

Implementation of Investment Firms Prudential Regime

Policy Statement

PS21/6

June 2021

This relates to

Consultation Paper 20/24
which is available on our website at
www.fca.org.uk/publications

Telephone:

020 7066 1000

Email:

cp20-24@fca.org.uk

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1 Summary

Introduction

- 1.1** In December 2020, we consulted, in CP20/24, on the first set of our proposals to introduce the UK Investment Firms Prudential Regime (IFPR). This is a new prudential regime for UK investment firms authorised under the UK Markets in Financial Instruments Directive regime (MiFID). This is the first Policy Statement (PS) we will issue to introduce the IFPR. It summarises the feedback we received to CP20/24, our response and sets out near-final rules.
- 1.2** The IFPR aims to streamline and simplify the prudential requirements for solo regulated investment firms in the UK (FCA investment firms). In line with our objectives and our Mission, it will shift the focus of prudential requirements and expectations away from risks that firms face, to also consider and seek 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 expect the IFPR to take effect in January 2022.

Who this applies to

- 1.4** The rules will apply to:
- Any MiFID investment 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 use the current exemption 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
 - Collective Portfolio Management Investment firms (CPMIs)
 - 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 CPMI.

- 1.5 The rules on capital requirements for trading firms' activities might also be of broader interest to exchanges, central counterparties and clearing members.

The wider context of this policy statement

Our consultation

- 1.6 This is the first of a series of PSs, that will set out our rules to introduce the IFPR. This PS summarises the feedback we received to CP20/24.
- 1.7 We issued a second CP in April 21, [CP21/7: A new UK prudential regime for MiFID investment firms](#). We intend to publish a further CP this year and 2 further PSs summarising the feedback received and bringing together all our final rules.
- 1.8 When the UK was a member of the EU, we were heavily involved in the policy discussions to create the Investment Firm Directive (IFD) and Investment Firm Regulation (IFR). We support the aims of the EU's IFD and IFR. The IFPR will achieve the same overall outcomes.
- 1.9 However, we are introducing our regime after the UK has exited the EU. We believe it is right that we consider any appropriate changes to account for the specifics of the UK market and our duties to have regard to certain factors, including those set out in the Financial Services Act 2021 (FS Act).
- 1.10 Given this context, our baseline approach is for consistency with the EU regime unless we have specific reasons for diverging to reflect the nature of the UK market or otherwise to comply with our duties under Part 9C of FSMA (as inserted by the FS Act).
- 1.11 We note that when CP20/24 was published the FS Bill was still going through the parliamentary process. Our proposals were based on the draft legislation in the form in which it stood at that time. In April 2020, Royal Assent was obtained and the FS Act is now on the statute book. In most cases, the finalised provisions of the Act have not changed since CP20/24 was published. However, where applicable, we have updated our near-final rules to take account of any amendments made to the legislation during its passage through Parliament. We expect that the Treasury will publish secondary legislation in connection with the exercise of its delegated powers under Part 9C of FSMA in due course. Firms should refer to the Treasury's consultation on [Implementation of the Investment Firms Prudential Regime and Basel 3 Standards](#) for further information.

How it links to our objectives

Market integrity

- 1.12 Our near-final rules require FCA investment firms to consider the potential harm they can cause to clients, markets and others, by the type and scale of activities they undertake. This is a change from the previous regime which was based on FCA investment firms mainly considering the risks to their own balance sheet.

Competition

- 1.13** Our near-final rules will ensure there is 1 overarching regime for all these firms. They are proportionate according to the firm's size and the type and scale of their activities. This will be a significant improvement on the 11 regimes that currently exist for these firms. FCA investment firms with similar business models will now have similar prudential standards, rather than markedly different ones due to historical quirks. This will help to improve competition between all these existing firms and simplify matters for new entrants.

Protecting consumers

- 1.14** Our near-final rules require FCA investment firms to consider the potential harm they can cause to their retail customers, as well as their wholesale and financial services clients. Our proposed requirements place more focus on the MiFID investment services that these firms provide to consumers, although certain requirements will apply in relation to all activities undertaken by a firm.

What we are changing

- 1.15** 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 these firms to their clients and the markets in which they operate.
- 1.16** By contrast, the IFPR considers the harm these firms can cause to others based on the activities that they carry out. It also considers the amount of own funds and liquid assets they should hold so that if it does have to wind down, it can do so in an orderly manner.
- 1.17** 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.

Outcomes we are seeking

- 1.18** The final rules we plan to publish after issuing our 3 CPs will address different topics in the proposed regime. Across the consultations and final rules, the outcomes we are seeking are:
- 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 these firms, and better protect consumers and markets from the harm these firms may pose.
 - All FCA investment firms are subject to meaningful and consistent prudential requirements, not just those subject to the current UK CRR regime. This will help

reduce their potential to cause harm to consumers and markets, and ensure a more level playing field between these firms.

- 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).

Measuring success

- 1.19** Once the rules are in place, there will be a single prudential regime for all FCA investment firms. This will simplify the current approach and should reduce barriers to entry and allow for better competition between them. In line with our objectives and our Mission, the regime will move the focus of prudential requirements and expectations away from the risks firms face, to also consider and look to mitigate the potential for harm that the firm can pose to consumers and markets. Our aim is to improve trust in the resilience of these firms, while ensuring that their requirements are proportionate to their size and complexity.
- 1.20** Prudential requirements that better align with an FCA investment firm's business model should have positive implications for consumer protection. A more orderly market exit (including wind-down) of an investment firm may reduce the costs and distress to clients associated with discontinuity of service and economic losses in drawn-out insolvency proceedings. It should also reduce any disruption to markets.

Summary of feedback and our response

- 1.21** We received 42 responses to CP20/24. Most respondents supported our proposals. In some cases, they asked us to clarify how the rules would apply. In a small number of cases, they opposed our proposals or suggested changes to the proposed rules.
- 1.22** In general, we have implemented our proposals as consulted on, and have made some amendments to provide more clarity in response to some of the feedback received. We have also made some small amendments to the rules as part of our drafting of our proposed rules for our second CP, CP21/7. We have highlighted these changes in that CP. As our near-final legal instrument does not differ significantly from the version in CP20/24, we consider that the original CBA remains appropriate.
- 1.23** Chapter 9 of this PS provides a detailed summary of the amendments to the Handbook text consulted on in CP20/24. This includes those that have been described throughout the PS and those that we have made so that the rules work as intended.
- 1.24** Below we provide a high-level summary of the contents of this PS. We cover the specific feedback we received to our proposals in CP20/24, and our responses, in more detail in the corresponding chapters.

- 1.25** Under section 143H FSMA, we are required to publish an explanation of how we have had regard to various matters and how we have addressed particular risks when we make our final IFPR rules. Both consultation papers contain explanations of how we have had regard to the relevant matters and risks when formulating our original proposals. Alongside or shortly following publication of PS3 we will publish a full summary of the final rules, and explain how we have complied with these requirements.

Categorisation of investment firms

- 1.26** Chapter 2 of this PS provides a summary of the feedback we received on our proposals for categorising FCA investment firms as either small and non-interconnected firms (SNI) or not (non-SNIs) and our response. We provide greater clarification on:

- the firms that MIFIDPRU will apply to
- the scope of the IFPR and which firms will continue to be PRA-designated
- how/which MiFID activities determine a firm's classification as SNI or non-SNI
- how thresholds impact a firm's classification

Prudential consolidation

- 1.27** Chapter 3 of this PS provides a summary of the feedback we received on our proposals for prudential consolidation and the group capital test (GCT). We provide further clarity on:

- the scope of prudential consolidation
- the interaction between the IFPR and the UK Capital Requirements Regulation (UK CRR)
- the treatment of tied agents and appointed representatives
- consolidated own funds and own funds requirements
- GCT transitional arrangements

Own funds – definition and composition of capital

- 1.28** In chapter 4 of this PS, we summarise the feedback we received on our proposals for the types and treatment of own funds and our response. We define own funds and the items that should be deducted for CET1 purposes. We also provide more detail on:

- any existing cross-references to the UK CRR and how these will work in practice
- our future approach to how additional valuation adjustments (AVA) might apply in the context of determining own funds
- the inclusion of interim or end-year period profits as CET1
- the use of existing Tier 3 capital for own funds purposes
- the types of own funds held by a parent entity to meet the GCT
- trigger events for additional Tier 1(AT1) capital
- applicable transitional provisions for existing own funds instruments

Own funds requirements

- 1.29** In Chapter 5, we summarise the feedback received on our proposals for own funds requirements and our responses.

