The alternative requirement is as follows:

(a) from [Editor’s note: insert the date on which MIFIDPRU begins to apply] to [Editor’s note: insert the date one year after MIFIDPRU begins to apply minus one day]: £730,000;
(b) from [Editor’s note: insert the date one year after MIFIDPRU begins to apply] to [Editor’s note: insert the date two years after MIFIDPRU begins to apply minus one day]: £735,000;

(c) from [Editor’s note: insert the date two years after MIFIDPRU begins to apply] to [Editor’s note: insert the date three years after MIFIDPRU begins to apply minus one day]: £740,000;

(d) from [Editor’s note: insert the date three years after MIFIDPRU begins to apply] to [Editor’s note: insert the date four years after MIFIDPRU begins to apply minus one day]: £745,000; and

(e) from [Editor’s note: insert the date four years after MIFIDPRU begins to apply] to [Editor’s note: insert the date five years after MIFIDPRU begins to apply minus one day]: £750,000.

(4) This rule is subject to MIFIDPRU TP 2.19R.

[Note: article 57(4)(b) of the IFR.]

Transitional for permanent minimum capital requirement: former BIPRU firms

2.16 R (1) This rule applies to a MIFIDPRU investment firm that under the rules in force on [Editor’s note: insert the date immediately before the day on which MIFIDPRU begins to apply] was classified as a BIPRU firm (other than an exempt BIPRU commodities firm or a collective portfolio management investment firm).

(2) This rule does not apply to a firm to which MIFIDPRU TP 2.18R applies.

(3) A firm may substitute the alternative requirement in (4) in place of its permanent minimum capital requirement under MIFIDPRU 4.4.

(4) The alternative requirement is as follows:

(a) from [Editor’s note: insert the date on which MIFIDPRU begins to apply] to [Editor’s note: insert the date one year after MIFIDPRU begins to apply minus one day]: £50,000;

(b) from [Editor’s note: insert the date one year after MIFIDPRU begins to apply] to [Editor’s note: insert
the date two years after MIFIDPRU begins to apply minus one day): £55,000;

(c) from [Editor’s note: insert the date two years after MIFIDPRU begins to apply] to [Editor’s note: insert the date three years after MIFIDPRU begins to apply minus one day]: £60,000;

(d) from [Editor’s note: insert the date three year after MIFIDPRU begins to apply] to [Editor’s note: insert the date four years after MIFIDPRU begins to apply minus one day]: £65,000; and

(e) from [Editor’s note: insert the date four years after MIFIDPRU begins to apply] to [Editor’s note: insert the date five years after MIFIDPRU begins to apply minus one day]: £70,000.

(5) This rule is subject to MIFIDPRU TP 2.19R.

[Note: article 57(4)(c) of the IFR.]

2.17 G (1) The transitional arrangements in MIFIDPRU TP 2.13R to 2.16R permit the relevant MIFIDPRU investment firms to substitute an alternative requirement for their permanent minimum capital requirement. Those provisions do not affect the fixed overheads requirement or, where applicable, the K-factor requirement for such firms.

(2) The effect of (1) is that where the fixed overheads requirement or the K-factor requirement of the relevant MIFIDPRU investment firm (in each case, as modified by any other relevant transitional arrangements in this section) is higher than the alternative requirement substituted for the firm’s permanent minimum capital requirement, the firm’s own funds requirement under MIFIDPRU 4.3 will still be the higher of those other two requirements.

Transitional for permanent minimum capital requirement: former IFPRU and BIPRU firms that relied on IFPRU 1.1.12R or BIPRU 1.1.23R (former “matched principal” firms)

2.18 R (1) This rule applies to a firm that, under the rules in force on [Editor’s note: insert the date immediately before the day on which MIFIDPRU begins to apply], was classified as one of the following:

(a) an IFPRU 50K firm, due to the application of IFPRU 1.1.12R (Meaning of dealing on own account);
(b) an IFPRU 125K firm, due to the application of IFPRU 1.1.12R (Meaning of dealing on own account); or

c) a BIPRU firm, due to the application of BIPRU 1.1.23R (Meaning of dealing on own account).

(2) A firm may substitute the alternative requirement in (3) in place of its permanent minimum capital requirement under MIFIDPRU 4.4.

(3) The alternative requirement is as follows:

(a) from [Editor’s note: insert the date on which MIFIDPRU begins to apply] to [Editor’s note: insert the date one year after MIFIDPRU begins to apply minus one day]:

(i) for a former BIPRU firm or a former IFPRU 50K firm: £50,000;

(ii) for a former IFPRU 125K firm: £125,000;

(b) from [Editor’s note: insert the date one year after MIFIDPRU begins to apply] to [Editor’s note: insert the date two years after MIFIDPRU begins to apply minus one day]: £190,000;

(c) from [Editor’s note: insert the date two years after MIFIDPRU begins to apply] to [Editor’s note: insert the date three years after MIFIDPRU begins to apply minus one day]: £330,000;

(d) from [Editor’s note: insert the date three years after MIFIDPRU begins to apply] to [Editor’s note: insert the date four years after MIFIDPRU begins to apply minus one day]: £470,000; and

(e) from [Editor’s note: insert the date four years after MIFIDPRU begins to apply] to [Editor’s note: insert the date five years after MIFIDPRU begins to apply minus one day]: £610,000.

Disapplication of permanent minimum capital requirement transitional provisions due to changes in permission

2.19 The transitional arrangements in MIFIDPRU TP 2.12R to 2.16R cease to apply where there is a change in the permissions of the relevant MIFIDPRU investment firm on or after [Editor’s note: insert the date on which MIFIDPRU begins to apply] that results in an increase in the permanent minimum capital requirement that would apply to the firm under MIFIDPRU 4.4.
2.20 R  (1) This rule applies to a MIFIDPRU investment firm that:

(a) was in existence before 25 December 2019; and

(b) under the rules in force on [Editor’s note: insert the date immediately before the day on which MIFIDPRU begins to apply], was classified as a local firm.

(2) A firm may substitute the alternative requirement in (3) in place of its own funds requirement under MIFIDPRU 4.3.

(3) The alternative requirement is as follows:

(a) from [Editor’s note: insert the date on which MIFIDPRU begins to apply] to [Editor’s note: insert the date one year after MIFIDPRU begins to apply minus one day]: £250,000;

(b) from [Editor’s note: insert the date one year after MIFIDPRU begins to apply] to [Editor’s note: insert the date two years after MIFIDPRU begins to apply minus one day]: £350,000;

(c) from [Editor’s note: insert the date two years after MIFIDPRU begins to apply] to [Editor’s note: insert the date three years after MIFIDPRU begins to apply minus one day]: £450,000;

(d) from [Editor’s note: insert the date three year after MIFIDPRU begins to apply] to [Editor’s note: insert the date four years after MIFIDPRU begins to apply minus one day]: £550,000; and

(e) from [Editor’s note: insert the date four years after MIFIDPRU begins to apply] to [Editor’s note: insert the date five years after MIFIDPRU begins to apply minus one day]: £650,000.

[Note: article 57(6) of the IFR.]
(a) an exempt IFPRU commodities firm; or

(b) an exempt BIPRU commodities firm.

(2) A firm may substitute the alternative requirement in (3) in place of each of:

(a) its fixed overheads requirement under MIFIDPRU [4.5]; and

(b) to the extent applicable, its K-factor requirement under MIFIDPRU 4.6.

(3) Subject to (5), the alternative requirement is:

(a) from [Editor’s note: insert the date on which MIFIDPRU begins to apply] to [Editor’s note: insert the date one year after MIFIDPRU begins to apply minus one day]: an amount equal to the firm’s permanent minimum capital requirement;

(b) from [Editor’s note: insert the date one year after MIFIDPRU begins to apply] to [Editor’s note: insert the date five years after MIFIDPRU begins to apply minus one day]:

(i) in relation to the firm’s fixed overheads requirement, the relevant percentage specified in (4) of the firm’s fixed overhead requirement (as that requirement would be determined if the substitution in (2)(a) did not apply); and

(ii) in relation to the firm’s K-factor requirement, the relevant percentage specified in (4) of the firm’s K-factor requirement (as that requirement would be determined if the substitution in (2)(b) did not apply).

(4) The relevant percentage is:

(a) from [Editor’s note: insert the date one year after MIFIDPRU begins to apply] to [Editor’s note: insert the date two years after MIFIDPRU begins to apply minus one day]: 10%;

(b) from [Editor’s note: insert the date two years after MIFIDPRU begins to apply] to [Editor’s note: insert the date three years after MIFIDPRU begins to apply minus one day]: 25%;
(c) from [Editor's note: insert the date three year after MIFIDPRU begins to apply] to [Editor's note: insert the date four years after MIFIDPRU begins to apply minus one day]: 45%; and

(d) from [Editor's note: insert the date four years after MIFIDPRU begins to apply] to [Editor's note: insert the date five years after MIFIDPRU begins to apply minus one day]: 70%.

(5) If the firm was subject to IPRU(INV) 3 on [Editor's note: insert the date immediately before the day on which MIFIDPRU begins to apply], the alternative requirement can never be lower than the amount of the financial resources requirement that would apply to the firm if it had continued to be subject to IPRU(INV) 3 in the form in which that chapter stood on that date.

2.22 G MIFIDPRU TP 2.21R(5) means that the alternative fixed overheads requirement and alternative K-factor requirement of an exempt IFPRU commodities firm or an exempt BIPRU commodities firm under the transitional arrangements are subject to a floor if the firm was previously subject to IPRU(INV) 3. Firms are reminded that the base requirement under IPRU(INV) 3-71R (in the form in which it stood on [Editor's note: insert the date immediately before the day on which MIFIDPRU begins to apply]) is calculated by reference to the highest of an absolute minimum requirement, an expenditure requirement and a volume of business requirement.

Transitional for consolidated own funds requirement

2.23 R (1) This rule applies to a UK parent entity that is required to apply prudential consolidation to an investment firm group in accordance with MIFIDPRU 2.5.

(2) A UK parent entity may substitute the alternative requirements in (3) in place of the following, as they result from applying MIFIDPRU 4 to its consolidated situation:

(a) the consolidated fixed overheads requirement; and

(b) the consolidated K-factor requirement.

(3) Subject to (8), the alternative requirement is:

(a) in relation to the fixed overheads requirement, an amount calculated in accordance with the formula in (4); and

(b) in relation to the K-factor requirement, an amount calculated in accordance with the formula in (6).
(4) The formula for calculating the alternative requirement for the consolidated *fixed overheads requirement* is:

\[ A = B - C \]

where:

- \( A \) = the alternative requirement for the consolidated *fixed overheads requirement*.
- \( B \) = the consolidated *fixed overheads requirement* that results from applying *MIFIDPRU* 4 to the *consolidated situation* in accordance with *MIFIDPRU* 2.5 without applying *MIFIDPRU* TP 2.
- \( C \) = the transitional credit, determined in accordance with (5).

(5) For the purposes of (4), the transitional credit (\( C \)) is the sum of the output of the following formula as applied to each *MIFIDPRU investment firm* in the *investment firm group*:

\[ C = D - E \]

where:

- \( D \) = the individual *fixed overheads requirement* that would apply to the *MIFIDPRU investment firm* under *MIFIDPRU* 4, ignoring any transitional relief under *MIFIDPRU* TP 2.
- \( E \) = the alternative requirement that applies to the *MIFIDPRU investment firm* under *MIFIDPRU* TP 2 in place of the individual *fixed overheads requirement*. If no alternative requirement applies to the firm in place of its individual *fixed overheads requirement*, the value of \( E \) is equal to \( D \).

(6) The formula for calculating the alternative requirement for the consolidated *K-factor requirement* is:

\[ F = G - H \]

where:

- \( F \) = the alternative requirement for the consolidated *K-factor requirement*.
- \( G \) = the consolidated *K-factor requirement* that results from applying *MIFIDPRU* 4 to the *consolidated*
situation in accordance with MIFIDPRU 2.5 without applying MIFIDPRU TP 2.

H = the transitional credit, determined in accordance with (7).

(7) For the purposes of (6), the transitional credit (H) is the sum of the output of the following formula as applied to each MIFIDPRU investment firm in the investment firm group:

\[ H = J - K \]

where:

\[ J = \text{the } K\text{-factor requirement} \text{ that would apply to the individual MIFIDPRU investment firm under MIFIDPRU 4, ignoring any transitional relief under MIFIDPRU TP 2.} \]

\[ K = \text{the alternative requirement that applies to the MIFIDPRU investment firm under MIFIDPRU TP 2 in place of the individual } K\text{-factor requirement}. \text{ If no alternative requirement applies to the firm in place of its individual } K\text{-factor requirement, the value of } K \text{ is equal to } J. \]

(8) The alternative requirement can never be lower than the following:

(a) in relation to the consolidated fixed overheads requirement, the sum of the following in relation to the investment firm group:

(i) for each MIFIDPRU investment firm that is subject to an alternative requirement under MIFIDPRU TP 2 in place of its individual fixed overheads requirement, that alternative requirement; and

(ii) for every other MIFIDPRU investment firm, the firm’s individual fixed overheads requirement;

(b) in relation to the consolidated K-factor requirement, the sum of the following in relation to the MIFIDPRU investment firms in the investment firm group:

(i) for each MIFIDPRU investment firm that is subject to an alternative requirement under MIFIDPRU TP 2 in place of its individual K-factor requirement, that alternative requirement; and
TP 3  Group capital test: transitional arrangements

Application

3.1  R  MIFIDPRU TP 3 applies to the following:

   (1)  a MIFIDPRU investment firm;

   (2)  a UK parent entity; and

   (3)  a relevant financial undertaking that is a parent undertaking in an investment firm group.

Purpose

3.2  G  MIFIDPRU TP 3 contains transitional provisions which allow an investment firm group to apply the group capital test on a temporary basis before the FCA has determined an application made in accordance with MIFIDPRU 2.4.17R, provided that certain conditions are met.

