FINANCIAL CONDUCT AUTHORITY

IFPR Newsletter

Notification when there are changes to an investment firm group

Under the investment firm prudential regime (IFPR), MIFIDPRU firms are required to inform the FCA as soon as they become aware of the creation of an investment firm group (IFG) or a change to their existing investment firm group. This is set out in MIFIDPRU 2.4.20R with a notification to be made via Connect using the MIFIDPRU 2 Annex 8R form. In the event of a change in control, firms are still required to submit this form once any acquisitions have been completed.

The timely submission of the MIFIDPRU 2 Annex 8R form ensures our systems hold accurate and up to date information, which enables the effective supervision of groups and oversight of individuals firms group relationship.

We would remind firms that they should ensure the data held by the FCA on their group is accurate. Where an FCA group record exists, the Firm Reference Numbers (FRN) included in the IFG membership are pre-populated at the top of each relevant 'MIF' return when completed on a consolidated basis. Firms should submit the notification under MIFIDPRU 2.4.20R when the list of FRNs they are required to enter under question 2 of a consolidated MIF return differs from the pre-populated list above the form. Please note, the pre-populated list of FRNs at the top of the return will not automatically update following a notification submission where the relevant regulatory return is already due.

Common equity tier 1 items of limited liability partnerships

We have seen instances where MIFIDPRU firms that are set up as a limited liability partnership (LLP) may be incorrectly treating allocated profits as a Common Equity Tier 1 (CET1) item for the purpose of meeting their own funds requirements. The regulatory capital treatment of LLP profits depends on the specific terms of the LLP agreement and the nature of members' rights to those profits.

Where LLP agreements provide for automatic allocation of profits to members, or where members have immediate and unconditional rights to withdraw allocated profits, these amounts cannot qualify as CET1 capital as they are effectively liabilities. This is because such profits are not available for unrestricted and immediate use by the firm to cover risks or losses, as required by Article 26(1) of the UK Capital Requirements Regulation (UK CRR). While these amounts may appear in the equity section of the balance sheet as part of "Members' Interests," they represent claims by members that restrict the firm's ability to use these funds to absorb losses.

In CP25/10, we have proposed consolidating our definition of capital for FCA investment firms directly into MIFIDPRU 3, removing cross-references to the UK CRR and related technical standards. Under these proposals, the substantive treatment of partnership profits would remain unchanged. The key test will continue to be whether the partnership has an unconditional right to refuse to make profits available to partners. If so, the profits may qualify as CET1 capital but if not, we would expect them to be treated as liabilities regardless of whether actually withdrawn.

However, depending on the LLP agreement, there may not be an automatic allocation of profits to the members. In cases where profits have not been allocated to specific members, or where LLP agreements contain provisions that restrict members' immediate access to allocated profits, these amounts may qualify as CET1 capital if the partnership retains an unconditional right to refuse to make them available to partners. Such unallocated profits would typically be shown as retained earnings or undistributed profits within the members' interests section of the balance sheet. However, firms must still assess whether these amounts meet the criteria outlined in Article 26(1) of the UK CRR i.e. only where they are available to the institution for unrestricted and immediate use to cover risks or losses as soon as these occur.

The assessment of whether LLP profits qualify as CET1 capital will depend upon the detailed provisions of the LLP agreement, including profit-sharing mechanisms, distribution procedures, member withdrawal rights, and any restrictions on the firm's ability to retain profits. Firms should specifically consider whether members have contractual rights to profits that would prevent the firm from using these amounts to absorb losses without member consent.

Many LLP agreements contain hybrid arrangements where profits may be allocated according to predetermined formulae but remain subject to withdrawal restrictions, retention requirements, or other conditions that affect their availability to the firm. In such cases, firms need to assess whether the specific restrictions are sufficient to ensure the profits remain available for loss absorption purposes.

We therefore expect firms, including LLPs, to be correctly identifying what can count as regulatory capital and is eligible for CET1 purposes. For LLPs this will depend upon the specific terms of the LLP agreement with the critical test being whether the partnership has an unconditional right to refuse to make the profits available to partners rather than simply relying on a general categorisation of allocated versus and unallocated profits.

While this guidance focuses on LLPs, similar principles apply to the regulatory capital treatment of profits in any partnership structure where firms are seeking to count such profits as regulatory capital.

Calculation of certain K-factors, such as the assets under management (K-AUM) requirement

It has been suggested to us that some firms (and their advisers) may be unsure as to how the calculation of certain K-factor requirements, in particular assets under management (K-AUM), should operate. In terms of which monthly value observations to include or exclude. The following clarifies the intended operation of our rules on this point, using MIFIDPRU 4.7 (for K-AUM) as an example.