1.30 We respond to feedback on the amounts of ongoing Permanent Minimum Requirement (PMR) that will apply to FCA investment firms and how this interacts with the Initial Capital Requirement (ICR).

1.31 We also cover feedback on the applicability and calculation of the following K-factor requirements for firms trading on their own account:

- Net position risk (K-NPR)
- Clearing margin given (K-CMG)
- Trading counterparty default (K-TCD)
- Daily trading flow (K-DTF)

Own funds requirements – Transitional provisions

1.32 In Chapter 6, we summarise the feedback we received on transitional provisions that will apply to own funds requirements and our responses. This includes the transitional provisions relating to the initial collection and use of K-factor metrics.

Concentration risk

1.33 In Chapter 7, we summarise the feedback received on our proposals about:

- how we expect firms should monitor and control concentration risk
- the specific sources of concentration risk that non-SNIs should report on
- the additional requirements of firms dealing on own account, including the relevant concentration risk requirement (K-CON)

Reporting requirements

1.34 In Chapter 8, we summarise the feedback received and our proposals for:

- a single suite of reporting forms for all FCA investment firms
- the frequency of reporting
- the clarity of the reporting form instructions
- our expectations during the first year

Equality and diversity considerations

1.35 In CP20/24, we stated that we did not consider that our proposals would have a differential impact on any group sharing one of the characteristics protected under the Equality Act 2010. We did not receive any feedback on this assessment.

1.36 We have considered the equality and diversity issues that may arise from the approach outlined in this PS. We continue to believe the near-final rules will not have a negative impact on any of the groups with protected characteristics under the Equality Act 2010.

Next steps

- 1.37** Accompanying this PS are the near-final rules for the topics included here. These rules will be made final once the relevant FS Act statutory instruments are in place. We do not expect to make any changes to these rules before they are made final, unless this is essential due to ongoing policy work, and feedback received, for the other CPs on the IFPR.
- 1.38** We remind firms that in certain cases, the near-final rules published with this PS may be amended by our proposals in CP21/7, if those proposals are confirmed. We intend to publish a consolidated set of near-final rules in the policy statement to CP21/7, reflecting the overall position that we have adopted across the first two consultations.
- 1.39** Table 1 provides a summary of our publication timetable for the IFPR.

Table 1: Our consultation roadmap

CP20/24 – published December 2020
MIFIDPRU1 – Application (aspects of)
MIFIDPRU2 – Prudential consolidation and the group capital test
MIFIDPRU3 – Own funds resources
MIFIDPRU4 – Own funds requirements (aspects of)
MIFIDPRU5 – Concentration risk
MIFIDPRU9 – Regulatory reporting (aspects of)
PS1 – This Policy Statement
CP21/7 – published April 2021
MIFIDPRU1 – Application (remainder)
MIFIDPRU4 – Own funds requirements (remainder)
MIFIDPRU6 – Liquidity
MIFIDPRU7 – Risk Mngt & Governance, ICARA and SREP
MIFIDPRU9 – Regulatory reporting (remainder)
OTHER – Remuneration requirements
MIFIDPRU10 – Clearing members and Indirect clearing Firms – own firm requirements
OTHER – Interaction between MIFIDPRU and other prudential sourcebooks
OTHER – Permissions and application forms
PS2 – Early Q3 2021
CP3 – Early Q3 2021
MIFIDPRU8 – Disclosure
OTHER – Consequential amendments to Handbook and CRR technical standards
OTHER – Approach to existing BRRD and FICOD provisions
OTHER – Final overall application provisions
PS3 – Q4 2021

* Please note that the content of PS2, CP3 and PS3 and their publication dates is provisional and subject to change

2 Categorisation of investment firms

2.1 In this chapter, we summarise the feedback received on our proposals for categorising FCA investment firms as either small and non-interconnected (SNI) or not (non-SNIs) and our response.

Key proposals

2.2 We proposed a series of permission-based and quantitative thresholds so that firms will know if they are an SNI or a non-SNI. We proposed that firms with permission to deal on own account cannot be an SNI. Table 2 shows the quantitative thresholds that we proposed.

Table 2 – Quantitative criteria for being an SNI

Measure*	Threshold
Assets under management	< £1.2 billion
Client orders handled – cash trades	< £100 million per day
Client orders handled – derivative trades	< £1 billion per day
Assets safeguarded and administered	zero
Client money held	zero
On- and off-balance sheet total	< £100 million
Total annual gross revenue from investment services and activities	< £30 million

* These thresholds, with the exception of the on- and off-balance sheet total, only relate to the MiFID activities undertaken by the firm. 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. Firms should refer to our proposals in CP21/7 for further information on calculation methodologies for assets under management, client orders handled, client money held and assets safeguarded and administered.

2.3 In CP20/24, we asked 3 questions about the SNI thresholds and categorisation of 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.*

Feedback and responses

- 2.4** We received feedback from a total of 24 respondents to the questions and topics in this chapter. Respondents were broadly supportive of our proposals. A few respondents also suggested increasing some of the quantitative thresholds and 2 suggested additional criteria.
- 2.5** The quantitative thresholds used are consistent with those used by the EU for the IFD/IFR. We have received no compelling evidence that these thresholds should be changed.

Application to firms

- 2.6** Respondents asked us to clarify which firms MIFIDPRU would apply to and 1 respondent asked us to confirm that the IFPR does not apply to MiFID Article 3 exempt firms. 6 respondents agreed with all the thresholds. 2 respondents thought that an FCA investment firm that did 'matched principal trading' should be able to be an SNI. Some respondents thought that not many firms would be able to be SNIs and asked if we would tell firms which category they would be in or if firms would need to determine this for themselves.

Our response

MIFIDPRU will only apply to firms that are currently authorised under the UK Markets in Financial Instruments Directive regime (MiFID). The scope of MiFID is not affected by MIFIDPRU. Any firm that is not subject to MiFID, including those that are Article 3 exempt, is not affected by our proposals. Any firms which would be MiFID article 3 exempt but have previously opted-in to MiFID will need to apply for a variation of permission if they would like to stop opting-in.

Firms can also refer to Chapter 3 of CP21/7 to see our proposals for how MIFIDPRU will apply to CPMIs.

We expect firms to determine for themselves whether they are an SNI or non-SNI and they should monitor this. Based on data from our cost-benefit analysis, we expect approximately 70% of firms to whom the IFPR applies will be SNIs, if the overall population of firms remains the same as it is currently. Firms should refer to MIFIDPRU TP6 in our draft Handbook rules in CP21/7 for information on how we propose that firms should determine their SNI status at the outset of the IFPR.

We confirm that our final rules will contain the SNI thresholds that we originally proposed. Firms are reminded that the calculation of AUM, COH, the on- and off-balance sheet total and the total annual gross revenue for these purposes must each be calculated on a combined

basis. This means those measures must take into account the position of any of the following in the same group:

- MIFIDPRU investment firms;
- designated investment firms;
- CPMLs; and
- third country investment firms, to the extent that they carry on investment services or activities in the UK. We have clarified in our final rules in MIFIDPRU 1.2.10R that in the case of a third country firm, for these purposes, the concept of 'MiFID business' in the Glossary definitions of AUM and COH should be read as including any investment services and/or activities the firm carries on in the UK. (See Chapter 9).