Temporary application of the group capital test

3.3  R  (1)  This rule applies in relation to an investment firm group where:

   (a)  the UK parent entity or a MIFIDPRU investment within that investment firm group has submitted an application to the FCA in accordance with MIFIDPRU 2.4.17R by no later than [Editor’s note: insert date one month after the date that the MIFIDPRU sourcebook begins to apply]; and

   (b)  the management body of the UK parent entity or MIFIDPRU investment firm in (1) has determined that there is a reasonable basis to conclude that the investment firm group satisfies the requirements in MIFIDPRU 2.4.17R(2)(a) and (b).

   (2)  This rule applies from [Editor’s note: insert date that the MIFIDPRU sourcebook begins to apply] until the earlier of the following:

   (a)  [Editor’s note: insert date two years after the MIFIDPRU sourcebook begins to apply]; or

   (b)  such earlier date as may be specified in the notification to the UK parent entity or MIFIDPRU
investment firm of the FCA’s decision in relation to the application in (1)(a).

(3) Where this rule applies, the undertakings in MIFIDPRU TP 3.1 may apply the group capital test in accordance with MIFIDPRU 2.6, notwithstanding that the FCA has not granted permission to use the group capital test in accordance with MIFIDPRU 2.4.17R.

3.4 G Under MIFIDPRU 2.4.18R(2)(g), an application submitted under MIFIDPRU 2.4.17R must contain an explanation of how the investment firm group would comply with the consolidated requirements under MIFIDPRU 2.5 if the FCA did not grant permission to apply the group capital test. The application must also contain an explanation of the timeframe in which the investment firm group would expect to achieve compliance with those consolidated requirements. The FCA will have regard to these explanations when considering any date that it may specify under MIFIDPRU TP 3.3R(2)(b) for the transitional arrangements to cease, if the FCA has decided not to grant the relevant application.

TP 4 K-factor metric calculations: transitional

Application

4.1 R MIFIDPRU TP 4 applies to a MIFIDPRU investment firm where:

(1) immediately before [Editor’s note: insert the date on which MIFIDPRU begins to apply], the firm was carrying on investment services and/or activities; and

(2) the investment services and/or activities in (1) result in K-factor metrics that are relevant to the calculation of the following on or after [Editor’s note: insert the date on which MIFIDPRU begins to apply]:

(i) the firm’s K-factor requirement; or

(ii) an alternative requirement in MIFIDPRU TP 2 that is calculated by reference to the K-factor requirement.

4.2 R MIFIDPRU TP 4.11 applies to a UK parent entity where the following conditions are met:

(1) the UK parent entity is required to apply MIFIDPRU 4 on a consolidated basis in accordance with MIFIDPRU 2.5.7R; and

(2) the consolidated situation of the UK parent entity includes one or more the following:
(a) a MIFIDPRU investment firm to which MIFIDPRU TP 4.1R applies; or

(b) a third country entity to which MIFIDPRU TP 4.1R would apply if it were established in the UK.

Purpose

4.3 G (1) The standard rules in MIFIDPRU 4 require a MIFIDPRU investment firm to collect data on the K-factor metrics that are relevant to the investment services and/or activities that the firm carries on. Certain K-factor metric calculations are based on average values and require a minimum level of historical data.

(2) MIFIDPRU TP 4 contains transitional rules for the calculation of a firm’s K-factor requirement where a firm was carrying on investment services and/or activities immediately before MIFIDPRU began to apply, but does not have the historical data necessary to calculate the relevant K-factor metric.

(3) MIFIDPRU TP 4 is not relevant to the calculation of the following elements of the K-factor requirement, as they do not use historical data:

(1) the K-NPR requirement;

(2) the K-TCD requirement; and

(3) the K-CON requirement.

(4) MIFIDPRU TP 4 does not apply to the extent that a firm modifies its permissions on or after [Editor’s note: insert the date on which MIFIDPRU begins to apply] to carry on new investment services and/or activities. In that case, to the extent relevant to the new activity, the rules in MIFIDPRU 4 specify that the firm should use the information in the business projections submitted with its application for a variation of permission to calculate the relevant K-factor metric until historical data becomes available.

Duration

4.4 G The duration of the transitional arrangements in MIFIDPRU TP 4 depends on the relevant K-factor metric. Under MIFIDPRU TP 4.5.R(3), the transitional arrangements cease to apply once a firm has (or should have) collected sufficient historical information to perform the necessary calculations in accordance with the standard calculation rules for the relevant K-factor metric in MIFIDPRU 4.

Missing historical data for K-factor calculations: transitional for individual MIFIDPRU firms
4.5 R (1) This rule applies to the extent that a MIFIDPRU investment firm does not have the necessary historical data to calculate the K-factor metric required for any of the following in accordance with the relevant rules in MIFIDPRU 4:

(a) its K-AUM requirement;
(b) its K-CMH requirement;
(c) its K-ASA requirement;
(d) its K-COH requirement;
(e) its K-DTF requirement; or
(d) its K-CMG requirement.

(2) Subject to MIFIDPRU TP 4.13R(2)(a), where this rule applies, a firm may either:

(a) use reasonable estimates to fill any missing historical data points in the calculation of the relevant K-factor metric; or

(b) by way of derogation from the standard calculation rules in MIFIDPRU 4, use the modified calculation in MIFIDPRU TP 4.11R to calculate the relevant K-factor metric.

(3) This rule ceases to apply in relation to a K-factor metric on the earlier of the following:

(a) the date on which the firm has collected sufficient historical information to calculate the K-factor metric in accordance with the standard calculation rules in MIFIDPRU 4; or

(b) the date that falls n months after the date on which MIFIDPRU first began to apply, where n is the number of months’ worth of data points required to calculate that K-factor metric in accordance with the standard calculation rules in MIFIDPRU 4.

4.6 G (1) MIFIDPRU TP 4.5R(3) specifies the date on which the transitional arrangements for calculating a K-factor metric will cease to apply and the firm will therefore need to use the standard calculation rules in MIFIDPRU 4 in relation to that K-factor metric. This date may vary depending on the position of the individual firm.
(2) Under MIFIDPRU TP 4.5R(3)(a), once a firm has sufficient historical information to perform the calculation in the standard way, it is no longer permitted to use either reasonable estimates for missing data points or to use the modified calculation in MIFIDPRU 4.11R. For example, on the date on which MIFIDPRU begins to apply, Firm A already has historical data on its AUM covering the previous 10 months. The standard calculation of AUM in MIFIDPRU 4 requires 15 months of historical data. Since the firm must begin collecting AUM data no later than the date that MIFIDPRU begins to apply, the firm will have sufficient data to perform the standard calculation 5 months later. At that point, the transitional arrangements under MIFIDPRU TP 4 will no longer apply to the firm’s calculation of AUM.

(3) MIFIDPRU TP 4.5R(3)(b) acts as a “long-stop” date for the transitional arrangements under MIFIDPRU TP 4. Since a firm must begin collecting data on its K-factor metrics no later than the date that MIFIDPRU begins to apply, all MIFIDPRU investment firms should have sufficient historical data to perform the standard calculation of a K-factor metric once sufficient months have elapsed to cover at least the standard calculation period for that K-factor metric. For example, the standard calculation for CMH requires 9 months of historical data. For the purposes of MIFIDPRU TP 4.5.R(3)(b), the value of n is therefore 9, and the transitional arrangements under MIFIDPRU TP 4 will cease to apply in relation to the calculation of CMH 9 months after MIFIDPRU first begins to apply.

4.7 R (1) A firm must apply its chosen approach under MIFIDPRU TP 4.5R(2) consistently in relation to a specific K-factor metric.

(2) A firm may apply different approaches under MIFIDPRU TP 4.5R(2) in relation to different K-factor metrics.

4.8 G MIFIDPRU TP 4.7R prevents a firm from changing its approach to missing historical data points in relation to a particular K-factor. For example, if a firm is missing the necessary historical data points and chooses to apply the modified calculation in MIFIDPRU TP 4.11R to determine AUM, it cannot subsequently decide to estimate the missing values for AUM instead. However, a firm may choose, for example, to use reasonable estimates for missing values for AUM, but to apply the modified calculation in MIFIDPRU TP 4.11R for the purposes of missing values for COH. In the example, this could reflect the fact that the firm has a reasonable basis on which to estimate AUM, but is unable to produce reasonable estimates for COH.
A firm that uses reasonable estimates in accordance with MIFIDPRU TP 4.5R(2)(a) must, upon request, provide a reasonable explanation to the FCA of how it has determined the relevant estimates.

If a firm does not have a reasonable basis on which to estimate missing historical data points in relation to a K-factor metric, it should apply the modified calculation in MIFIDPRU TP 4.11R.

(1) A firm that is using the modified calculation for determining a K-factor metric, other than in relation to the K-CMG requirement, must apply the following requirements:

(a) the firm must calculate the arithmetic mean of the daily values (or in the case of AUM, monthly values) for the K-factor metric over the previous n months, excluding the most recent y months;

(b) n is the number of months that have elapsed since MIFIDPRU began to apply (with the month during which MIFIDPRU begins to apply being counted as month 1);

(c) y is the greater of the following:

   (i) zero; or

   (ii) n minus x; and

(d) x is a fixed value, being:

   (i) 12 in the case of AUM;

   (ii) 6 in the case of CMH, ASA or DTF; and

   (iii) 3 in the case of COH.

(2) A firm that is using the modified calculation for determining the level of margin for the purposes of the K-CMG requirement must apply the following requirements:

(a) the firm must calculate the third highest amount of total margin as calculated under MIFIDPRU 4.13.5R required from the firm on a daily basis over the preceding n months; and

(b) n is the number of months that have elapsed since MIFIDPRU began to apply (with the month during which MIFIDPRU begins to apply being counted as month 1).
4.12 G  (1) The following are worked examples of the modified calculation in *MIFIDPRU* TP 4.11R.

(2) Firm A has chosen to apply the modified calculation in relation to *AUM*. *MIFIDPRU* has been in force for 6 months. Firm A would calculate its *AUM* as follows:

(i) The value of \( n \) is 6, being the length of time that *MIFIDPRU* has been in force.

(ii) The value of \( y \) is zero, as zero is greater than \( n \) minus \( x \) (i.e. 6 minus 12). This means that Firm A must not exclude any of the most recent *months* of daily figures.

(iii) When calculating *AUM* for present purposes, Firm A must therefore calculate the arithmetic mean of the previous 6 *months* of daily values for *AUM*.

(3) Firm B applies the modified calculation in relation to *COH*, as it is unable to generate reasonable estimates for missing data points for *COH*. *MIFIDPRU* has been in force for 4 months. Firm B would calculate its *COH* as follows:

(i) The value of \( n \) is 4, being the length of time that *MIFIDPRU* has been in force.

(ii) The value of \( y \) is 1, as \( n \) minus \( x \) (i.e. 4 minus 3) is greater than zero.

(iii) When calculating *COH* for present purposes, Firm B must therefore calculate the arithmetic mean of the previous 4 *months* of daily values for *COH*, excluding the values for the most recent *month*.

(4) *MIFIDPRU* has been in force for 10 *months*. Although Firm C would like to apply the modified calculation in relation to *CMH*, under *MIFIDPRU* TP 4.5R(3)(b), this is not permitted. This is because the standard calculation of *CMH* under *MIFIDPRU* 4 requires only 9 *months* of daily values. Firm C should therefore have collected sufficient data by that time to be able to apply the standard calculation.

Missing historical data for K-factor calculations: transitional for investment firm groups to which consolidation applies

4.13 R  (1) If the conditions in (2) are met, a *UK parent entity* may apply the transitional arrangements in *MIFIDPRU* TP 4.5R to 4.11R, as modified by *MIFIDPRU* TP 4.14R, when calculating *K-factor metrics* on a *consolidated basis*.

(2) The conditions are as follows:
(a) to the extent that it is relying on the transitional arrangements in MIFIDPRU TP 4, each MIFIDPRU investment firm in the investment firm group must apply the same approach under MIFIDPRU TP 4.5R(2) in relation to calculating a specific K-factor metric on an individual basis; and

(b) the UK parent entity must apply the same approach under MIFIDPRU TP 4.5R(2) in relation to calculating a specific K-factor metric on a consolidated basis as the firms in (a) have applied on an individual basis.

4.14 R Where a UK parent entity is applying MIFIDPRU TP 4.5R to 4.11R in accordance with MIFIDPRU TP 4.13R, the following modifications apply:

(1) references to a “K-factor metric” shall be read as references to that K-factor metric as it applies on a consolidated basis;

(2) references to the “K-AUM requirement”, “K-COH requirement”, “K-ASA requirement”, “K-CMH requirement”, “K-DTF requirement” or “K-CMG requirement” shall be read as references to those requirements as they apply on a consolidated basis;

(3) references to MIFIDPRU 4 shall be read as references to that chapter as it applies on a consolidated basis in accordance with MIFIDPRU 2.5; and

(4) references to a “firm” should be read as references to the UK parent entity.

4.15 G (1) Under MIFIDPRU 2.5, third country entities that would be MIFIDPRU investment firms if they were established in the UK may contribute towards a consolidated K-factor metric. A UK parent entity may rely on the transitional arrangements in MIFIDPRU TP 4 in relation to missing data points relating to such entities that the UK parent entity requires to calculate the consolidated K-factor requirement.

(2) However, UK parent entities are reminded that under MIFIDPRU 2.5.9R, they are responsible for ensuring that any subsidiaries that are not subject to MIFIDPRU (including third country entities) implement the necessary arrangements to ensure that the UK parent entity can comply with consolidated requirements. As a result, the guidance in MIFIDPRU TP 4.6G(2) is equally applicable in relation to third country entities within the investment firm group, which must ensure that they begin to collect the necessary data once MIFIDPRU begins to apply.
Part 2: Come into force on [Editor’s note: insert date one month before the application date specified for Part 1]

TP 5  Advance data collection

Application

5.1  R  MIFIDPRU TP 5 applies to:

(1)  a MIFIDPRU investment firm; and

(2)  a UK parent entity.