MIFIDPRU 4.7.4R states that: A *firm* must calculate its *K-AUM requirement* on the first *business day* of each *month*

And MIFIDPRU 4.7.5R(1) states that:

A *firm* must calculate the amount of its *average AUM* by:

(a) taking the total *AUM* as measured on the last *business day* of each of the previous 15 *months*;

(b) excluding the 3 most recent monthly values; and

(c) calculating the arithmetic mean of the remaining 12 monthly values.

The calculation is to be performed on the first business day of each month, with data points measured on the last business day of the previous 15 months. It follows that as a new calculation takes effect from the first business day of each month, all months for which the amount of total AUM has been measured will be previous in respect of the month for which the K-AUM must be calculated. This means that the period of 'lagging' before a monthly value is used in the calculation is 3 months.

The application of the above rules (in terms of which monthly values to use) is illustrated by the following example:

- *It is the first business day in August 2025 and a MiFID investment firm with permission to manage portfolios must calculate its K-AUM requirement for that month.*
- *It must take the total AUM as measured on the last business day of each of the previous 15 months - i.e. May 2024 to July 2025 inclusive.*
- *It must exclude the 3 most recent monthly values - i.e. May 2025, June 2025 and July 2025.*
- *It must then calculate the arithmetic mean of the remaining 12 monthly values - i.e. the mean of the monthly values for May 2024 to April 2025 inclusive.*
- *Note that the amount for the month of April 2025 is included as the last monthly value in the calculation performed on the first business day in August 2025. April is treated as being 4 months previous from the month of August.*

Note that while the above example uses the K-AUM requirement, the same methodology also applies (subject to the relevant periods) when calculating the K-factor requirements for client money handled (K-CMH), assets safeguarded and administered (K-ASA), client orders handled (K-COH), and daily trading flow (K-DTF).

ICARA submission and common errors in MIF007 reporting

As part of our ongoing supervisory work under the IFPR, we have reviewed prudential reporting submissions and identified several recurring issues. Firms should address these to ensure accurate reporting and compliance with MIFIDPRU 9.

ICARA Review and Approval Timeline

As per MIFIDPRU 7.8.8R, firms are reminded to ensure that the time period between the completion of the Internal Capital Adequacy and Risk Assessment (ICARA) and its approval by the governing body is reasonable. What is a reasonable period will depend upon the facts of any given case. But the longer the time taken, the more of the period covered by the ICARA will have elapsed and the greater the risk that the information put to the governing body may have become outdated.

Own Funds Threshold Requirement (OFTR) – MIF007, cell 10A

Firms are frequently misreporting their Own Funds Threshold Requirement (OFTR) in cell 10A of MIF007. The figure reported must be the higher of the following:

- The Permanent Minimum Requirement (PMR) – from MIF001, cell 8A
- The amount required to support the ongoing operations of the firm, from cell 11 of MIF007. Subject to being no lower than the K-Factor Requirement (KFR) from cell 9A of MIF001
- The amount required to support an orderly wind-down, from cell 12 of MIF007. Subject to being no less than the Fixed Overheads Requirement (FOR), which is one quarter of the value of total annual eligible expenditure recorded in cell 6A in MIF001.

Liquid Assets Threshold Requirement (LATR) – MIF007, cell 33A

Errors are also common in reporting the Liquid Assets Threshold Requirement. Firms must report the sum of:

- The Basic Liquid Asset Requirement (BLAR) – MIF002, sum of cells 3A and 4A; and
- The higher of:
    - The firm's assessment of liquid assets needed to fund ongoing operations – MIF007, from cells 34A–37A; or
    - The additional liquid assets required, above the BLAR, to commence an orderly wind-down – MIF007, cell 38A.

We will continue to monitor submissions and may engage with firms that demonstrate persistent reporting errors. Firms should urgently review their prudential reporting processes to ensure alignment with MIFIDPRU 9 Annex 2G. For further guidance, refer to the FCA Handbook or contact the FCA directly.

Accounts submissions – small companies exemption and MiFID investment firms

High-quality financial disclosures are essential for honest, fair and competitive markets. They allow market participants to assess and price risk accurately. While UK reporting standards allow smaller, lower-risk firms to submit unaudited accounts under the small companies regime, this exemption is not available to all firms.

A preliminary assessment of Companies House accounts submissions found that up to 1 in 10 MIFID firms may have incorrectly claimed the small companies exemption. A MiFID investment firm under the Companies Act does not include firms that are eligible for the article 3 MiFID exemption (even if they are not authorised as an article 3 exempt firm).

For the most part, the firms identified satisfy the size-based criteria for a small companies exemption but meet the definition of a MiFID investment firm under the Companies Act, thereby excluding them from the small companies regime.

We recommend that senior managers review their firm's permissions and reporting practices to ensure compliance with the relevant standards. Firms must ensure that they are submitting the correct accounts as per the guidance provided by Companies House.

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