PRA designation & the UK CRR

- 2.7** We were asked if firms would be able to remain on the UK CRR rather than move to the IFPR. We were also asked if we expected that some firms would remain on the CRR due to their size.

Our response

The scope of the IFPR has been determined by the Treasury and we agreed with its decision. We consider the IFPR to be better suited to FCA investment firms than the UK CRR. We do not consider that it would provide value for money for us to continue to supervise against the whole UK CRR regime (which would also need to include technical standards, and in future potentially any PRA rules as part of the implementation of the UK version of CRR2) for a very small number of firms that currently would like to opt-in.

Designated investment firms will remain on the UK CRR and be authorised by the PRA. The designation process is primarily a matter for the PRA.

MiFID activities

- 2.8** Most feedback agreed with our proposals that being able to deal on own account should mean that an FCA investment firm could not be an SNI. 2 respondents asked why firms that undertake 'matched principal' business cannot become SNIs or suggested that the daily trading flow threshold should be the same as the client orders handled threshold. Another respondent thought that having a quantitative threshold for dealing on own account could lead to anti-competitive regulatory arbitrage and that this was a weakness of the current regime.

Our response

FCA investment firms that trade on a matched principal basis are still dealing on their own account. They pose and face increased harm from their activities when compared with those that do not deal on their own account. In particular, we consider that the fact that they incur liability as principal on their dealing activities means that they should not be considered to be non-interconnected. Those that genuinely only do matched principal trading should have little position risk requirements (K-NPR or K-CMG) and are unlikely to have a high K-TCD. Their volume of activity will affect K-DTF, which we believe is an appropriate requirement to capture the potential for harm. As a result, the K-factor calculations under the IFPR already adequately reflect the difference between matched principal trading and other forms of dealing on own account.

Firms will only be subject to a daily trading flow requirement if they are authorised to deal on their own account. This is why there is, in effect, a zero threshold for DTF. We consider that regulatory arbitrage is less likely in this context, as simply having permission to deal on own account will mean that the firm exceeds the SNI threshold, irrespective of the extent of that dealing. If a firm chooses to restructure its dealing arrangements to act only as agent instead, the higher threshold for COH reflects our view that dealing as agent involves a different set of risks.

We believe that all FCA investment firms that deal on own account should be non-SNI. This is consistent with our baseline approach and reflects the fact that they may be inter-connected to other FCA investment firms and other counterparties in the financial markets.

In general, the K-factors apply to an FCA investment firm's MiFID activities. As is currently the case, an FCA investment firm should be able to determine whether its activities are MiFID or non-MiFID. Guidance on MiFID is in PERG 13.

Assets under management (AUM)

- 2.9** We received 5 responses specifically on the AUM threshold. This feedback was that the threshold for AUM was too low where it included assets under ongoing advice. Some firms thought it was not appropriate for their business model.

Our response

Reflecting what we have said generally in Chapter 1, this threshold is consistent with that in the EU's regime. The provision of non-discretionary arrangements that amount to investment advice of an ongoing nature has the potential to give rise to harm for consumers that may be similar to discretionary arrangements. We have not been presented with any arguments or evidence to diverge from our proposal. We also consider that it is appropriate to apply the same threshold to both discretionary portfolio management and ongoing advice to reduce the risk of regulatory arbitrage in relation to such arrangements.

Client money

- 2.10** We received feedback from 3 respondents that it would be disproportionate for a firm to be a non-SNI only because they hold a very small amount of client money, or that firms may shift between SNI and non-SNI status. One suggestion was that we should set the threshold at the same level as for small CASS firms. We were also asked to clarify what the CASS criteria are.

Our response

We consider that firms that hold client money present a greater risk of potential harm than firms which do not. In addition, it can be more complicated to oversee the winding down and resolution of such firms. We therefore believe our proposed threshold is appropriate. Firms should refer to CP21/7 for our proposals on how to calculate the value of client money for these purposes. If firms hold a very small amount of client money, their own funds requirements may still be based on the PMR or the FOR rather than the K-factors. Once an FCA investment firm has been classified as a non-SNI, it must meet the requirements for being an SNI continuously for 6 months before it can be reclassified as an SNI. This is to prevent firms from moving between categories unnecessarily.

The thresholds for CASS firms are set for safeguarding and not prudential purposes. They can be found in our Handbook in [CASS 1A.2.7](#).

Additional criteria for being an SNI firm

- 2.11** We received 2 responses proposing different criteria that could be used to decide if a firm is an SNI or not. The suggestion was that we should consider the counterparties that the firm has permission to work with. For example, firms that did not have permission to deal with retail clients could be used to reduce the number of non-SNI firms.

Our response

We consider that having such additional criteria would make it more complicated for firms to determine if they are an SNI or not. It was not clear if these were proposed as criteria that would 'trump' other thresholds or if they should be used in addition to the existing criteria. Currently firms must meet all the thresholds to be considered an SNI. We do not think that adding the client type on top of the other thresholds would lead to there being any more SNI firms. It would also not be consistent with our general baseline approach to IFPR.

Reviewing the thresholds

- 2.12** We were asked how frequently we would review the thresholds for whether an FCA investment firm may qualify as an SNI.

Our response

We plan to keep the regime under review generally and in the light of experience of initial implementation. This may include relevant thresholds if necessary. However, we do not expect this to be for at least 5 years in order to assess the impact of the regime after the transitional provisions have ended.

3 Prudential consolidation and the group capital test

3.1 In this chapter, we summarise the feedback to our proposals for the prudential requirements for FCA investment firm groups and our responses.

Key proposals

- 3.2** Our proposals set out the scope and composition of a consolidation group in a similar way to what is the case under the UK CRR. A key difference is that under the IFPR we use the concept of an 'investment firm group'.
- 3.3** We proposed that prudential consolidation will apply where there is an investment firm group, except where we have granted permission to that group to use the alternative of the group capital test (GCT).
- 3.4** Unlike under the UK CRR, we proposed that the obligations under prudential consolidation in the IFPR will fall directly upon parent undertakings (including an investment firm where it is a parent undertaking), rather than the authorised entity. Our proposals mean that parent undertakings, which may otherwise be unregulated, will have to meet certain regulatory obligations.
- 3.5** Our proposals explained that prudential consolidation treats the whole investment firm group as if it was a single FCA investment firm. In CP20/24, we also explained that the consolidated own funds requirements will be determined on the basis of a consolidated permanent minimum requirement, consolidated fixed overheads requirement and a consolidated K-factor requirement.
- 3.6** We explained how the GCT is applied, our expectations of what an application for permission to use the GCT should contain and transitional arrangements for the temporary use of the GCT.
- 3.7** The proposed rules for all these requirements were set out in MIFIDPRU 2.
- 3.8** In Chapter 3 of CP20/24, we asked 3 questions covering aspects such as the scope of application and methods of prudential consolidation, calculation of consolidation requirements and details around applying the GCT:

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?*

Feedback and responses

- 3.9** We received 17 responses to question 4, 12 responses to question 5 and 10 to question 6. Respondents broadly supported our proposals but had some questions about how they may work in practice.