Duration

5.2  R  MIFIDPRU TP 5 applies from [Editor’s note: insert date one month before the date on which MIFIDPRU applies in full] until [Editor’s note: insert date on which MIFIDPRU applies in full] (the “relevant period”).

Purpose

5.3  G  (1)  MIFIDPRU TP 5 requires MIFIDPRU investment firms and UK parent entities to begin collecting data on K-factor metrics one month before the MIFIDPRU sourcebook begins to apply in full.

(2)  If firms and parent undertakings will be using the alternative calculation in MIFIDPRU TP 4 after MIFIDPRU begins to apply in full, the data covering the relevant period will allow them to calculate their K-factor requirement during the first month.

(3)  If firms and parent undertakings will be using the reasonable estimates approach in MIFIDPRU TP 4 after MIFIDPRU begins to apply in full, the data covering the relevant period will provide at least one month’s observed historical data which must be used in the relevant calculations. The observed data may also be helpful for verifying whether any remaining estimated historical data points are reasonable.

Requirement to collect data on K-factor metrics

5.4  R  (1)  A MIFIDPRU investment firm or UK parent entity must collect the required information in (2) throughout the relevant period.

(2)  The required information is:
in the case of a \textit{MIFIDPRU investment firm}, data on the \textit{K-factor metrics} that the \textit{firm} would be required to collect to calculate its individual \textit{K-factor requirement} if \textit{MIFIDPRU} applied in full; and

(b) in the case of a \textit{UK parent entity}, data on the \textit{K-factor metrics} that the \textit{investment firm group} would be required to collect to calculate its \textit{K-factor requirement} on a \textit{consolidated basis} if \textit{MIFIDPRU} applied in full.

5.5 \textit{G} \textit{MIFIDPRU TP 5.4R} only requires a \textit{firm} or \textit{parent undertaking} to collect data on \textit{K-factor metrics} that are relevant to the \textit{investment services/and or activities} that it undertakes (or in the case of a \textit{parent undertaking}, that relevant entities within its \textit{investment firm group} undertake).
Annex B

Amendments to the Glossary of definitions

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

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

ASA  assets safeguarded and administered

assets safeguarded and administered  [Editor’s note: This definition will be published in a subsequent CP.]

assets under management  [Editor’s note: This definition will be published in a subsequent CP.]

AUM  assets under management

cash trade  (in MIFIDPRU) means an order relating to the purchase or sale of a financial instrument that is:

(1) referred to in paragraphs 1 to 3 of Part 1 of Schedule 2 to the Regulated Activities Order; or

(2) an exchange-traded option.

clearing margin given  the total margin required by a clearing member or CCP, where the execution and settlement of transactions of a MIFIDPRU investment firm’s dealing on own account take place under the responsibility of a clearing member or CCP.

client money held  the MIFID client money that a MIFIDPRU investment firm holds, taking into account the legal arrangements in relation to asset segregation and irrespective of the accounting regime applicable to client money held by the MIFIDPRU investment firm.

client orders handled  the value of orders that a MIFIDPRU investment firm handles for clients through:

(1) the reception and transmission of client orders; and

(2) the execution of orders on behalf of clients in the name of the client.

CMG  clearing margin given

CMH  client money held
CMV  current market value

COH  client orders handled

**commodity and emission allowance dealer**  a MIFIDPRU investment firm the main business of which consists exclusively of the provision of investment services and/or activities in relation to:

(1)  commodity derivatives or commodity derivative contracts referred to in paragraphs 5, 6, 7, 9 and 10 of Part 1 of Schedule 2 to the Regulated Activities Order;

(2)  derivatives of emission allowances referred to in paragraph 4 of Part 1 of Schedule 2 to the Regulated Activities Order; or

(3)  emission allowances referred to in paragraph 11 of Part 1 of Schedule 2 to the Regulated Activities Order.

**CON own funds requirement**  the own funds requirement calculated in accordance with MIFIDPRU 5.7.2R that relates to a concentrated exposure to a client or group of connected clients.

**concentration risk**  the risks arising from the strength or extent of a firm’s relationships with, or direct exposure to, a single client or group of connected clients.

**concentration risk soft limit**  the limit specified in MIFIDPRU 5.5.1R on the exposure value a firm has to a client or a group of connected clients, above which a firm is required to calculate the K-CON requirement.

**connected undertaking**  has the meaning in MIFIDPRU 2.4.6R.

**daily trading flow**  the daily value of transactions that a MIFIDPRU investment firm enters through:

(1)  dealing on own account; or

(2)  the execution of orders on behalf of clients in the firm’s own name.

**derivatives trade**  (in MIFIDPRU) means an order relating to the purchase or sale of a financial instrument that is not a cash trade.

**DTF**  daily trading flow

**EV**  (in MIFIDPRU 5) the exposure value

**EVE**  (in MIFIDPRU 5) the exposure value excess
exposure value (in MIFIDPRU 5) the value of a firm’s exposure to a client or group of connected clients, calculated in accordance with MIFIDPRU 5.4.

exposure value excess (in MIFIDPRU 5) the value by which a firm’s exposure to a client or group of connected clients exceeds the concentration risk soft limit, calculated in accordance with MIFIDPRU 5.5.3R.

group capital test the requirement in MIFIDPRU 2.6.5R.

ICARA process [Editor’s note: This definition will be published in a subsequent CP.]

investment advice of an ongoing nature the recurring provision of investment advice as well as the continuous or periodic assessment and monitoring or review of a client portfolio of financial instruments, including of the investments undertaken by the client on the basis of a contractual arrangement.

investment firm group (1) (in MIFIDPRU 2.4, and in any other provision which refers to a group to which MIFIDPRU 2.5 applies) a group of undertakings which:

(a) consists of a parent undertaking (including an undertaking that is deemed to be a parent undertaking for the purposes of MIFIDPRU 2.5) and:

(i) the subsidiaries and connected undertakings of that parent undertaking; and

(ii) the connected undertakings of the subsidiaries of that parent undertaking;

(b) includes at least one MIFIDPRU investment firm; and

(c) does not include a subsidiary which is a UK credit institution.

(2) (in any provision which refers to a group to which MIFIDPRU 2.6 applies) a group of undertakings which:

(a) consists of a parent undertaking and its subsidiaries;

(b) includes at least one MIFIDPRU investment firm; and

17 The FCA will consult on detailed proposals for the individual capital adequacy and risk assessment (ICARA) process in a subsequent consultation paper.
investment holding company  

(a) does not include a *UK credit institution*.

a financial institution which meets all of the following conditions:

(1) its subsidiaries are exclusively or mainly *investment firms* or *financial institutions*;

(2) at least one of its subsidiaries is a *MIFIDPRU investment firm*; and

(3) its subsidiaries do not include a *UK credit institution*.

For the purposes of this definition, the subsidiaries of a financial institution are “mainly” investment firms or financial institutions where:

(a) more than 50% of the financial institution’s equity, consolidated assets, capital deployed, revenues, expenses, personnel or customers are associated with subsidiaries that are investment firms or financial institutions; or

(b) the group containing the financial institution and its subsidiaries has been structured in an artificial manner to avoid exceeding the threshold in (a).

*K-ASA requirement*  the part of the *K-factor requirement* calculated on the basis of the ASA of a *MIFIDPRU investment firm* in accordance with *MIFIDPRU* [4.9].

*K-AUM requirement*  the part of the *K-factor requirement* calculated on the basis of the AUM of a *MIFIDPRU investment firm* in accordance with *MIFIDPRU* [4.7].

*K-CMG permission*  a permission granted to a *MIFIDPRU investment firm* in accordance with *MIFIDPRU* 4.13.9R permitting the firm to calculate a *K-CMG requirement* in respect of a portfolio.

*K-CMG requirement*  the part of the *K-factor requirement* calculated in accordance with *MIFIDPRU* 4.13 in relation to portfolios for which the firm has been granted a *K-CMG permission*.

*K-CMH requirement*  the part of the *K-factor requirement* calculated on the basis of the CMH of a *MIFIDPRU investment firm* in accordance with *MIFIDPRU* [4.8].

*K-COH requirement*  the part of the *K-factor requirement* calculated on the basis of the COH of a *MIFIDPRU investment firm* in accordance with *MIFIDPRU* [4.10].
**K-CON requirement** the part of the *K-factor requirement* that accounts for *concentration risk* in the *trading book* of a *MIFIDPRU investment firm*, calculated in accordance with *MIFIDPRU 5.7*.

**K-DTF requirement** the part of the *K-factor requirement* calculated on the basis of the *DTF* of a *MIFIDPRU investment firm* in accordance with *MIFIDPRU 4.15*.

**K-NPR requirement** the part of the *K-factor requirement* calculated on the basis of the *NPR* of a *MIFIDPRU investment firm* in accordance with *MIFIDPRU 4.12* where the firm is dealing on own account (whether on its own behalf or on behalf of its clients) and the relevant positions do not form part of a *portfolio* for which the firm has been granted a *K-CMG permission*.

**K-TCD requirement** the part of the *K-factor requirement* calculated in accordance with *MIFIDPRU 4.14* that is based on the transactions listed in *MIFIDPRU 4.14.3R* and not otherwise excluded by *MIFIDPRU 4.14.5R* or *MIFIDPRU 4.14.6R*, where those transactions are:

1. recorded in the *trading book* of a *firm dealing on own account* (whether or itself or on behalf of a *client*); or
2. in the case of transactions specified in *MIFIDPRU 4.14.3R(7)*, undertaken by a *firm* that has the necessary *permissions to deal on own account*.

**K-factor metric** any of the following:

1. ASA;
2. AUM;
3. CMG;
4. CMH;
5. COH;
6. CON;
7. DTF;
8. NPR; and
9. TCD.

**K-factor requirement** the part of the *own funds requirement* calculated in accordance with *MIFIDPRU 4.6*. 

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Page 173 of 235
**liquid assets**

[Editor’s note: The FCA will consult on this definition in a subsequent consultation paper.]

**majority common management**

a relationship between an undertaking (“A”) and another undertaking (“B”) where:

1. A and B are not connected by virtue of being a parent undertaking and subsidiary undertaking in accordance with section 1162 (read together with Schedule 7) of the Companies Act 2006; and

2. the administrative, management or supervisory bodies of A and B consist, for the major part, of the same persons in office during the financial year in respect of which it is being decided whether such a relationship exists.

**Market Risk Model Extensions and Changes RTS**


**MIFID client money**

(in MIFIDPRU) money that a MIFIDPRU investment firm receives from, or holds for or on behalf of, a client in the course of, or in connection with, its MIFID business. For the purposes of MIFIDPRU, this includes:

1. where such money has been deposited into a client bank account in accordance with CASS 7.13.3R;

2. where a MIFIDPRU investment firm has placed such money in a qualifying money market fund in accordance with CASS 7.13.3R(4); and

3. any amount of such money which a MIFIDPRU investment firm has allowed a third party to hold in accordance with CASS 7.14.]^{18}

**MIFIDPRU**

the Prudential sourcebook for MiFID Investment Firms.

**MIFIDPRU-eligible institution**

(in MIFIDPRU 5) means

1. a MIFIDPRU investment firm;

2. a UK credit institution;

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^{18} The FCA will consult on the rules relating to the calculation of K-CMH and the definition of “client money held” and “MiFID client money” for these purposes in a subsequent consultation. This draft definition is provided here for context in this consultation paper.
(3) a UK designated investment firm;
(4) a MIFIDPRU-eligible third country investment firm; or
(5) a MIFIDPRU-eligible third country credit institution.

**MIFIDPRU-eligible third country investment firm** an investment firm which satisfies the following conditions:

1. its registered office or, if it has no registered office, its head office is outside the UK;
2. it is authorised by a third country competent authority in the state or territory in which the investment firm’s head office is located; and
3. the investment firm is subject to prudential supervisory and regulatory requirements in that state or territory which are comparable to those applied in the UK.

**MIFIDPRU-eligible third country credit institution** a credit institution which satisfies the following conditions:

1. its registered office or, if it has no registered office, its head office is outside the UK;
2. it is authorised by a third country competent authority in the state or territory in which the credit institution’s head office is located; and
3. the credit institution is subject to prudential supervisory and regulatory requirements in that state or territory which are comparable to those applied in the UK.

**MIFIDPRU investment firm** an FCA investment firm as defined in [section 143A of the Act].

In summary, this is an investment firm that meets the following conditions:

1. it is an authorised person;
2. it is not a designated investment firm;
3. it has its registered office or, if it has no registered office, its head office in the UK;
4. it is not a person who is excluded from the definition of an “investment firm” in article 3(1) of the Regulated Activities Order by paragraphs (a) or (b) of that definition; and

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19 Editor’s note: This definition is based on the definition in the Financial Services Bill, as introduced in the House of Commons on 20 October 2020. This definition may change if the Bill is amended during the parliamentary process.
(5) it is not an investment firm that has a Part 4A permission to carry on regulated activities as an exempt investment firm within the meaning of regulation 8 of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017.

net position risk the value of the following positions of a MIFIDPRU investment firm:

(1) trading book positions; and
(2) positions other than trading book positions where such positions give rise to foreign exchange risk or commodity risk.

non-financial sector entity an entity which is not a financial sector entity.

non-segregated account (in MIFIDPRU) any account that is not a segregated account.

non-SNI MIFIDPRU investment firm a MIFIDPRU investment firm that is not an SNI MIFIDPRU investment firm.

NPR net position risk

OFR (in MIFIDPRU 5) the own funds requirement for exposures to a client or group of connected clients calculated in accordance with MIFIDPRU 5.7.3R(2).