Scope of application of prudential consolidation

- 3.10** In CP20/24, we explained that an FCA investment firm group comprises 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.
- 3.11** Most respondents were broadly in agreement with the proposed scope of application of prudential consolidation of an FCA investment firm group. But several respondents were unclear on the definitions of the types of relationship which may result in an entity falling into scope. Most respondents asked for further clarity on the scope of application of prudential consolidation.
- 3.12** One respondent thought our proposals meant that groups not headed by a UK parent entity (which is either an investment firm, an investment holding company or a mixed financial holding company) would not be subject to prudential consolidation requirements. However, they were concerned that the wording in paragraph 3.6 and paragraph 3.7 of CP20/24 implied that all that is required for prudential consolidation requirements to apply is that there is an FCA investment firm within the group.
- 3.13** In addition, 1 respondent asked us to clarify the scope of prudential consolidation as it would apply to a situation where there are several entities within a group that share only common third country control.
- 3.14** Another respondent asked us to clarify our position regarding BIPRU firms moving holding companies to other jurisdictions so that they are registered outside of the UK. Thus, according to the respondent's understanding, these groups would fall outside of the definition of an FCA investment firm group. The respondent asked us to clarify whether we would 'look through' from the FCA regulated firm to the parent.
- 3.15** Two respondents requested further clarity on the definition of 'financial institution'. They asked us to explain specifically how to interpret 'principal' in the context of this

definition and whether 'holdings' includes subsidiaries not authorised to provide financial services activities.

- 3.16** In paragraph 3.8 of CP20/24, we explained that for the purposes of our rules on prudential consolidation, 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
- 3.17** One respondent referred to section 143B(1)(a) of the FS Bill which, at that time, they interpreted as bringing within scope of MIFIDPRU a parent undertaking that has any place of business in the UK. They suggested this would bring within scope those overseas parent entities which are not incorporated or registered in the UK.
- 3.18** Another respondent requested clarification that only parent companies that are incorporated or have their registered office in the UK would be included for the purposes of the rules on prudential consolidation. However, the respondent highlights further issues that stem from what was said in paragraph 3.23 of CP20/24 as it relates to firms established outside of the UK. They understood that a non-UK firm should be included in prudential consolidation where, were it established in the UK, it would meet the definition of a relevant entity (eg an investment firm).
- 3.19** The respondent raised a concern about third country regulated firms that:
- already have their own capital and other prudential requirements, or
 - are EU firms which are treated outside of the scope of MIFID in their own jurisdiction but would be treated as investment firms under the UK's wider interpretation of MIFID
- 3.20** The respondent argued it would be inappropriate to include such firms within an FCA investment firm group for the purposes of consolidation. They alleged that in the case of these third country regulated firms, it would lead to a double counting of own funds.
- 3.21** On another point, the respondent argued that it would be difficult for firms to apply UK prudential rules to activities carried on outside the UK. In the case of EU firms that are treated locally as outside the scope of MIFID, it would also be inappropriate to reclassify their activities according to the IFPR. They suggested this would be difficult to implement for activities undertaken outside of the UK.
- 3.22** One respondent asked us to clarify the treatment of non-UK sub-groups (defined as non-EEA sub-groups under BIPRU 8.3) under the IFPR.

Our response

From the comments we received, many respondents were unclear how the definition of 'investment firm group' would work in practice and how entities would fall into scope for consolidation purposes.

It was always our intention that prudential consolidation or the GCT would apply in relation to all relevant subsidiaries (and where relevant, connected undertakings) downstream from the UK parent entity. Nevertheless, we recognise that our original definition of an

'investment firm group' was territorially neutral. As a result, some respondents mistakenly interpreted our proposals to mean that we would require a UK parent entity to consolidate upwards or to apply the GCT to parent undertakings above the top UK parent.

So we have amended the definitions of both an 'investment firm group' and 'consolidated basis' to make it clearer that the FCA investment firm group consists of a UK parent and its subsidiaries (and where applicable, connected undertakings). (See Chapter 9, summary of rule changes).

We believe that this will ensure that the definition of 'investment firm group' does not inadvertently capture non-UK entities above the UK parent entity. We do wish to draw attention to appropriate cases, where we may still apply individual requirements to specific UK parent entities (using our powers in section 55L or section 143K of FSMA). In these cases, it may be appropriate to include other entities (including those higher up in the structure) within the scope of consolidation if we consider it desirable to do so to advance our operational objectives. We will consider this on a case-by-case basis, where appropriate.

In the definition of financial institution, we refer to '...any other undertaking the principal activity of which is to acquire holdings'. We were asked to clarify the interpretation of 'principal' in this context. In our view, it means the main or primary activity, taking into account all relevant facts and circumstances. We do not consider helpful to set absolute thresholds for this assessment, and a mixture of qualitative and quantitative factors may be relevant. We can confirm that 'holdings' would include subsidiaries not authorised to provide financial services activities.

We consider that the concept of 'acquiring holdings' should be given its literal meaning – i.e. the question is whether the entity concerned has acquired holdings in other entities. In our view, the activity of acquiring holdings does not need to be ongoing – it is sufficient that the undertaking has acquired holdings at some point. This is consistent with the purpose of the group and consolidation provisions and enables intermediate holding structures to be caught. In practice, this means that holding companies will generally be financial institutions, as their principal activity is to acquire holdings. However, we would also remind firms that the definition of a 'financial institution' specifically excludes 'pure industrial holding companies'. So, if a holding company only has holdings in non-financial undertakings (such as ordinary industrial or commercial enterprises which are not relevant financial undertakings), it will not be a financial institution (unless the holding company also carries on relevant financial services activities itself).

The territorial scope of our rules in relation to parent undertakings follows the relevant provisions in FSMA (as inserted by the Financial Services Act 2021). The relevant provisions have been amended in our final rules to take account of the evolution of the legislation during the parliamentary process. The general position is now that a parent

undertaking will be under a direct obligation to comply with our rules on prudential consolidation if it is a 'UK parent entity'. This will be the case if:

1. It is a UK parent investment firm. This would require it to be a MIFIDPRU investment firm (and therefore an FCA investment firm, as defined in s.143A FSMA). In turn, this would mean that it has either its registered office or, if it has no registered office, its head office in the UK.
2. It is a UK parent investment holding company or a UK mixed financial holding company. In these cases, the entity must be either an 'authorised parent undertaking' or a 'non-authorised parent undertaking' as each is defined in s.143B(1) FSMA. In either case, this would require the entity to be either incorporated in the UK or to have its principal place of business in the UK.

Once a UK parent entity becomes subject to our prudential consolidation requirements, it must include within the resulting consolidation group all subsidiaries and connected undertakings that are relevant financial undertakings. This includes entities established outside the UK that fall within that definition. For these purposes, the jurisdiction of incorporation or location of the head or registered office of the relevant financial undertaking is therefore irrelevant.

Where an investment firm group has obtained permission to use the GCT, the GCT requirements only apply directly to UK parent undertakings within the investment firm group. This means that such parent undertakings must either be incorporated in the UK or have their principal place of business in the UK to be caught. However, firms are reminded that where there is a non-UK parent undertaking as an intermediate parent within the group structure, a UK parent undertaking may have obligations in relation to the non-UK entity by virtue of being a 'responsible UK parent'.

For the avoidance of doubt, we would also remind firms that where a non-UK entity is included within an investment firm group, neither the consolidation requirements nor the GCT impose any obligations directly on that non-UK entity. Therefore, there is no possibility of direct conflict between our MIFIDPRU rules and the prudential requirements that may apply in the non-UK jurisdiction. However, the UK parent entity or, in the case of the GCT, the responsible UK parent, may incur obligations by reference to the position of the non-UK entity. This enables group risks to be adequately taken into account, irrespective of whether they arise in a UK or non-UK undertaking.

We can confirm that for our rules on prudential consolidation, it is necessary to include a parent undertaking only where it is incorporated in the UK, or has its registered/head office in the UK (if is a MIFIDPRU investment firm) or its principal place of business in the UK (if is another type of parent undertaking). However, the application of prudential consolidation to an FCA investment firm group is based upon the consolidated situation of a UK parent. The result of which means treating the UK parent, along with all the relevant entities within the FCA investment firm group, as if it were a single FCA investment firm.

Hence, a firm established outside of the UK would be included in the consolidation situation, if it was considered to be a relevant entity had it been established in the UK. This is essentially the same as how prudential consolidation under the UK CRR operates currently.

We confirm that the MIFIDPRU 2 rules do not include the concept of non-UK sub-groups that is currently used in BIPRU 8.3. We confirm in Chapter 8 that FCA investment firms will no longer have to report form FSA028.

Collective portfolio management investment firms (CPMIs) and alternative investment fund managers (AIFMs)

- 3.23** In paragraph 1.4 of CP20/24, we confirmed that our MIFIDPRU rules would apply to regulated and unregulated holding companies of groups that contain an investment firm authorised and regulated by the FCA and is a Collective Portfolio Management Investment firm (CPMI).
- 3.24** Two respondents asked us to clarify how CPMIs and alternative investment fund managers (AIFMs), as well as other non-MIFID firms, would be treated under the IFPR for consolidation purposes.
- 3.25** One respondent put forward the suggestion that CPMIs should be considered as asset management firms, and so CPMIs would fall within the definition of a financial institution. They suggested that CPMIs should be included as part of an FCA investment firm group otherwise it could lead to a reduction in own funds. So collective portfolio management firms that do not undertake MIFID activities (CPMs) should also be included in the consolidated situation, but be excluded from K-factor capital requirements on a consolidated basis.
- 3.26** We were also asked by 1 respondent to confirm that entities with no 'top up' MIFID permissions would fall outside of scope of the IFPR.
- 3.27** In paragraph of 3.38 of CP20/24, we proposed that only the MIFID activities of CPMIs should be included in an FCA investment firm group's consolidation situation. One respondent agreed with this proposal but suggested that this approach should be extended to apply to other IFPR requirements (such as ICARA requirements) limiting it to only a CPMI's MIFID activities. Another respondent recommended that CPMIs should only be subject to the higher of their capital requirements under IFPR or AIFMD, and the ICARA and prudential consolidation requirements should fall away for these firms.
- 3.28** One of the respondents said that our proposals on the treatment of CPMIs is more onerous than that which will be applied in several EU Member States – where the intention is to disapply the EU IFD/IFR to all CPMIs. They therefore argued that UK CPMIs would be at a competitive disadvantage compared to their EU counterparts.

Our response

In CP20/24, we said that we would explain how our MIFIDPRU rules would apply to CPMI firms in a subsequent consultation. We have carefully considered the feedback around CPMLs that we have received to this CP and it has helped us to refine our relevant proposals which were published in CP21/7.

Our intention is to mitigate the harm that firms can cause. We do not consider that the nature of the potential harm from MiFID activities differs according to whether those activities are carried on by an AIFM or UCITS manager or by an investment firm authorised under the MiFID regime. Applying the same approach in relation to all such entities also contributes to ensuring a level playing field for UK firms. It eliminates distortions that would result from applying different prudential treatments solely by reference to the regime under which the firm was originally authorised. This also avoids misalignment between the capital requirements and the resources necessary to address the harm that can arise. We do not believe our proposals are disproportionate as they attempt to mitigate the harm that may arise and ensure that equivalent activities are treated equally. This follows the same underlying policy approach to CPMLs as we currently apply under the UK CRR, which we continue to believe is both prudent and appropriate.

We have amended the definition of 'financial institution' to include alternative investment funds managers (AIFMs). AIFMs were always intended to be included within the original definition, in accordance with the approach taken under the UK CRR and EU IFD/IFR. By adding AIFMs to the list of entities that constitute a financial institution, we have corrected a drafting omission in CP20/24. Firms and groups will therefore need to treat AIFMs as financial institutions (and therefore also as 'relevant financial undertakings') when applying the MIFIDPRU rules.

The effect of this is that both CPMs and CPMLs are included within investment firm groups where they are subsidiaries or connected undertakings. However, where prudential consolidation applies to the group, the consolidated K-factor calculation applies only in relation to MiFID (or equivalent third country) activities.

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

3.29 As we explained in paragraph 3.11 of CP20/24, a relevant subsidiary or connected undertaking when determining the scope of an investment firm group would be any one of the following:

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

3.30 In our proposals we outlined when an entity should be considered either a subsidiary or a connected undertaking. Respondents did not raise any issues about the definition of a subsidiary undertaking, since it is well-understood as it follows from the definition in section 1162 of the Companies Act 2006. Responses were mixed however when it came to the definition of a connected undertaking.

Connected undertakings

3.31 Eight of the 17 respondents raised concerns with the definition of connected undertakings. Several respondents felt the definition was unclear. There was considerable confusion around how the definition is to be applied in the context of the prudential consolidation of an FCA investment firm group.

3.32 Regarding scope, the concept of 'connected undertaking' as defined in MIFIDPRU 2.4.2G (2) and applied in MIFIRDPRU 2.4.6R through to MIFIDPRU 2.4.16R drew comments that the definition was very broad. Some argued that it potentially expands the composition of existing prudential consolidation groups that already apply full consolidation. There were also concerns that it would be difficult to determine how the application of this definition would work in practice given that some of the criteria include certain subjective factors.

Our response

As a general principle, our proposed rules in MIFIDPRU 2 in CP20/24 were not intended to enlarge the scope of prudential consolidation as compared with the existing provisions of the UK CRR. The relationships set out in that chapter that can result in a relevant financial undertaking being included within the scope of consolidation (i.e. either as a subsidiary, or as a connected undertaking) reflect equivalent relationships that already exist in Article 18 of the UK CRR. As a result, in general, we do not consider that our proposals would materially widen the scope of prudential consolidation for firms that are already subject to consolidated obligations under the UK CRR regime. Respondents did not provide specific details of relationships that would not have been caught under the UK CRR but would be caught under our rules.

We acknowledge that some of the concepts that may lead to an entity being classified as a subsidiary or connected undertaking may require the exercise of a degree of subjective judgement. However, this is

true under the existing consolidation regimes under the UK CRR. It reflects that this is a fact-specific analysis. And it takes into account how arrangements are operated in practice and the degree of influence or control that they represent. We note that in many cases, similar judgements are required under accounting regimes that have operated successfully for many years. The additional guidance in MIFIDPRU 2.4 includes indicators that may be evidence of the existence of these relationships and is broadly equivalent to the approach advocated by the European Banking Authority under the EU IFR and EU CRR regimes.

We therefore confirm that our final rules will contain the framework for identifying an investment firm group that we proposed in CP20/24. In certain cases, we have made some clarifications to reflect feedback from respondents. These are specifically identified below and listed in Chapter 9.

3.33 In paragraph 3.16 of CP20/24, we had stated that '[a]n entity (CU) will be a connected undertaking of any entity (P1) and P1 will be a parent undertaking, where any of the following relationships apply'. One respondent asked whether we had meant to refer to P1 as a parent undertaking. If the wording is correct, they suggest that this would imply that the connecting undertaking qualifying conditions could only be met in a parent and subsidiary relationship.

Our response

The reference to a 'parent undertaking' in paragraph 3.16 of CP20/24 was designed to reflect the fact that where Entity B is a connected undertaking of Firm A, the rules in MIFIDPRU 2.4 normally deem A to be a parent undertaking of B for the purposes of identifying membership of the investment firm group. This is described in further detail in the guidance in MIFIDPRU 2.4.7G.

Under our proposed change in CP20/24 to the existing Glossary definition of a 'parent undertaking', this deemed parent status is used in MIFIDPRU 2.5 to bring the connected undertaking within the scope of prudential consolidation. This means that all relevant financial undertakings that are subsidiaries or connected undertakings must be included within the consolidation group.

However, this deemed status does not generally apply where an investment firm group is subject to the group capital test in MIFIDPRU 2.6. In that case, our revised Glossary definition of a 'parent undertaking' includes only true parent undertakings (as defined in section 1162 of the Companies Act 2006) or a deemed parent by virtue of a participation. This means that if we grant permission to a group to use the GCT, any relationships that are neither true parent-subsidiary relationships nor participations can be ignored. This reflects the fact that the other relationships that result in connected undertaking status (i.e. majority common management, significant influence and single management) do not generally involve shareholdings or capital ties. It would therefore be impractical to apply

the GCT in connection with such relationships. That is the reason why we proposed that the existence of this latter type of non-shareholding relationship, if material, should generally preclude the group from using the GCT.