OFRE (in MIFIDPRU 5) the own funds requirement for the excess calculated in accordance with MIFIDPRU 5.7.3R(1).

own funds requirement the requirement for a MIFIDPRU investment firm to maintain a minimum level of own funds specified in MIFIDPRU 4.3.\(^\text{20}\)

permanent minimum capital requirement the part of the own funds requirement calculated in accordance with MIFIDPRU 4.4.

portfolio (in relation to the K-CMG requirement or a K-CMG permission) either:

(1) all the trading book positions attributable to a specific trading desk within the firm; or

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\(^{20}\) Editor’s note: It is the FCA’s intention that MIFIDPRU 4.3 will contain the draft rules specifying the basic own finds requirement for a MIFIDPRU investment firm. This will be the higher of the fixed overheads requirement and the permanent minimum capital requirement for an SNI investment firm, and the highest of the fixed overheads requirement, permanent minimum capital requirement and K-factor requirement for a non-SNI firm. These draft rules will be published in a subsequent consultation paper.
positions held with trading intent

any of the following:

(a) proprietary positions and positions arising from client servicing and market making;

(b) positions intended to be resold in the short term;

(c) positions intended to benefit from actual or expected short-term price differences between buying and selling prices or from other price or interest rate variations.

relevant financial undertaking

any of the following:

(1) an investment firm;

(2) a financial institution;

(3) an ancillary services undertaking; or

(4) a tied agent.

responsible UK parent

(for the purposes of the group capital test) an undertaking (“A”) in relation to which all of the following conditions are satisfied:

(1) A is incorporated in the UK or has its registered office (or, if it has no registered office, its head office) in the UK;

(2) A is part of an investment firm group;

(3) A is the parent undertaking of an undertaking established in a third country (“B”);

(4) B:

(a) is a parent undertaking; and

(b) would be a relevant financial undertaking if B were established in the UK; and

(5) A does not have a subsidiary which:

(a) is incorporated in the UK or has its registered office (or, if it has no registered office, its head office) in the UK; and

(b) is a parent undertaking of B.
segregated account  [Editor’s note: the FCA will consult on this definition in a subsequent consultation.]

SNI MIFIDPRU investment firm  a MIFIDPRU investment firm that is classified as an SNI investment firm in accordance with MIFIDPRU 1.2.

TCD  trading counterparty default

TCD own funds requirement  the own funds requirement calculated in accordance with MIFIDPRU 4.14.17R which applies to the transactions specified in MIFIDPRU 4.14.1R(2).


trading desk  an identified group of individuals established by a firm for the joint management of one or more portfolios of trading book positions in accordance with a well-defined and consistent business strategy, operating under the same risk management structure.

UK credit institution  a credit institution that meets the definition of “CRR firm” under article 4(1)(2A) of the UK CRR.

UK investment holding company  an investment holding company that is incorporated in the United Kingdom or that has its registered office (or, if it has no registered office, its head office) in the United Kingdom.

UK mixed-activity holding company  a mixed-activity holding company that is incorporated in the United Kingdom or that has its registered office (or, if it has no registered office, its head office) in the United Kingdom.

UK mixed financial holding company  a mixed financial holding company that is incorporated in the United Kingdom or that has its registered office (or, if it has no registered office, its head office) in the United Kingdom.

UK parent entity  any of the following:

1. a UK parent investment firm;
2. a UK parent investment holding company; or
3. a UK mixed financial holding company.

UK parent investment firm  a MIFIDPRU investment firm which:

1. is part of an investment firm group;
2. either holds a participation in or has as a subsidiary:
(a) a MIFIDPRU investment firm;
(b) a designated investment firm; or
(c) a financial institution; and

(3) is not a subsidiary of:

(a) a MIFIDPRU investment firm; or
(b) an investment holding company or mixed financial holding company that is incorporated in the UK or that has its registered office (or, if it has no registered office, its head office) in the UK.

**UK parent investment holding company**

an investment holding company incorporated in the UK or that has its registered office (or, if it has no registered office, its head office) in the UK which:

(1) is part of an investment firm group; and

(2) is not a subsidiary of:

(a) a MIFIDPRU investment firm; or
(b) an investment holding company or mixed financial holding company that is incorporated in the UK or that has its registered office (or, if it has no registered office, its head office) in the UK.

**UK parent mixed financial holding company**

a mixed financial holding company incorporated in the UK or that has its registered office (or, if it has no registered office, its head office) in the UK which:

(1) is part of an investment firm group; and

(2) is not a subsidiary of:

(a) a MIFIDPRU investment firm; or
(b) an investment holding company or mixed financial holding company that is incorporated in the UK or that has its registered office (or, if it has no registered office, its head office) in the UK.

Amend the following definitions as shown.

**additional tier 1 capital**

(1) (in MIFIDPRU) as defined in article 61 of the UK CRR, as applied and modified by the requirements in MIFIDPRU 3.4.
(2) (except in MIFIDPRU) as defined in article 61 of the UK CRR.

additional tier 1 instrument

(1) (in relation to an instrument issued by a MIFIDPRU investment firm) a capital instrument that qualifies as an additional tier 1 capital instrument under article 52 of the UK CRR as applied and modified by the requirements in MIFIDPRU 3.4.

(2) (in any other case) a capital instrument that qualifies as an additional tier 1 capital instrument under article 52 of the UK CRR.

central counterparty

(for the purpose of BIPRU 13 (The calculation of counterparty risk exposure values for financial derivatives, securities financing transactions and long settlement transactions)) an entity that legally interposes itself between counterparties to contracts traded within one or more financial markets, becoming the buyer to every seller and the seller to every buyer.

client

… … …

(B) in the FCA Handbook:

(1) (except in PROF, in MIFIDPRU 5, in relation to a credit-related regulated activity, in relation to a home finance transaction and in relation to insurance risk transformation and activities directly arising from insurance risk transformation) has the meaning given in COBS 3.2, that is (in summary and without prejudice to the detailed effect of COBS 3.2) a person to whom a firm provides, intends to provide or has provided a service in the course of carrying on a regulated activity, or in the case of MiFID or equivalent third country business, an ancillary service:

…

(2A) (in MIFIDPRU 5) means any counterparty of the investment firm.

…

client money ...

Page 180 of 235
common equity tier 1 capital

(1) (in MIFIDPRU) as defined in article 50 of the UK CRR, as applied and modified by the requirements in MIFIDPRU 3.3.

(2) (except in MIFIDPRU) as defined in article 50 of the UK CRR.

consolidated basis

has the meaning in article 4(1)(48) of the UK CRR. means on the basis of the consolidated situation.

consolidated situation

has the meaning in article 4(1)(47) of the UK CRR. the situation that results from applying the requirements in MIFIDPRU 3, 4, 5, [8] and 9\(^2\) in accordance with MIFIDPRU 2.5 to a UK parent entity as if that undertaking formed, together with all the investment firms, financial institutions, ancillary services undertakings and tied agents in the investment firm group, a single MIFIDPRU investment firm.

For the purpose of this definition, the terms investment firm, financial institution, ancillary services undertaking and tied agent shall also apply to undertakings established in other countries, which, were they established in the UK, would fulfil the definitions of those terms.

control

(1) (except in (2) and (2A) (2), (2A) and (2B))

…

(2B) (in MIFIDPRU 5) the relationship between a parent undertaking and a subsidiary undertaking, as defined in section 1162 of the Companies Act 2006, or the accounting standards to which an undertaking is subject under section 403(1) of the Companies Act 2006, or a similar relationship between a natural or legal person and an undertaking.

(3) (except in (2) and (2A) (2), (2A) and (2B)) …

…

(4) (except in (2) and (2A) (2), (2A) and (2B)) …

\(^2\) The FCA will consult on any remaining content of MIFIDPRU 4 and 9 and on the content of MIFIDPRU 8 in a subsequent consultation.
convertible

(5) (except in (2) and (2A) (2), (2A) and (2B)) …

…

current market value

(for the purpose of BIPRU 13.5 (CCR standardised method)) the net market value of the portfolio of transactions within the netting set with the counterparty; both positive and negative market values are used in computing current market value, the net market value of the portfolio of transactions or securities legs subject to netting in accordance with MIFIDPRU 4.14.28R (Netting), where both positive and negative market values are used in computing CMV.

data element

A discrete fact or individual piece of information relating to a particular field within a data item required to be submitted to the appropriate regulator by a firm or other regulated entity or parent undertaking.

data items

One or more related data elements that are grouped together into a prescribed format and required to be submitted by:

(1) a firm or other regulated entity under SUP 16 or provisions referred to in SUP 16; or

(2) a MIFIDPRU investment firm or a parent undertaking under MIFIDPRU 9.

financial holding company

A financial institution that fulfils the following conditions:

(4) (except in (2)) has the meaning in article 4(1)(20) of the UK CRR.

(2) (in GENPRU (except GENPRU 3) and BIPRU (except BIPRU 12)) a financial institution that fulfils the following conditions:

(a) its subsidiary undertakings are exclusively or mainly CAD investment firms or financial institutions;

(b) at least one of those subsidiary undertakings is a CAD investment firm; and

(b) it is not a mixed financial holding company.

financial institution ...
(5) (for the purposes of MIFIDPRU) an undertaking that fulfils the following conditions:

(a) it is a financial holding company, a mixed financial holding company, an investment holding company, an authorised payment institution or an asset management company, or any other undertaking the principal activity of which is to acquire holdings or to pursue one or more of the Annex 1 activities; and

(b) it is not one of the following:

(i) a UK credit institution;

(ii) a MIFIDPRU investment firm;

(iii) a pure industrial holding company; or

(iv) an insurance holding company or mixed-activity insurance holding company, as defined in the PRA Rulebook.

fixed overheads requirement

(1) (except in IPRU(INV)) and for the purposes of GENPRU (except GENPRU 3 and BIPRU (except BIPRU 12)) the part of the capital resources requirement calculated in accordance with GENPRU 2.1.53R (Calculation of the fixed overheads requirement), [deleted]

(2) (in IPRU(INV)) the part of the own funds requirement calculated in accordance with IPRU(INV) 11.3.3R (Fixed overheads requirement).

(3) (in MIFIDPRU) the part of the own funds requirement calculated in accordance with MIFIDPRU [4.5].

group of connected clients

has the meaning given to it in article 4.1(39) of the UK CRR. (in MIFIDPRU 5) has the meaning in MIFIDPRU 5.1.12R to 5.1.16R.

initial capital

…

(4) (in the case of a BIPRU firm) capital resources included in stage A (Core tier one capital) of the capital resources table plus capital resources included in stage B of the capital resources table (Perpetual non-cumulative preference shares), [deleted]

(5) [deleted]
(6) (for the purposes of the definition of dealing on own account in BIPRU and in the case of an undertaking not falling within (3) or (4)) capital resources calculated in accordance with (3) and paragraphs (3) and (4) of the definition of capital resources. [deleted]

(7) (in IPRU(INV) 13) the initial capital of a firm calculated in accordance with IPRU(INV) 13.1A.6R.

(8) (for an IFPRU investment firm) the amount of own funds referred to in article 26(1)(a) to (e) of the UK CRR and calculated in accordance with Part Two of those Regulations (Own funds). [Note: article 28(1) of CRD] [deleted]

(9) (for the purpose of the definition of dealing on own account in IFPRU) the amount of own funds referred to in article 26(1)(a) to (e) of the UK CRR and calculated in accordance with Part Two of those Regulations (Own funds); [deleted]

(10) (for a MIFIDPRU investment firm) the amount of own funds that is required for authorisation as a MIFIDPRU investment firm in accordance with MIFIDPRU 4.2.1R.

institution has the meaning in article 4(1)(3) of the UK CRR.

(2) (for the purposes of GENPRU and BIPRU MIFIDPRU) includes a CAD investment firm, a UK credit institution or a designated investment firm.

long settlement transaction a transaction where a counterparty undertakes to deliver a security, a commodity, or a foreign currency amount against cash, other CRD financial instruments, or commodities, or vice versa, at a settlement or delivery date that is contractually specified as more than the lower of specified by contract that is later than the market standard for this particular type of transaction and or five business days after the date on which the person enters into the transaction whichever is earlier.

[Note: Part 1 of Annex III of the Banking Consolidation Directive (Definitions)]

margin lending transaction for the purpose of BIPRU 13 (The calculation of counterparty risk exposure values for financial derivatives, securities financing transactions and long settlement transactions)) transactions in which a person extends credit in connection with the purchase, sale, carrying or trading of securities; the definition does not include other loans that happen to be secured by securities collateral.
[Note: Part I of Annex III of the Banking Consolidation Directive (Definitions)]

has the meaning in point (10) of article 3 of the SFTR.

mixed-activity holding company

(1)  (in IFPRU 11, SUP 16 and SYSC 12) has the meaning given to the definition of “mixed activity holding company” in article 4(1)(22) of the UK CRR;

(2)  (in MIFIDPRU) a parent undertaking that meets the following conditions:

(a)  its subsidiaries include at least one MIFIDPRU investment firm; and

(b)  it is not a financial holding company, an investment holding company, a credit institution, an investment firm or a mixed financial holding company.

netting set

(for the purpose of BIPRU 13 (The calculation of counterparty risk exposure values for financial derivatives, securities financing transactions and long settlement transactions)) a group of transactions with a single counterparty that are subject to a legally enforceable bilateral netting arrangement and for which netting is recognised under BIPRU 13.7 (Contractual netting), BIPRU 5 (Credit risk mitigation) and, if applicable, BIPRU 4.10 (The IRB approach: Credit risk mitigation); each transaction that is not subject to a legally enforceable bilateral netting arrangement, which is recognised under BIPRU 13.7 must be interpreted as its own netting set for the purpose of BIPRU 13. Under the method set out at BIPRU 13.6, all netting sets with a single counterparty may be treated as a single netting set if negative simulated market values of the individual sets are set to zero in the estimation of expected exposure (EE).