For completeness, we would remind firms that MIFIDPRU 2.4 means that the basic definition of an 'investment firm group' includes all relevant financial undertakings that are either subsidiaries or connected undertakings. This means that when a firm is applying for permission to use the GCT, it must identify all such relationships. It is only if we grant permission to use the GCT that the firm can then disregard connected undertakings (other than those linked by participations).

- 3.34** In accordance with MIFIDPRU 2.4.19G, 3 respondents pointed to what we had said in CP20/24 that where an FCA investment firm group includes one or more connected undertakings, the investment firm group is unlikely to be simple enough for the purposes of applying the first limb of the requirements of the GCT. One of these respondents suggested that the difference in the definition of investment firm group under our proposals, as opposed to the definition under the EU IFD/IFR, could lead to an unlevel playing field between FCA investment firm groups and corresponding EU group counterparts.

Our response

We have explained in our response above that our original rationale for the proposed guidance in MIFIDPRU 2.4.19G is that the GCT cannot apply to non-shareholding relationships. In our view, this rationale remains valid. If we were to grant a GCT permission to a group structure in which there were material connected undertakings linked by non-shareholding relationships, the GCT obligations would not adequately capture the risks associated with such relationships. We therefore consider that the existence of such relationships, if material, is evidence that an investment firm group is not simple enough to use the GCT.

We have amended the guidance in MIFIDPRU 2.4.19G in our final rules to clarify that this is not the case where an entity is a connected undertaking by virtue of a participation. (See also Chapter 9). In that case, there will be shareholdings or capital ties and the GCT can therefore apply. Therefore, we do not consider that the mere existence of participations is evidence that a group is complex.

We remind firms that MIFIDPRU 2.4.19G states that it is unlikely that an investment firm group that contains connected undertakings will be sufficiently simple to qualify for the GCT permission. There may, however, be cases where the connected undertaking is immaterial in comparison to the business of the group and firms can demonstrate that applying the GCT (and therefore effectively disregarding that relationship for such purposes) would not result in additional prudential risks. In such cases, we will consider all relevant factors when

determining an application. However, we consider that such situations will generally be rare.

- 3.35** One respondent argued that the tests to determine whether an entity is a connected undertaking are complex and thus only suitable for very large firms. They recommended that we follow an approach similar to how we currently consider significant IFPRU firms. Some respondents were concerned about how firms will be able to interpret and apply the tests for single management and significant influence.

Our response

We acknowledge that the rules on identifying the scope of investment firm groups involve a degree of complexity. However, in our view, these rules are important because they allow our prudential supervision to take account of the risks arising from a firm's relationships with connected entities. If we did not include such rules in the new regime, it would be possible for firms to structure their arrangements in a way that reduced our visibility over their operations and exposed them to additional risks through connections with other undertakings. For example, a firm could divide its regulated business between multiple entities but operate them in practice as if they were one unified firm. In that case, solo supervision of each entity alone would not adequately reflect the risks and interconnected nature of that arrangement.

We do not agree that the connected undertaking tests are relevant only for larger firms. In part, the connected undertaking relationships are designed to prevent firms from using artificial arrangements to make their businesses appear less complex, risky or interconnected. A firm may appear to have a small and simple business in isolation, but could be exposed to complex, high risk activities through its connected undertakings.

We therefore confirm that our final rules on investment firm groups and connected undertakings will apply to all FCA investment firms, irrespective of their size or the type of MiFID business they undertake.

- 3.36** One respondent said that the 'connected undertaking' tests materially broaden the concepts of 'unified management' and 'significant influence' that already exist under company law and in other regulatory contexts. They suggested that this could create uncertainty for firms. They recommended we align these provisions with accounting standards.
- 3.37** Another 2 respondents asked us to provide a clear definition of 'management on a unified basis' and include examples to illustrate how the definition is to be applied. They also asked for further guidance on how to classify 2 entities as managed on a unified basis or at least point to references to a current standard or guidance.
- 3.38** We were asked by 1 respondent to provide guidance on how a subsidiary by way of management on a unified basis under MIFIDPRU 2.4.5G (2)(b) differs from a connected entity under MIFIDPRU 2.4.6R(3). As there is no need for one of the entities to have

formal capital ties with the other, and the relationship between the 2 entities is essentially one of management and control, the respondent suggested that this blurs the line between what is a subsidiary and what is a connected undertaking.

Our response

As noted above, the connected undertaking tests have existed under the current UK CRR (and while the UK was an EU Member State, its predecessor, the EU CRR) for a number of years without causing significant issues. In our view, our proposals in CP20/24 are consistent with, and do not go beyond, the relationships identified in Article 18 of the UK CRR.

As explained in MIFIDPRU 2.4.5G, the concept of 'management on a unified basis' in our rules is directly incorporated by cross-reference to section 1162(4) of the Companies Act 2006. This is fully aligned with the company law concept of a subsidiary undertaking and firms should apply the same approach that applies under general company law. While it is ultimately for a court to determine the correct interpretation of section 1162(4), we consider that generally, 'management on a unified basis' should be given its literal meaning. Therefore, the question is whether two or more entities are, in practice, managed as if they formed a single, unified firm. We consider that this is a question of fact and degree and will need to be analysed according to the circumstances in each case.

The concept of 'single management' is outlined in MIFIDPRU 2.4.12R and the associated guidance in MIFIDPRU 2.4.13G and 2.4.14G. We consider that this is different from management on a unified basis under section 1162(4) of the Companies Act. This is because single management involves a situation where there is effective coordination of the financial and operating policies of two or more entities, but this does not necessarily extend to managing those entities as if they formed a single, unified firm. As set out in MIFIDPRU 2.4.13G, indicators that such a relationship may exist include where the two entities are controlled by the same person, or where a majority of the management of both entities are appointed by the same person or group of persons. We would emphasise, however, that the indicators in MIFIDPRU 2.4.13G are not conclusive when taken in isolation. The relevant question is whether there is effective coordination of financial and operating policies. The indicators are merely evidence of situations where it may be more likely that such coordination will occur.

We address the position of 'significant influence' and potential overlap with the tests applied under existing accounting standards below.

3.39 One respondent asked whether connected undertakings should be registered in the UK. They suggested that firms may restructure and move their head offices outside of the UK. We were also asked to clarify what level of common overseas management would be a determining factor, since ultimately all overseas owned businesses will

report to a single corporate head office even though the line of business functional management and governance may be entirely separate.

- 3.40** Another question asked by one respondent was whether firms are expected to determine if an entity is a connected undertaking for themselves and then substantiate their decisions to supervisors. Or alternatively, do we expect firms to 'apply' for connected undertakings to be recognised. A follow-up question was whether we would use our powers to make these determinations and communicate the outcome to firms.

Our response

We consider firms are best placed to determine for themselves whether an entity is a connected undertaking by applying the various tests set out in MIFIDPRU 2.4.6R through to MIFIDPRU 2.4.16G. The analysis will be fact-specific and firms will have greater visibility over how their arrangements are operated in practice. Firms should also be able to substantiate the outcome of their decisions to supervisors.

We want to clarify that a UK credit institution may be included in an FCA investment firm group as a connected undertaking and, if so, should also be consolidated. In other words, an FCA investment firm group may include a credit institution if it forms part of a group as a connected undertaking (rather than a full parent or subsidiary). We have amended the existing guidance provision in MIFIDPRU 2.5.4G to reflect this point. (See Chapter 9). We have amended the definition of 'relevant financial undertakings' to add credit institutions to the list of entities that constitute a relevant financial undertaking. (See *also Chapter 9*).

Third country credit institutions should be consolidated if the FCA investment firm group does not contain a UK credit institution as a full parent or subsidiary, because such a group would not be subject to prudential consolidation under the UK CRR.

When determining membership of an investment firm group, it is irrelevant whether the subsidiary or connected undertaking is established in the UK or not. This is because the definitions of the types of entities included with the overall definition of a 'relevant financial undertaking' are territorially neutral. Therefore, FCA investment firms should identify all relevant relationships for these purposes, whether they are with UK or non-UK entities. The types of relationships that will result in a firm being a subsidiary or connected undertaking have been described above.

Accounting standards

- 3.41** One respondent recognised that our proposals on the types of relationships which may result in an entity falling into scope for prudential consolidation, were largely reflective of those in the EU's IFD/IFR.
- 3.42** The respondent proposed that we should adapt the relevant tests to take into account similar concepts in International Accounting Standards (IAS), specifically, IAS 28. The respondent felt that aligning regulatory prudential consolidation with accounting consolidation would certainly have merit. If this was our intention, we were asked to make it clear in further guidance that the derivation is from accounting standards.
- 3.43** Another respondent asked for further clarity on whether it would be allowable to follow the accounting consolidation group where you have larger FCA investment firm groups with many subsidiaries. They argued that for larger groups with multiple subsidiaries, which may not all meet the definition of 'relevant subsidiaries', this could create complexity as there could be material differences to the accounting consolidation group.

Our response

We note the feedback on the alignment between prudential consolidation and accounting consolidation. We would emphasise that prudential consolidation and accounting consolidation are similar, but deliberately different, concepts. It would not be appropriate to introduce full alignment between accounting and prudential consolidation. Accounting consolidation will typically capture relationships with non-financial undertakings that may not be relevant for prudential purposes. The purpose of these two types of consolidation is also different. Therefore, while firms may use their accounting analyses as a starting point when considering related issues under our rules for investment firm groups, they will need to take account of any specific requirements in our rules.

However, we agree that there is merit in aligning some concepts in our rules more closely with the equivalent accounting position.

We have revisited our MIFIDPRU rules and the guidance that we have provided. Hence, we have amended MIFIDPRU 2.4.11G, to provide a clearer definition of what we mean by 'significant influence'. We consider that it will be relevant for a firm to consider the analogous accounting position under IAS 28 or the equivalent approach in UK GAAP in FRS 102. As in those accounting standards, we have clarified that the relevant test is whether the firm has the power to participate in the financial and operating policy decisions of the relevant financial undertaking, even though the firm does not have control or joint control over such policies. The indicators in MIFIDPRU 2.4.11G (2) are merely potential evidence that such a relationship may exist but are not conclusive. (See also Chapter 9).

How prudential consolidation interacts under the IFPR and UK CRR

- 3.44** Some respondents said they understood the desire for the FCA to continue to operate the existing approach for dual supervision of PRA designated investment firms. However, respondents stated that the divergence between the IFPR and UK CRR creates an additional burden of having to implement 2 separate prudential requirements on a consolidated basis. They suggested that this would not provide for any additional mitigation of prudential risk.
- 3.45** One respondent recommended that the UK CRR should be the primary framework for consolidation of FCA investment firm groups containing a PRA-designated investment firm. The respondent further explained that it would consider the systemic nature of PRA-designated investment firms and apply the ensuing prudential requirements across the entire group.
- 3.46** Another respondent proposed that prudential consolidation based upon either the IFPR or the UK CRR should be permitted when there is a PRA-designated investment firm within the group.
- 3.47** Some respondents also asked us to consider extending our approach to prudential consolidation. They asked us to allow firms to choose to be subject to prudential consolidation under the UK CRR where an FCA investment firm group contains a PRA-designated firm or credit institution through applying for a waiver or rule modification.

Our response

In paragraph 3.18 of CP20/24, we stated that an FCA investment firm group cannot include a UK credit institution. We went further to say that prudential consolidation for a group that includes a UK credit institution is set out in the UK CRR and the PRA Rulebook.

However, as we explained previously, a UK credit institution may be included in an FCA investment firm group as a connected undertaking and, if so, should also be consolidated. We also want to clarify that third country credit institutions should also be included within the consolidated situation. This is because a third country bank would not result in the group being subject to prudential consolidation under the UK CRR. We have updated MIFIDPRU 2.5.4G to clarify this. (See also Chapter 9).

We understand respondents' concerns about the additional burden of having to implement 2 separate prudential requirements on a consolidated basis under the IFPR and UK CRR. However, we disagree with the recommendation that the primary framework for consolidation of FCA investment firm groups containing a PRA-designated investment firm should be the UK CRR. It is important to point out that under the UK CRR, the focus is placed upon balance sheet risks, while under the IFPR there is also due consideration given to the harm that may be caused to consumers and markets as a whole. As well as the application under IFPR of a consolidated FOR which does not exist under the UK CRR. We therefore believe that we should

continue with the existing approach to that requires consolidation under the IFPR where an FCA investment firm group includes a PRA-designated investment firm.

What the consolidated situation means

- 3.48** Some respondents highlighted that existing prudential consolidation groups are already having to make significant adjustments ahead of the IFPR implementation. Respondents were concerned that the additional adjustments to account for potentially wider prudential consolidation groups complicated the existing process for adjustment.
- 3.49** One respondent recommended that, for the prudential consolidation requirements, we should allow a transitional period of up to 5 years for investment firm groups. They alleged this would allow existing prudential consolidation groups that use the full consolidation method to continue to use their current scope of composition without making the necessary adjustments to comply with our proposals that potentially widen their composition.
- 3.50** The respondent suggested that this would allow investment firm groups to prepare for any expansion of composition after they have already adjusted to the IFPR regime. Respondents suggested that there may be unintended consequences to the transition away from the existing capital regimes to the IFPR together with the changes to the scope of the consolidation situation. A transitional period would provide time for firms in any 'consolidated situation' to prepare for the adjustments and also provide extra certainty.
- 3.51** One respondent commented on paragraph 3.22 in CP20/24 where we set out the relevant entities that could form part of an FCA investment firm group. The respondent suggested that this may give investment firm groups an opportunity to exclude certain entities (not included in the list) from the consolidated situation. They suggested this may create additional complexity in preparing accounts, potentially outweighing the reduction in the administrative burden from any possible exclusions.

Our response

We have carefully considered the request for a transitional period to allow firms more time to prepare for the adjustments that may be necessary for the potential widening of the scope of the consolidated situation.

In the first instance, we would note that we do not consider that our proposals would result in any significant expansion of the scope of consolidation as compared with the existing position under the UK CRR or under the BIPRU/GENPRU regime. As such, we think that the impact on existing UK consolidation groups should be relatively limited.

We recognise that firms that have not previously been subject to consolidation requirements will need to analyse their group structures. However, such entities will typically have carried out related (albeit not identical) analyses for the purposes of determining their groups under company law and/or applicable accounting requirements.

We do not believe it is in the best interests of consumers and markets as a whole for us to delay the amendments to the prudential consolidation requirements as brought about by the implementation of the IFPR. We have provided further clarifications and amended the definitions of 'investment firm group' and 'consolidated situation' to address respondents' concerns and to remove the potential uncertainties of how the prudential consolidation requirements would work under the IFPR. (See Chapter 9). As we proposed in CP20/24, our final rules include transitional arrangements in MIFIDPRU TP 2 that apply to the consolidated own funds requirement.

In terms of the list of relevant entities, we would encourage firms to refer to the MIFIDPRU 2 rules for further clarification on the relevant entities that should be included as part of an FCA investment firm group.

How we treat tied agents included in the consolidated situation

3.52 One respondent welcomed the clarity we provided in the CP on the treatment of tied agents, where these tied agents are also subsidiaries and are included in an investment firm group for the purposes of consolidation. They agreed with our approach to ensure that there is no double counting in terms of K-factor capital requirements or the fixed overheads requirements.