(in MIFIDPRU) a group of transactions with a single counterparty that meet the conditions in MIFIDPRU 14.14.28R.

own funds

(1)  (in GENPRU (except GENPRU 3 (Cross sector groups) and BIPRU (except BIPRU 12 (Liquidity standards))) own funds as described in articles 56 to 67 of the Banking Consolidation Directive. [deleted]

…

(3A)  (in IPRU(INV) 13) the own funds of a firm calculated in accordance with IPRU(INV) 13.1A.14R (Own funds) for
a personal investment firm that is an exempt CAD firm [deleted]

…

(5) (except in (1) to (4)) has the meaning in article 4(1)(118) of the CRR MIFIDPRU 3.2.1R.

(1) (in relation to an instrument issued by a MIFIDPRU investment firm) capital instruments that qualify as common equity tier 1 instruments, additional tier 1 instruments or tier 2 instruments.

(2) (in relation to a parent undertaking to which the group capital test applies) as defined in MIFIDPRU 2.6.2R.

(3) (in any other case) has the meaning in article 4(1)(119) of the UK CRR.

parent undertaking …

(3) (for the purposes of GENPRU 3, BIPRU 12, IFPRU, SYSC 19A (IFPRU Remuneration Code) and SYSC 19D (Dual-regulated firms Remuneration Code)) has the meaning in article 4(1)(15) of the UK CRR but so that article 4(1)(15)(b) applies for the purpose of GENPRU 3.

[Note: article 2(9) of the Financial Groups Directive]

(4) (for the purposes of MIFIDPRU, [SYSC 19G (MIFIDPRU Remuneration Code)] and otherwise in relation to an investment firm group):

(a) an undertaking which is a parent undertaking under section 1162 of the Companies Act 2006, taken with Schedule 7 to that Act; or

(b) (for the purposes of MIFIDPRU 2.5):

(i) an undertaking referred to in (a); and

(ii) an undertaking that is deemed to be a parent undertaking in accordance with MIFIDPRU 2.4.

participation (4) (for the purposes of GENPRU (except GENPRU 3) and for the purposes of BIPRU (except BIPRU 12) as they apply on a consolidated basis):

(a) a participating interest may be defined according to:
(i) section 421A of the Act where applicable;
or

(ii) paragraph 11(1) of Schedule 10 to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 (SI 2008/410) where applicable; or

(iii) paragraph 8 of Schedule 7 to the Small Companies and Groups (Accounts and Directors' Report) Regulations 2008 (SI 2008/409) where applicable; or

(iv) paragraph 8 of Schedule 4 to the Large and Medium-sized Limited Liability Partnerships (Accounts) Regulations 2008 (SI 2008/1913) where applicable; or

(v) paragraph 8 of Schedule 5 to the Small Limited Liability Partnerships (Accounts) Regulations 2008 (SI 2008/1912) where applicable; or

(b) (otherwise) the direct or indirect ownership of 20% or more of the voting rights or capital of an undertaking;

but excluding the interest of a parent undertaking in its subsidiary undertaking. [deleted]

(2) (except in (1)) has the meaning in article 4(1)(35) of the UK CRR.

*repurchase transaction* (for the purposes of BIPRU) any agreement in which an undertaking or its counterparty transfers securities or commodities or guaranteed rights relating to title to securities or commodities where that guarantee is issued by a designated investment exchange or recognised investment exchange which holds the rights to the securities or commodities and the agreement does not allow an undertaking to transfer or pledge a particular security or commodity to more than one counterparty at one time, subject to a commitment to repurchase them or substituted securities or commodities of the same description at a specified price on a future date specified, or to be specified, by the transferor, being a repurchase agreement for the undertaking selling the securities or commodities and a reverse repurchase agreement for the undertaking buying them.
(Note: article 3(1)(m) of the Capital Adequacy Directive and Article 4(33) of the Banking Consolidation Directive (Definitions))

has the meaning in article 3(9) of the SFTR.

 securities or commodities lending or borrowing transaction

(for the purposes of BIPRU) any transaction in which an undertaking or its counterparty transfers securities or commodities against appropriate collateral subject to a commitment that the borrower will return equivalent securities or commodities at some future date or when requested to do so by the transferor, that transaction being securities or commodities lending for the undertaking transferring the securities or commodities and being securities or commodities borrowing for the undertaking to which they are transferred.

(Note: article 4(34) of the Banking Consolidation Directive and Article 3(1)(n) of the Capital Adequacy Directive (Definitions))

a transaction that falls within the definition in article 3(7) of the SFTR.

 securities financing transaction

(1B) (in CASS and MIFIDPRU) a securities financing transaction as defined in article 3(11) of the SFTR.

 subsidiary

(2) (in relation to MiFID business, other than for the purposes of MIFIDPRU, [SYSC 19G (MIFIDPRU Remuneration Code)] and the definition of an investment firm group) a subsidiary undertaking within the meaning of article 2(10) and article 22 of the Accounting Directive, including any subsidiary of a subsidiary undertaking of an ultimate parent undertaking.

(3) (for the purpose of IFPRU) has the meaning in article 4(1)(16) of the UK CRR, (for the purposes of MIFIDPRU, [SYSC 19G (MIFIDPRU Remuneration Code)] and in the definition of an investment firm group) an undertaking which is a subsidiary undertaking under section 1162 of the Companies Act 2006, read with Schedule 7 to that Act.

 tier 2 capital

(1) (in MIFIDPRU) as defined in article 71 of the UK CRR, as applied and modified by the requirements in MIFIDPRU 3.5.
(2) (except in MIFIDPRU) as defined in article 71 of the UK CRR.

trading book

(1) [deleted]

(2) (in BIPRU and GENPRU in relation to a BIPRU firm) has the meaning in BIPRU 1.2 (Definition of the trading book) which is in summary, all that firm's positions in CRD financial instruments and commodities held either with trading intent or in order to hedge other elements of the trading book, and which are either free of any restrictive covenants on their tradability or able to be hedged. [deleted]

(3) (in BIPRU and GENPRU and in relation to a person other than a BIPRU firm) has the meaning in (2) with references to a firm replaced by ones to a person. [deleted]

(4) (in IFPRU and in relation to an IFPRU investment firm) has the meaning in article 4(1)(86) of the UK CRR. [deleted]

(5) (in DTR) has the meaning in article 4.1(86) of UK CRR.

(6) (in MIFIDPRU) all positions in financial instruments and commodities held by a MIFIDPRU investment firm that are:

(a) positions held with trading intent; or

(b) held in order to hedge positions held with trading intent.

UK CRR

(1) the UK version of Regulation of the European Parliament and the Council on prudential requirements for credit institutions and investment firms (Regulation (EU) No 575/2013) and amending Regulation (EU) No 648/2012, which is part of UK law by virtue of the EUWA.

(2) (in MIFIDPRU TP 2) has the meaning in MIFIDPRU TP 2.5R.
Delete the following definitions. The text is not shown struck through.

**deal on own account**

(1) (for the purposes of GENPRU and BIPRU) has the meaning in BIPRU 1.1.23 R (Meaning of dealing on own account) which is in summary the service referred to in paragraph 3 of Part 3 of Schedule 2 to the Regulated Activities Order, subject to the adjustments in BIPRU 1.1.23R(2) and BIPRU 1.1.23R(3).

(2) (other than in GENPRU and BIPRU) has the meaning in IFPRU 1.1.12 R (Meaning of dealing on own account) which is, in summary, the service referred to in paragraph 3 of Part 3 of Schedule 2 to the Regulated Activities Order, subject to the adjustments in IFPRU 1.1.12R(2) and IFPRU 1.1.12R(3).

**own funds requirements**

as defined in article 92 (Own funds requirements) of the UK CRR.

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**Editor’s note:** There are currently two separate definitions in the Handbook Glossary. One is defined as “deal on own account” and is used for the purposes of referring to the “matched principal” prudential treatment in BIPRU 1.1.23R and IFPRU 1.1.12R. This definition will no longer be necessary under IFPR and is being deleted in this draft instrument. The separate definition of “dealing on own account” refers to the general MiFID activity of trading against proprietary capital resulting in the conclusion of transactions in one or more financial instruments. That definition is being retained. References in the draft rules in this instrument to “deal(s) on own account” should therefore be read as references to carrying on that general MiFID activity, in accordance with the guidance on related expressions in GEN 2.2.7R(2) and GEN 2.2.8G.
Annex C

Amendments to the Supervision manual (SUP)

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

16 Reporting requirements

16.1 Application

…


<table>
<thead>
<tr>
<th>(1) Section(s)</th>
<th>(2) Categories of firm to which section applies</th>
<th>(3) Applicable rules and guidance</th>
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<tr>
<td>…</td>
<td></td>
<td></td>
</tr>
<tr>
<td>SUP 16.18</td>
<td>A full-scope UK AIFM and a small authorised UK AIFM</td>
<td>SUP 16.8.3R</td>
</tr>
<tr>
<td>SUP 16.20</td>
<td>An IFPRU 730k firm and a firm to which MIFIDPRU 4.4.1R applies and a qualifying parent undertaking that is required to send a recovery plan, a group recovery plan or information for a resolution plan to the FCA</td>
<td>Entire Section</td>
</tr>
<tr>
<td>…</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

…

16.3 General provisions on reporting

…

Notifications regarding financial information reporting under the UK CRR

Underwriting agents: submission to the Society of Lloyd’s

Service of Notices Regulations
16.3.22 G The Financial Services and Markets Act 2000 (Service of Notices) Regulations 2001 (SI 2001/1420) contain provisions relating to the service of documents on the FCA. They do not apply to reports required under SUP 16, because of the specific rules in this section.

…

16.3.26 G Examples of reports covering a group are:

(1) the compliance reports required from banks under SUP 16.6.4R;

(2) annual controllers reports required under SUP 16.4.5R;

(3) annual close links reports required under SUP 16.5.4R

(4) consolidated financial reports required from banks under SUP 16.12.5R;

(5) consolidated reporting statements required from securities and futures firms under SUP 16.12.11R;

(6) reporting in relation to defined liquidity groups under SUP 16.12.

…

16.7A Annual report and accounts

…

Requirement to submit annual report and accounts

16.7A.3 R A firm in the RAG in column (1) and which is a type of firm in column (2) must submit its annual report and accounts to the FCA annually on a single entity basis.

<table>
<thead>
<tr>
<th>(1)</th>
<th>(2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>RAG</td>
<td>Firm type</td>
</tr>
<tr>
<td>1</td>
<td>UK bank</td>
</tr>
<tr>
<td></td>
<td>Dormant account operator</td>
</tr>
<tr>
<td></td>
<td>A non-UK bank</td>
</tr>
<tr>
<td>2.2</td>
<td>The Society</td>
</tr>
<tr>
<td>3</td>
<td>IFPRU investment firms, MIFIDPRU investment firms</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td><strong>BIPRU firms</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Exempt CAD firms subject to IPRU (INV) Chapter 13</strong></td>
<td></td>
</tr>
<tr>
<td>All other firms subject to the following chapters in IPRU(INV):</td>
<td></td>
</tr>
<tr>
<td>(1)</td>
<td>Chapter 3</td>
</tr>
<tr>
<td>(2)</td>
<td>Chapter 5</td>
</tr>
<tr>
<td>(3)</td>
<td>Chapter 9</td>
</tr>
</tbody>
</table>

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>4 IFPRU investment firms MIFIDPRU investment firms</strong></td>
<td></td>
</tr>
<tr>
<td><strong>BIPRU firms</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Exempt CAD firms subject to IPRU (INV) Chapter 13</strong></td>
<td></td>
</tr>
<tr>
<td>Collective portfolio management firm</td>
<td></td>
</tr>
<tr>
<td>All other firms subject to the following chapters in IPRU(INV):</td>
<td></td>
</tr>
<tr>
<td>(1)</td>
<td>Chapter 3</td>
</tr>
<tr>
<td>(2)</td>
<td>Chapter 5</td>
</tr>
<tr>
<td>(3)</td>
<td>Chapter 9</td>
</tr>
<tr>
<td>(4)</td>
<td>Chapter 12</td>
</tr>
</tbody>
</table>

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>5 All firms</strong></td>
<td></td>
</tr>
</tbody>
</table>

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>6 All firms other than firms subject to IPRU (INV) Chapter 13 that are not exempt CAD firms</strong></td>
<td></td>
</tr>
</tbody>
</table>

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>7 IFPRU investment firms MIFIDPRU investment firms</strong></td>
<td></td>
</tr>
<tr>
<td><strong>BIPRU firms</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Exempt CAD firms subject to IPRU (INV) Chapter 13</strong></td>
<td></td>
</tr>
</tbody>
</table>

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>8 All firms other than firms subject to IPRU (INV) Chapter 13 that are not exempt CAD firms</strong></td>
<td></td>
</tr>
</tbody>
</table>

... Requirement to submit annual report and accounts for mixed activity holding companies
16.7A.5  R  A firm in the RAG group in column (1), which is a type of firm in column (2) and whose ultimate parent is a mixed activity holding company must:

(1) submit the annual report and accounts of the mixed activity holding company to the FCA annually; and

(2) notify the FCA that it is covered by this reporting requirement by email using the email address specified in SUP 16.3.10G(3), by its accounting reference date.

<table>
<thead>
<tr>
<th>(1)</th>
<th>(2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>RAG</td>
<td>Firm type</td>
</tr>
<tr>
<td>1</td>
<td>UK bank</td>
</tr>
<tr>
<td>3</td>
<td>IFPRU investment firm MIFIDPRU investment firm</td>
</tr>
<tr>
<td></td>
<td>BIPRU firm</td>
</tr>
<tr>
<td>4</td>
<td>IFPRU investment firm MIFIDPRU investment firm</td>
</tr>
<tr>
<td></td>
<td>BIPRU firm</td>
</tr>
<tr>
<td>7</td>
<td>IFPRU investment firm MIFIDPRU investment firm</td>
</tr>
<tr>
<td></td>
<td>BIPRU firm</td>
</tr>
</tbody>
</table>

Time period for firms submitting annual report and accounts for mixed activity holding companies

16.7A.9  R  Firms must submit the annual report and accounts of a mixed activity holding company in accordance with SUP 16.7A.5R within 7 months of their accounting reference date.

16.12  Integrated Regulatory Reporting
16.12.2  G  (1)  *Principle 4* requires *firms* to maintain adequate financial resources. The Interim Prudential sourcebooks, *BIPRU*, *GENPRU* and *IFPRU* The prudential sourcebooks, which are contained in the Prudential Standards block in the *Handbook*, set out the FCA’s detailed capital adequacy requirements. By submitting regular data, *firms* enable the FCA to monitor their compliance with *Principle 4* and their prudential requirements.

…

16.12.3-A  G  (1)  *Investment firms* subject to the *UK CRR* should refer to any relevant technical standards to determine their specific reporting obligations, as those obligations may extend beyond those specified in this chapter.

(2) Where a *firm* submits a *data item* pursuant any applicable provision of the *UK CRR* any *data item* with the same name and purpose does not have to be submitted again regardless of *RAG*. [deleted]

16.12.3-B  G  In relation to an *investment firm* subject to the *UK CRR*, where an expression appearing in italics in this chapter is also used in the *UK CRR*, the italicised expression:

(1) has the same meaning as the corresponding expression used in the *UK CRR*; or

(2) is interpreted in the context of the risk or requirement in the *UK CRR* that corresponds to the risk or requirement referred to in the italicised expression. [deleted]

16.12.3B  G  *Firms’* attention is drawn to *SUP 16.3.25G* regarding a single submission for all *firms* in the group.

16.12.4  R  Table of applicable *rules* containing *data items*, frequency and submission periods

<table>
<thead>
<tr>
<th></th>
<th>(1)</th>
<th>(2)</th>
<th>(3)</th>
<th>(4)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>RAG number</strong></td>
<td><strong>Regulated Activities</strong></td>
<td><strong>Provisions containing:</strong></td>
<td><strong>applicable data items</strong></td>
<td><strong>reporting frequency / period</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| **RAG 1** | • accepting deposits  
| • meeting of repayment claims  
| • managing dormant account funds (including the investment of such funds) | **RAG 1 firms** should complete their prudential reporting requirements as set out in the *PRA Rulebook*. |
| **RAG 3** | • dealing in investment as principal  
| • dealing in investments as agent  
| • advising on investments (except P2P agreements) (excluding retail investment activities)  
| • arranging (bringing about) deals in investments (excluding retail investment activities)  
| • advising on P2P agreements (when carried on exclusively with or for professional clients) | **SUP 16.12.10R**  
**SUP 16.12.11R** except FSA001 and FSA002 on consolidated basis for FINREP firms  
**SUP 16.12.12R**  
**SUP 16.12.13R** |
| **RAG 4** | • managing investments  
| • establishing. | **SUP 16.12.14R**  
**SUP 16.12.15R**  
**SUP 16.12.14R**  
**SUP 16.12.14R** |
<table>
<thead>
<tr>
<th>Activity</th>
<th>Slug</th>
<th><strong>SUP 16.12.16R</strong></th>
<th><strong>SUP 16.12.17R</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>operating or winding up a collective investment scheme</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• establishing, operating or winding up a stakeholder pension scheme</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• establishing, operating or winding up a personal pension scheme</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• managing an AIF</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• managing a UK UCITS</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• operating an electronic system in relation to lending (FCA-</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>authorised persons only)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• retail investment activities</td>
<td><strong>SUP 16.12.22AR</strong></td>
<td><strong>SUP 16.12.23AR</strong></td>
<td><strong>SUP 16.12.24AR</strong></td>
</tr>
<tr>
<td>• advising on P2P agreements (except when carried on exclusively with</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>or for professional clients)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• advising on pensions transfers &amp; opt-outs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• arranging (bringing about deals) in retail</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Group liquidity reporting

16.12.4B G Reporting at group level for liquidity purposes by firms falling within BIPRU 12 (Liquidity) is by reference to defined liquidity groups. Guidance about the different types of defined liquidity groups and related material is set out in SUP 16 Annex 26 (Guidance on designated liquidity groups in SUP 16.12). [deleted]

Investment firm group reporting

16.12.4C G Investment firm groups are reminded that MIFIDPRU 9 contains reporting requirements for:

(1) UK parent entities of investment firm groups that are subject to consolidation under MIFIDPRU 2.5; and

(2) parent undertakings that are subject to the group capital test.

Those reporting requirements apply irrespective of whether the UK parent entity or parent undertaking is an authorised person.

Regulated Activity Group 1

Regulated Activity Group 2.2

16.12.9 R The applicable data items referred to in SUP 16.12.4R are set out according to type of firm in the table below.

The applicable reporting frequencies for submission of data items and periods referred to in SUP 16.12.4R are set out in the table below and

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>…</td>
<td>…</td>
<td>…</td>
<td>…</td>
</tr>
<tr>
<td>…</td>
<td>…</td>
<td>…</td>
<td>…</td>
</tr>
</tbody>
</table>
are calculated from a *firm’s accounting reference date*, unless indicated otherwise.

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.

<table>
<thead>
<tr>
<th>Description of data item</th>
<th>Member’s adviser</th>
<th>the Society (note 1)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Frequency</td>
<td>Submission deadline</td>
</tr>
<tr>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
</tbody>
</table>

**Balance Sheet**

<table>
<thead>
<tr>
<th>Description of data item</th>
<th>Member’s adviser</th>
<th>the Society (note 1)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Frequency</td>
<td>Submission deadline</td>
</tr>
<tr>
<td>FSA001</td>
<td>Quarterly</td>
<td>(note 14)</td>
</tr>
<tr>
<td>(notes 15, note 20) or</td>
<td>or half yearly</td>
<td></td>
</tr>
<tr>
<td>...</td>
<td>...</td>
<td></td>
</tr>
</tbody>
</table>

**Large Exposures**

<table>
<thead>
<tr>
<th>Description of data item</th>
<th>Member’s adviser</th>
<th>the Society (note 1)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Frequency</td>
<td>Submission deadline</td>
</tr>
<tr>
<td>FSA008</td>
<td>Quarterly</td>
<td>20 business days</td>
</tr>
<tr>
<td>(Notes note 20, 24)</td>
<td>or half yearly</td>
<td>(note 19)</td>
</tr>
<tr>
<td>...</td>
<td>...</td>
<td></td>
</tr>
</tbody>
</table>

Note 1 The *Society* must prepare its reports in the format specified in *IPRU(INS)* Appendix 9.11, unless Note 2 applies.

... ...

Note 14 *BIPRU firms report half yearly on 30 business days submission*. All UK *consolidation group* reports report half yearly on 45
business days submission. All other firms report monthly on 20 business days submission.

Note 15 This data item only applies to BIPRU firms. [deleted]

… …

Note 21 This will not be applicable to BIPRU firms. [deleted]

16.12.9A G A member’s adviser that is also an IFPRU investment firm a MIFIDPRU investment firm will also fall under one of the higher number RAGs that apply to IFPRU investment firms MIFIDPRU investment firms. That means it will have to report data items in addition to those that it has to supply under RAG 2.2.

Regulated Activity Group 3

…

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:

[Editor’s note: The existing table in SUP 16.12.11R is deleted in its entirety. The deleted text is not shown. The following table is inserted to replace the deleted text.]

<table>
<thead>
<tr>
<th>Description of data item</th>
<th>Firms’ prudential category and applicable data items (note 1)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>MIFIDPRU investment firms</td>
</tr>
<tr>
<td></td>
<td>IPRU(INV) Chapter 3</td>
</tr>
<tr>
<td>Solvency statement</td>
<td>No standard format (note 4)</td>
</tr>
<tr>
<td>Section</td>
<td>RMAR</td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
</tr>
<tr>
<td>Balance sheet</td>
<td></td>
</tr>
<tr>
<td>Income statement</td>
<td></td>
</tr>
<tr>
<td>Capital adequacy</td>
<td></td>
</tr>
<tr>
<td>[Pillar 2 questionnaire]</td>
<td></td>
</tr>
<tr>
<td>Threshold conditions</td>
<td></td>
</tr>
<tr>
<td>Client money and client assets</td>
<td></td>
</tr>
<tr>
<td>CFTC</td>
<td></td>
</tr>
<tr>
<td>[Securitisations]</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Liquidity</td>
<td></td>
</tr>
</tbody>
</table>
| Metrics reporting | MIF003  
(notes 2 and 3) |  |  |  |
|-------------------|-----------------|-----------------|-----------------|-----------------|
| Concentration risk (non-K-CON) | MIF004  
(notes 2, 3 and 11) |  |  |  |
| Concentration risk (K-CON) | MIF005  
(notes 2, 3 and 11) |  |  |  |
| Group capital test | MIF006  
(notes 3 and 12) |  |  |  |
| Liquidity Questionnaire | MLA-M (note 9) | MLA-M (note 9) | MLA-M (note 9) | MLA-M (note 9) |

**Note 1**  
All firms (except MIFIDPRU investment firms in relation to items reported under MIFIDPRU 9) must, when submitting the completed data item required, use the format of the data item set out in SUP 16 Annex 24R. Guidance notes for completion of the data items are contained in SUP 16 Annex 25G.

**Note 2**  
A UK parent entity of an investment firm group to which consolidation applies under MIFIDPRU 2.5 must also submit this report on the basis of the consolidated situation.

**Note 3**  
Data items MIF001 – MIF006 must be reported in accordance with the rules in MIFIDPRU 9.

**Note 4**  
Only applicable to a firm that is a sole trader or partnership. Where the firm is a partnership, this report must be submitted by each partner.
<table>
<thead>
<tr>
<th>Note 5</th>
<th>Except if the <strong>firm</strong> is an <strong>adviser</strong> (as referred to in \textit{IPRU(INV) 3-60(4)R}).</th>
</tr>
</thead>
<tbody>
<tr>
<td>Note 6</td>
<td>Only required in the case of an <strong>adviser</strong> (as referred to in \textit{IPRU(INV) 3-60(4)R}) that is a <strong>sole trader</strong>.</td>
</tr>
</tbody>
</table>
| Note 7 | \textit{FSA034 must be completed by a **firm** not subject to the exemption in \textit{IPRU(INV) 5.4.2R}, unless it is a **firm** whose permitted business includes \textit{establishing, operating or winding up a personal pension scheme}, in which case \textit{FIN071} must be completed.}  
\textit{FSA035 must be completed by a **firm** subject to the exemption in \textit{IPRU(INV) 5.4.2R}.} |
| Note 8 | Only applicable to **firms** granted a \textit{Part 30 exemption order} and operating an arrangement to cover forward profits on the London Metals Exchange. |
| Note 9 | Only applicable to \textit{RAG 3 firms} carrying on \textit{home financing or home finance administration} connected to \textit{regulated mortgage contracts}, unless as at 26 April 2014 the firm’s \textit{Part 4A permission} was and remains subject to a restriction preventing it from undertaking new \textit{home financing or home finance administration} connected to \textit{regulated mortgage contracts}. |
| Note 10 | Does not apply to an \textit{SNI MIFIDPRU investment firm} which has been granted an exemption from the liquidity requirements in \textit{MIFIDPRU [6]}. |
| Note 11 | Only applicable to a \textit{non-SNI MIFIDPRU investment firm}. |
| Note 12 | Only applicable to a \textit{parent undertaking} to which the \textit{group capital test applies}. |
The column in the table in SUP 16.12.11R that deals with IFPRU firms covers some liquidity items that only have to be reported by an ILAS BIPRU firm (please see notes 28 and 33).

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.

[Editor’s note: The existing table in SUP 16.12.12R is deleted in its entirety. The deleted text is not shown. The following table is inserted to replace the deleted text.]

<table>
<thead>
<tr>
<th>Data item</th>
<th>Non-SNI MIFIDPRU investment firm</th>
<th>SNI MIFIDPRU investment firm</th>
<th>Investment firm group</th>
<th>Firm other than a MIFIDPRU investment firm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solvency statement</td>
<td>Annually</td>
<td>Annually</td>
<td></td>
<td>Annually</td>
</tr>
<tr>
<td>FSA029</td>
<td>Quarterly</td>
<td>Quarterly</td>
<td>Quarterly</td>
<td>Quarterly</td>
</tr>
<tr>
<td>FSA030</td>
<td>Quarterly</td>
<td>Quarterly</td>
<td>Quarterly</td>
<td>Quarterly</td>
</tr>
<tr>
<td>FSA031</td>
<td></td>
<td></td>
<td></td>
<td>Quarterly</td>
</tr>
<tr>
<td>FSA033</td>
<td></td>
<td></td>
<td></td>
<td>Quarterly</td>
</tr>
<tr>
<td>FSA034</td>
<td></td>
<td></td>
<td></td>
<td>Quarterly</td>
</tr>
<tr>
<td>FSA035</td>
<td></td>
<td></td>
<td></td>
<td>Quarterly</td>
</tr>
<tr>
<td>FSA039</td>
<td>Half yearly</td>
<td>Half yearly</td>
<td></td>
<td>Half yearly</td>
</tr>
<tr>
<td>Code</td>
<td>Section A</td>
<td>Section B</td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------</td>
<td>-----------</td>
<td>-----------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FSA040</td>
<td>Quarterly</td>
<td>Quarterly</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FIN071</td>
<td></td>
<td>Quarterly</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MIF001</td>
<td>Quarterly (note 3)</td>
<td>Quarterly (note 3)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MIF002</td>
<td>Quarterly (note 3)</td>
<td>Quarterly (note 3)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MIF003</td>
<td>Quarterly (note 3)</td>
<td>Quarterly (note 3)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MIF004</td>
<td>Quarterly (note 3)</td>
<td>Quarterly (note 3)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MIF005</td>
<td>Quarterly (note 3)</td>
<td>Quarterly (note 3)</td>
<td></td>
<td></td>
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**Note 1**
Annual regulated business revenue up to and including £5 million.

**Note 2**
Annual regulated business revenue over £5 million.

**Note 3**
Reporting frequencies and reporting periods for this data item are calculated on a calendar year basis and not by reference to the firm’s accounting reference date. The relevant quarters end on the last business day of March, June, September and December.

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.

[Editor’s note: The existing table in SUP 16.12.13R is deleted in its entirety. The deleted text is not shown. The following table is inserted to replace the deleted text.]
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<td>Section D1 RMAR</td>
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<td>Section F RMAR</td>
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<td>MLA-M</td>
<td>20 business days</td>
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<td>For reports relating to the position of an individual firm.</td>
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<tr>
<td>Note 2</td>
<td>For reports relating to the consolidated situation of an investment firm group.</td>
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16.12.15 R The applicable *data items* referred to in SUP 16.12.4R are set out according to *firm* type in the table below:

[Editor’s note: The existing table in SUP 16.12.15R is deleted in its entirety. The deleted text is not shown. The following table is inserted to replace the deleted text.]

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<tr>
<th>Description of data item</th>
<th>Firms’ prudential category and applicable data items (note 1)</th>
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<td><strong>MIFIDPRU investment firms</strong></td>
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<td><strong>Firms other than MIFIDPRU investment firms</strong></td>
</tr>
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<td><strong>IPRU(INV)</strong> Chapter 11 (collective portfolio o management firms only)</td>
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<td></td>
<td><strong>IPRU(INV)</strong> Chapter 13</td>
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<tr>
<td>Income statement</td>
<td>FSA030 (note 3)</td>
</tr>
<tr>
<td>Capital adequacy</td>
<td>MIF001 (note 3 and 4)</td>
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<td>[Pillar 2 questionnaire]</td>
<td>[Editor’s note: The FCA will consult on the form of Pillar 2 reporting in a subsequent CP]</td>
</tr>
<tr>
<td>Threshold conditions</td>
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<td>Volumes and types of business</td>
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<td>Client money and client assets</td>
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<tr>
<td>[Securitisations]</td>
<td>[Editor’s note: The FCA will consult on potential securitis]</td>
</tr>
<tr>
<td>Feature</td>
<td>Code</td>
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<tr>
<td>----------------------------------------------</td>
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<td>Liquidity</td>
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<td>Metrics monitoring</td>
<td>MIF003</td>
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<td>Concentration risk (non-K-CON)</td>
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<td>Concentration risk (K-CON)</td>
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<td>Group capital test</td>
<td>MIF006</td>
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<tr>
<td>Information on P2P agreements</td>
<td>FIN070</td>
</tr>
</tbody>
</table>

**Note 1**

All firms, except MIFIDPRU investment firms in relation to items reported under MIFIDPRU 9, must, when submitting the completed data...
| Note 2 | Only applicable to a *firm* that is a *sole trader* or *partnership*. Where the *firm* is a *partnership*, this report must be submitted by each *partner*. |
| Note 3 | A *UK parent entity of an investment firm group* to which consolidation applies under *MIFIDPRU 2.5* must also submit this report on the basis of the *consolidated situation*. |
| Note 4 | Data items MIF001 – MIF006 must be reported in accordance with the *rules* in *MIFIDPRU 9*. |
| Note 5 | FSA034 must be completed by a *firm* not subject to the exemption in *IPRU(INV) 5.4.2R*, unless it is a *firm* whose permitted business includes *establishing, operating or winding up a personal pension scheme*, in which case FIN071 must be completed. FSA035 must be completed by a *firm* subject to the exemption in *IPRU(INV) 5.4.2R*. |
| Note 6 | Does not apply to an *SNI MIFIDPRU investment firm* which has been granted an exemption from the liquidity requirements in *MIFIDPRU [6]*. |
| Note 7 | Only applicable to a *non-SNI MIFIDPRU investment firm*. |
| Note 8 | Only applicable to a *parent undertaking* to which the *group capital test* applies. |

16.12.15A   G   The column in the table in *SUP 16.12.15R* that deals with *IFPRU firms* covers some liquidity items that only have to be reported by an *ILAS BIPRU firm* (please see notes 25 and 30). [deleted]

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.

[Editor’s note: The existing table in SUP 16.12.16R is deleted in its entirety. The deleted text is not shown. The following table is inserted to replace the deleted text.]

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<th>SNI MIFIDPRU investment firm</th>
<th>Investment firm group</th>
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<td>Annually</td>
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<td>Quarterly</td>
</tr>
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<td>Quarterly</td>
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<td>Quarterly</td>
</tr>
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<td>Quarterly</td>
</tr>
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<td>Half yearly</td>
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<td>Half yearly</td>
</tr>
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<td>FIN071</td>
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<td>MIF004</td>
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<td>Quarterly (note 3)</td>
<td>Quarterly (note 3)</td>
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<td>Section D1 RMAR</td>
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Page 214 of 235
### Section F

#### RMAR

#### Quarterly

#### Half yearly

#### Annual

### Note 1
Annual regulated business revenue up to and including £5 million.

### Note 2
Annual regulated business revenue over £5 million.

### Note 3
Reporting frequencies and reporting periods for this data item are calculated on a calendar year basis and not by reference to the firm’s accounting reference date. The relevant quarters end on the last business day of March, June, September and December.

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.

[Editor’s note: The existing table in SUP 16.12.17R is deleted in its entirety. The deleted text is not shown. The following table is inserted to replace the deleted text.]

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<th>Annual</th>
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<td>Code</td>
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<td>FSA039</td>
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</tr>
<tr>
<td>FIN071</td>
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</tr>
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<tr>
<td>MIF005</td>
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</table>
(note 2) | |
---|---|
MIF006 | 20 business days |
Section A RMAR | 30 business days | 30 business days |
Section B RMAR | 30 business days | 30 business days |
Section C RMAR | 30 business days | 30 business days |
Section D1 RMAR | 30 business days | 30 business days |
Section F RMAR | | 30 business days |
MLA-M | 20 business days |

Note 1 | For reports relating to the position of an individual firm. |
Note 2 | For reports relating to the consolidated situation of an investment firm group. |

…

Regulated Activity Group 6

…

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:

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<tr>
<th>Description of data item</th>
<th>Firms’ prudential category and applicable data items (note 1)</th>
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Page 217 of 235
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<th>RMAR (note 7)</th>
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<tr>
<td>Threshold conditions</td>
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<td>RMAR (Note 7)</td>
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<td>FSA019 (note 8)</td>
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</tbody>
</table>

**Note 1**
When submitting the completed data item required, a firm must use the format of the data item set out in SUP 16 Annex 24. Guidance notes for completion of the data items are contained in SUP 16 Annex 25.

**Note 4**
FSA034 must be completed by a firm not subject to the exemption in IPRU(INV) 5.4.2R, unless it is a firm whose permitted business includes establishing, operating or winding up a personal pension scheme, in which case FIN071 must be completed.
FSA035 must be completed by a firm subject to the exemption in IPRU(INV) 5.4.2R, unless the firm is the depositary of a UCITS scheme in which case, FIN072 must be completed.

Note 5
FSA032 must be completed by a firm subject to IPRU(INV) Chapter 13 which is an exempt CAD firm. [deleted]

Note 6
Only applicable to a firm that is a partnership, when the report must be submitted by each partner.

Note 7
FSA029, FSA030, FSA032 and FSA039 only apply to a firm subject to IPRU(INV) Chapter 13 which is an exempt CAD firm. Sections A, B, C, D1, and F RMAR only apply to a firm subject to IPRU(INV) Chapter 13 which is not an exempt CAD firm. [deleted]

Note 8
Only applicable to a firm that is the depositary of a UCITS scheme.

Regulated Activity Group 7

16.12.22A R The applicable data items referred to in SUP 16.12.4R are set out according to type of firm in the table below:

[Editor’s note: The existing table in SUP 16.12.22AR is deleted in its entirety. The deleted text is not shown. The following table is inserted to replace the deleted text.]

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<td>Financial Statement</td>
<td>Format</td>
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</tr>
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<td>Income statement</td>
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</tr>
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<td>Capital adequacy</td>
<td>MIF001 (notes 3 and 6)</td>
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<td>Liquidity</td>
<td>MIF002 (notes 3, 4 and 6)</td>
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<td>Metrics monitoring</td>
<td>MIF003 (notes 3 and 6)</td>
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<td>Concentration risk</td>
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<td>MIF006 (notes 6 and 8)</td>
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<tr>
<td>[Pillar 2 questionnaire]</td>
<td>[Editor’s note: The FCA will consult on the form of Pillar 2 reporting in a subsequent CP]</td>
</tr>
<tr>
<td>[Securitisations]</td>
<td>[Editor’s note: The FCA will consult on the form of securitisation reporting in a subsequent CP]</td>
</tr>
<tr>
<td>-------------------</td>
<td>-----------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Professional indemnity insurance (note 15)</td>
<td>Section E RMAR</td>
</tr>
<tr>
<td>Threshold conditions</td>
<td></td>
</tr>
<tr>
<td>Training and competence</td>
<td>Section G RMAR</td>
</tr>
<tr>
<td>COBS data</td>
<td>Section H RMAR</td>
</tr>
<tr>
<td>Client money and client assets</td>
<td>Section C RMAR</td>
</tr>
<tr>
<td>Fees and levies</td>
<td>Section J RMAR</td>
</tr>
<tr>
<td>Adviser charges</td>
<td>Section K RMAR (note 7)</td>
</tr>
</tbody>
</table>

**Note 1**
When submitting the completed *data item* required, a *firm* (except a *MIFIDPRU investment firm* in relation to an item reported under *MIFIDPRU 9*) must use the format of the data item set out in *SUP 16 Annex 24R*, or *SUP 16 Annex 18AR* in the case of the *RMAR*. Guidance notes for completion of the *data items* are contained in *SUP 16 Annex 25*, or *SUP 16 Annex 18BG* in the case of the *RMAR*.

**Note 2**
Only applicable to a *firm* that is a *sole trader or partnership*. Where the *firm* is a *partnership*, this report must be submitted by each *partner*.
<table>
<thead>
<tr>
<th>Note 3</th>
<th>A UK parent entity of an investment firm group to which consolidation applies under MIFIDPRU 2.5 must also submit this report on the basis of the consolidated situation.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Note 4</td>
<td>Does not apply to an SNI MIFIDPRU investment firm which has been granted an exemption from the liquidity requirements in MIFIDPRU [6].</td>
</tr>
<tr>
<td>Note 5</td>
<td>Only applicable to a non-SNI MIFIDPRU investment firm.</td>
</tr>
<tr>
<td>Note 6</td>
<td>Data items MIF001 – MIF006 must be reported in accordance with the rules in MIFIDPRU 9.</td>
</tr>
<tr>
<td>Note 7</td>
<td>This item only applies to firms that provide advice on retail investment products and P2P agreements.</td>
</tr>
<tr>
<td>Note 8</td>
<td>Only applicable to a parent undertaking to which the group capital test applies.</td>
</tr>
<tr>
<td>Note 9</td>
<td>Where a firm submits data items for both RAG 7 and RAG 9, the firm must complete Section D1.</td>
</tr>
</tbody>
</table>

16.12.22B  G  The column in the table in SUP 16.12.22AR that deals with IFPRU firms covers some liquidity items that only have to be reported by an ILAS BIPRU firm (see notes 18 and 24). [deleted]

16.12.23A  R  The applicable reporting frequencies for data items referred to in SUP 16.12.22AR are set out in the table below. Reporting frequencies are calculated from a firm's accounting reference date, unless indicated otherwise.

[Editor’s note: The existing table in SUP 16.12.23AR is deleted in its entirety. The deleted text is not shown. The following table is inserted to replace the deleted text.]
<table>
<thead>
<tr>
<th>Data item</th>
<th>Non-SNI MIFIDPRU investment firm</th>
<th>SNI MIFIDPRU investment firm</th>
<th>Investment firm group</th>
<th>Annual regulated business revenue up to and including £5 million</th>
<th>Annual regulated business revenue over £5 million</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solvency statement</td>
<td>Annually</td>
<td>Annually</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FSA029</td>
<td>Quarterly</td>
<td>Quarterly</td>
<td>Quarterly</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FSA030</td>
<td>Quarterly</td>
<td>Quarterly</td>
<td>Quarterly</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MIF001</td>
<td>Quarterly (note 1)</td>
<td>Quarterly (note 1)</td>
<td>Quarterly (note 1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MIF002</td>
<td>Quarterly (note 1)</td>
<td>Quarterly (note 1)</td>
<td>Quarterly (note 1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MIF003</td>
<td>Quarterly (note 1)</td>
<td>Quarterly (note 1)</td>
<td>Quarterly (note 1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MIF004</td>
<td>Quarterly (note 1)</td>
<td>Quarterly (note 1)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MIF005</td>
<td>Quarterly (note 1)</td>
<td>Quarterly (note 1)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MIF006</td>
<td>Quarterly</td>
<td>Quarterly</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Reporting frequencies and reporting periods for this data item are calculated on a calendar year basis and not by reference to the firm’s</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------</td>
<td>--------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------</td>
<td>---</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Section A RMAR</td>
<td>(note 1)</td>
<td>(note 1)</td>
<td>Half yearly</td>
<td>Quarterly</td>
<td></td>
</tr>
<tr>
<td>Section B RMAR</td>
<td></td>
<td></td>
<td>Half yearly</td>
<td>Quarterly</td>
<td></td>
</tr>
<tr>
<td>Section C RMAR</td>
<td></td>
<td></td>
<td>Half yearly</td>
<td>Quarterly</td>
<td></td>
</tr>
<tr>
<td>Section D1 RMAR</td>
<td></td>
<td></td>
<td>Half yearly</td>
<td>Quarterly</td>
<td></td>
</tr>
<tr>
<td>Section E RMAR</td>
<td>Half yearly</td>
<td>Half yearly</td>
<td>Half yearly</td>
<td>Half yearly</td>
<td>Quarterly</td>
</tr>
<tr>
<td>Section F RMAR</td>
<td>Half yearly</td>
<td>Half yearly</td>
<td>Half yearly</td>
<td>Half yearly</td>
<td>Half yearly</td>
</tr>
<tr>
<td>Section G RMAR</td>
<td>Half yearly</td>
<td>Half yearly</td>
<td>Half yearly</td>
<td>Half yearly</td>
<td>Half yearly</td>
</tr>
<tr>
<td>Section H RMAR</td>
<td>Half yearly</td>
<td>Half yearly</td>
<td>Half yearly</td>
<td>Half yearly</td>
<td>Half yearly</td>
</tr>
<tr>
<td>Section J RMAR</td>
<td>Annually</td>
<td>Annually</td>
<td>Annually</td>
<td>Annually</td>
<td>Annually</td>
</tr>
<tr>
<td>Section K RMAR</td>
<td>Annually</td>
<td>Annually</td>
<td>Annually</td>
<td>Annually</td>
<td>Annually</td>
</tr>
</tbody>
</table>
The relevant quarters end on the last business day of March, June, September and December.

16.12.24A 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 16.12.23AR, unless indicated otherwise.

[Editor’s note: The existing table in SUP 16.12.24AR is deleted in its entirety. The deleted text is not shown. The following table is inserted to replace the deleted text.]

<table>
<thead>
<tr>
<th>Data item</th>
<th>Quarterly</th>
<th>Half yearly</th>
<th>Annual</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solvency statement</td>
<td></td>
<td>3 months</td>
<td></td>
</tr>
<tr>
<td>FSA029</td>
<td>20 business days (note 1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>30 business days (note 2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FSA030</td>
<td>20 business days (note 1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>30 business days (note 2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MIF001</td>
<td>20 business days (note 1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>30 business days (note 2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MIF002</td>
<td>20 business days (note 1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>30 business days (note 2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Section</td>
<td>RMAR</td>
<td>MIF003</td>
<td>MIF004</td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
<td>--------</td>
<td>--------</td>
</tr>
<tr>
<td></td>
<td></td>
<td>20 business days (note 1)</td>
<td>20 business days (note 1)</td>
</tr>
</tbody>
</table>
| Note 1  |      | For reports relating to the position of an individual firm.
Regulated Activity Group 8

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

[Editor’s note: The existing table in SUP 16.12.25AR is deleted in its entirety. The deleted text is not shown. The following table is inserted to replace the deleted text.]

<table>
<thead>
<tr>
<th>Description of data item</th>
<th>MIFIDPRU investment firms</th>
<th>Firms other than MIFIDPRU investment firms</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>IPRU(INV) Chapter 3</td>
<td>IPRU(INV) Chapter 5</td>
</tr>
<tr>
<td>Solvency statement (note 2)</td>
<td>No standard format</td>
<td></td>
</tr>
<tr>
<td>Balance sheet</td>
<td>FSA029 (note 3)</td>
<td>FSA029</td>
</tr>
<tr>
<td>Income statement</td>
<td>FSA030 (note 3)</td>
<td>FSA030</td>
</tr>
<tr>
<td>Capital adequacy</td>
<td>MIF001 (notes 3 and 5)</td>
<td>FSA033</td>
</tr>
<tr>
<td><strong>Liquidity</strong></td>
<td>MIF002 (notes 3 and 5)</td>
<td></td>
</tr>
<tr>
<td>Metrics monitoring</td>
<td>MIF003 (notes 3 and 5)</td>
<td></td>
</tr>
<tr>
<td>Concentration risk (non-(K)-CON)</td>
<td>MIF004 (notes 3, 5 and 7)</td>
<td></td>
</tr>
<tr>
<td>Concentration risk ((K)-CON)</td>
<td>MIF005 (notes 3, 5 and 7)</td>
<td></td>
</tr>
<tr>
<td>Group capital test</td>
<td>MIF006 (notes 5 and 6)</td>
<td></td>
</tr>
<tr>
<td>[Pillar 2 questionnaire]</td>
<td>[Editor’s note: The FCA will consult on the form of Pillar 2 reporting in a subsequent CP]</td>
<td></td>
</tr>
<tr>
<td>[Securitisations]</td>
<td>[Editor’s note: The FCA will consult on the form of securitisation reporting in a subsequent CP]</td>
<td></td>
</tr>
<tr>
<td>Threshold conditions</td>
<td>Section F RMAR (note 17)</td>
<td></td>
</tr>
<tr>
<td>Client money and client assets</td>
<td>FSA039</td>
<td>FSA039</td>
</tr>
<tr>
<td>Note 1</td>
<td>All firms (except MIFIDPRU investment firms) in relation to items reported under MIFIDPRU 9) when submitting the completed data item required, must use the format of the data item set out in SUP 16 Annex 24. Guidance notes for completion of the data items are contained in SUP 16 Annex 25.</td>
<td></td>
</tr>
<tr>
<td>Note 2</td>
<td>Only applicable to a firm that is a sole trader or partnership. Where the firm is a partnership, this report must be submitted by each partner.</td>
<td></td>
</tr>
<tr>
<td>Note 3</td>
<td>A UK parent entity of an investment firm group to which consolidation applies under MIFIDPRU 2.5 must also submit this report on the basis of the consolidated situation.</td>
<td></td>
</tr>
<tr>
<td>Note 4</td>
<td>FSA034 must be completed by a firm not subject to the exemption in IPRU(INV) 5.4.2R, unless it is a firm whose permitted business includes establishing, operating or winding up a personal pension scheme, in which case FIN071 must be completed. FSA035 must be completed by a firm subject to the exemption in IPRU(INV) 5.4.2R.</td>
<td></td>
</tr>
<tr>
<td>Note 5</td>
<td>Data items MIF001 – MIF006 must be reported in accordance with the rules in MIFIDPRU 9.</td>
<td></td>
</tr>
<tr>
<td>Note 6</td>
<td>Only applicable to a parent undertaking to which the group capital test applies.</td>
<td></td>
</tr>
<tr>
<td>Note 7</td>
<td>Only applicable to a non-SNI MIFIDPRU investment firm.</td>
<td></td>
</tr>
</tbody>
</table>
The column in the table in SUP 16.12.25AR that deals with IFPRU firms cover some liquidity items that only have to be reported by an ILAS-BIPRU firm (see notes 23 and 28). [deleted]

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.

(Editor’s note: The existing table in SUP 16.12.26R is deleted in its entirety. The deleted text is not shown. The following table is inserted to replace the deleted text.)

<table>
<thead>
<tr>
<th>Data item</th>
<th>Non-SNI MIFIDPRU investment firm</th>
<th>SNI MIFIDPRU investment firm</th>
<th>Investment firm group</th>
<th>Firm other than a MIFIDPRU investment firm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solvency statement</td>
<td>Annually</td>
<td>Annually</td>
<td></td>
<td>Annually</td>
</tr>
<tr>
<td>FSA029</td>
<td>Quarterly</td>
<td>Quarterly</td>
<td>Quarterly</td>
<td>Quarterly</td>
</tr>
<tr>
<td>FSA030</td>
<td>Quarterly</td>
<td>Quarterly</td>
<td>Quarterly</td>
<td>Quarterly</td>
</tr>
<tr>
<td>FSA031</td>
<td></td>
<td></td>
<td></td>
<td>Quarterly</td>
</tr>
<tr>
<td>FSA033</td>
<td></td>
<td></td>
<td></td>
<td>Quarterly</td>
</tr>
<tr>
<td>FSA034</td>
<td></td>
<td></td>
<td></td>
<td>Quarterly</td>
</tr>
<tr>
<td>FSA035</td>
<td></td>
<td></td>
<td></td>
<td>Quarterly</td>
</tr>
<tr>
<td>FSA039</td>
<td>Half yearly</td>
<td>Half yearly</td>
<td></td>
<td>Half yearly</td>
</tr>
<tr>
<td>FIN071</td>
<td></td>
<td></td>
<td></td>
<td>Quarterly</td>
</tr>
<tr>
<td>MIF001</td>
<td>Quarterly (note 3)</td>
<td>Quarterly (note 3)</td>
<td>Quarterly (note 3)</td>
<td></td>
</tr>
<tr>
<td>--------</td>
<td>-------------------</td>
<td>-------------------</td>
<td>-------------------</td>
<td></td>
</tr>
<tr>
<td>MIF002</td>
<td>Quarterly (note 3)</td>
<td>Quarterly (note 3)</td>
<td>Quarterly (note 3)</td>
<td></td>
</tr>
<tr>
<td>MIF003</td>
<td>Quarterly (note 3)</td>
<td>Quarterly (note 3)</td>
<td>Quarterly (note 3)</td>
<td></td>
</tr>
<tr>
<td>MIF004</td>
<td>Quarterly (note 3)</td>
<td></td>
<td>Quarterly (note 3)</td>
<td></td>
</tr>
<tr>
<td>MIF005</td>
<td>Quarterly (note 3)</td>
<td></td>
<td>Quarterly (note 3)</td>
<td></td>
</tr>
<tr>
<td>MIF006</td>
<td>Quarterly</td>
<td>Quarterly</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<p>| Section A RMAR |         | Half yearly (note 1) | Quarterly (note 2) |
|                |         |                    |                   |
| Section B RMAR |         | Half yearly (note 1) | Quarterly (note 2) |
|                |         |                    |                   |
| Section C RMAR |         | Half yearly (note 1) | Quarterly (note 2) |
|                |         |                    |                   |</p>
<table>
<thead>
<tr>
<th>Data item</th>
<th>Quarterly</th>
<th>Half yearly</th>
<th>Annual</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solvency statement</td>
<td></td>
<td></td>
<td>3 months</td>
</tr>
<tr>
<td>FSA029</td>
<td>20 business days (note 1) 30 business days (note 2)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note 1: Annual regulated business revenue up to and including £5 million.

Note 2: Annual regulated business revenue over £5 million.

Note 3: Reporting frequencies and reporting periods for this data item are calculated on a calendar year basis and not by reference to the firm's accounting reference date. The relevant quarters end on the last business day of March, June, September and December.

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.

[Editor’s note: The existing table in SUP 16.12.27R is deleted in its entirety. The deleted text is not shown. The following table is inserted to replace the deleted text.]
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<thead>
<tr>
<th>Code</th>
<th>Duration</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>FSA030</td>
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<td>(note 1)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>30 business days</td>
</tr>
<tr>
<td>FSA031</td>
<td>20 business days</td>
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<td>FSA034</td>
<td>20 business days</td>
<td></td>
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<td>FSA035</td>
<td>20 business days</td>
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<tr>
<td>FSA039</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>30 business days</td>
<td></td>
</tr>
<tr>
<td>FIN071</td>
<td>20 business days</td>
<td></td>
</tr>
<tr>
<td>MIF001</td>
<td>20 business days</td>
<td>(note 1)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>30 business days</td>
</tr>
<tr>
<td>MIF002</td>
<td>20 business days</td>
<td>(note 1)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>30 business days</td>
</tr>
<tr>
<td>MIF003</td>
<td>20 business days</td>
<td>(note 1)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>30 business days</td>
</tr>
<tr>
<td>MIF004</td>
<td>20 business days</td>
<td>(note 1)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>30 business days</td>
</tr>
<tr>
<td>Section</td>
<td>Reporting Frequency</td>
<td>Submission Deadlines</td>
</tr>
<tr>
<td>---------------</td>
<td>---------------------</td>
<td>----------------------</td>
</tr>
<tr>
<td>MIF005</td>
<td>20 business days</td>
<td>(note 1) 30 business days (note 2)</td>
</tr>
<tr>
<td>MIF006</td>
<td>20 business days</td>
<td></td>
</tr>
<tr>
<td>Section A RMAR</td>
<td>30 business days</td>
<td>30 business days</td>
</tr>
<tr>
<td>Section B RMAR</td>
<td>30 business days</td>
<td>30 business days</td>
</tr>
<tr>
<td>Section C RMAR</td>
<td>30 business days</td>
<td>30 business days</td>
</tr>
<tr>
<td>Section D1 RMAR</td>
<td>30 business days</td>
<td>30 business days</td>
</tr>
<tr>
<td>Section F RMAR</td>
<td>30 business days</td>
<td>30 business days</td>
</tr>
</tbody>
</table>

**Note 1**
For reports relating to the position of an individual firm.

**Note 2**
For reports relating to the consolidated situation of an investment firm group.

Regulated Activity Group 9

16.12.28A R The applicable data items, reporting frequencies and submission deadlines referred to in SUP 16.12.4R are set out in the table below. Reporting frequencies are calculated from a firm’s accounting reference date, unless indicated otherwise. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period.
<table>
<thead>
<tr>
<th>Description of data item</th>
<th>Data item (note 1)</th>
<th>Frequency</th>
<th>Submission deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Annual regulated business revenue up to and including £5 million</td>
<td>Annual regulated business revenue over £5 million</td>
</tr>
<tr>
<td></td>
<td></td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Professional indemnity insurance (note 2)</td>
<td>Section ERMAR</td>
<td>Half yearly</td>
<td>Quarterly</td>
</tr>
<tr>
<td></td>
<td></td>
<td>...</td>
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</tr>
<tr>
<td>Note 1</td>
<td>...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Note 2</td>
<td>This item only applies to firms that may be subject to an FCA requirement to hold professional indemnity insurance and are not exempt CAD firms MIFIDPRU investment firms.</td>
<td>...</td>
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</tbody>
</table>