3.53 Another respondent asked us to confirm if the policy set out for tied agents included in the consolidated situation would apply to appointed representatives (ARs). If so, the respondent asked for clarification that this would mean the principal firm would have to consider the fixed overheads of an AR as part of its own capital adequacy calculation.

Our response

We welcome the feedback we received on the treatment of tied agents in the consolidated situation. The definition of a 'relevant financial undertaking' means that firms are only required to include ARs that are tied agents within the scope of an investment firm group. An AR that does not meet the definition of a tied agent is not a relevant financial undertaking (unless it otherwise meets the definition of a 'financial institution' or 'ancillary services undertaking' due to its other activities). However, firms should note that in CP21/7, we have proposed that they will need to take into account their relationships with ARs when considering the wider risks to which they may be exposed as part of their ICARA processes.

We would also remind firms that for the purpose of identifying membership of their investment firm group, a tied agent will be included only where it is a subsidiary or connected undertaking. The mere fact that an entity is a tied agent of an FCA investment firm does not automatically mean that it is part of the investment firm group. However, business undertaken by all tied agents of an FCA investment firm on its behalf (whether or not those tied agents form part of the same investment firm group) may still be relevant when determining capital requirements for that investment firm under MIFIDPRU 4.

We have made a minor clarification to MIFIDPRU 2.5.6G where amounts are attributable to tied agents of investment firms. The updated wording makes it clear that this is equally applicable to third country investment firms included within the consolidated situation. (See Chapter 9).

Proportional consolidation of participations

- 3.54** In our proposals, we explained that if an entity forms part of an investment firm group due to being a participation, then proportional consolidation – rather than full consolidation of all the relevant entities – may be appropriate if certain conditions are met.
- 3.55** We received 2 responses that discussed our proposals on proportional consolidation.
- 3.56** Both respondents were unsure of the process by which an investment firm group could use an alternative method of consolidation (other than full consolidation) such as proportional consolidation. There was some confusion about whether firms would be required to apply for permission or simply notify us when a UK parent wanted to apply proportional consolidation when including an entity which is a participation within its consolidated situation where certain conditions are met.
- 3.57** One respondent asked us to consider extending the transitional provisions for a GCT application to applications and notifications involving proportional consolidation and other alternative method of consolidation.

Our response

The responses we received suggest some confusion about the process of how a UK parent may go about applying proportional consolidation when including an entity which is a participation within its consolidation situation.

The starting position is that a UK parent entity is required to carry out a full consolidation of all relevant financial undertakings that form part of its investment firm group. However, it is not required to carry out a full consolidation of a relevant financial undertaking if that undertaking is a connected undertaking that forms part of the investment firm group by virtue of a participation, and that participation meets the conditions in MIFIDPRU 2.5.17R to apply proportional consolidation. In that case, a firm can notify us to confirm that the conditions are met and then apply proportional consolidation to that participation. If those conditions are not met in relation to a participation or if a firm has not notified us, then the default requirement for full consolidation will apply.

For relationships other than participations, to apply an alternative method of consolidation (i.e. other than full consolidation), such as proportional consolidation, a UK parent would be required to make an application to us under section 138A of FSMA. The application would be to request a modification of the rule that requires the UK

parent to carry out a full consolidation of all relevant entities within the same investment firm group. We have set out in MIFIDPRU 2.5.15G a non-exhaustive list of factors that we will consider when determining whether an alternative method of consolidation would be appropriate.

We do not believe it is appropriate to permit a transitional provision for an application for a rule modification under section 138A of FSMA which if granted would allow an alternative method of consolidation under these circumstances.

The UK parent as an SNI or non-SNI when applying prudential consolidation

- 3.58** One respondent asked whether, for 'third country investment firms', only the investment services and/or activities carried out in the UK should be counted. This is for the purposes of applying the quantitative criteria for being an SNI on a group basis.

Our response

It is important to distinguish between two different situations for the rules around SNI classification. Under MIFIDPRU 1.2.10R (2), a firm must assess whether it is an SNI on an individual basis by reference to certain metrics calculated on the combined position of relevant entities within the same 'group' (as defined under FSMA – this is a different definition from an 'investment firm group'). In that case, the individual firm would be required to include only amounts that are attributable to the investment services and/or activities that the third country investment firm in the same group carries out in the UK. This is set out in MIFIDPRU 1.2.10R (4)(b).

However, when a UK parent entity is determining whether an investment firm group is treated as SNI on a consolidated basis, it must consolidate all investment services and/or activities carried on by a third country investment firm within that investment firm group (irrespective of whether those activities are carried on in the UK). This is because the concept of the 'consolidated situation' assumes that all activities carried on by members of the investment firm group are effectively carried on by a single, large hypothetical FCA investment firm. This is set out in MIFIDPRU 2.5.21R (3).

Firms are also reminded that if an investment firm group contains one or more FCA investment firms that have been classified as non-SNI on an individual basis, that group is automatically non-SNI on a consolidated basis. This is set out in MIFIDPRU 2.5.21R (2).

Consolidated own funds and consolidated own funds requirement

- 3.59** Most respondents supported our proposals, but some did not agree with some aspects, including our proposal to sum the permanent minimum capital requirement (PMR) to arrive at the consolidated PMR. Respondents requested further clarity and detail on some of the K-factor capital requirement items in the context of calculating the consolidated K-factor requirement. We discuss these issues in detail further below.
- 3.60** One respondent said our proposals about consolidated own funds and consolidated own funds requirements are clear. However, they asked us to confirm their understanding that prudential consolidation would only apply to the UK parent entity.

Our response

We confirm that the application of prudential consolidation is based upon the consolidated situation of a UK parent entity.

Consolidated fixed overheads requirement (consolidated FOR)

- 3.61** We received 9 responses about the calculation of the consolidated fixed overheads requirement (consolidated FOR). Of the 9 respondents, 3 agreed with our proposals without asking for more clarifications. The remaining 6 respondents requested further clarifications.
- 3.62** Although they understood that we would address how to calculate the FOR in a subsequent consultation paper, 1 respondent emphasised that the FOR should be properly calibrated to take into account provisions around staff bonuses and trading fees. They suggested that any miscalibration could be made worse by the consolidation provisions.
- 3.63** Another respondent asked that we include worked examples to help firms interpret and apply the requirements. In paragraph 3.44 of CP20/24 we said that to arrive at the consolidated fixed overheads, the sum could be adjusted to avoid double counting expenses between entities. The respondent asked us if this means that intercompany or intragroup expenses between group members would be offset against one another as they ordinarily would under full accounting consolidation.

Our response

We have provided further detail on the calculation of the FOR in CP21/7. This should help with the interpretation of the requirements and provide further explanation as to how they will apply in practice.

We confirm that for expenses that are incurred between entities and, as far as these are included in the consolidated situation, the UK parent entity may adjust the consolidated FOR to the degree needed

to avoid double-counting of these amounts. This would be consistent with what would ordinarily occur under full accounting consolidation.

- 3.64** One respondent asked us to clarify under what circumstances it would be acceptable to use unaudited consolidated financial statements to calculate the consolidated FOR and more broadly, own funds requirements.
- 3.65** Another respondent questioned the proportionality of applying the consolidated FOR to a UK parent entity where a significant portion of their activities and hence fixed overheads attach to non-financial services.

Our response

We indicated in paragraph 3.42 of CP20/24 that unaudited consolidated financial statements may be used when audited consolidated financial statements are not available.

A UK parent entity should only use unaudited consolidated financial statements, if there is no statutory requirement under company law for the firm to prepare audited financial statements.

For the application of consolidated supervision to an investment firm group under MIFIDPRU 2.5 there will be a relevant UK parent entity. This means there will be a critical mass of financial activity because the entity must be an FCA investment firm or an investment holding company or mixed financial holding company. We therefore believe that it is necessary to include all the fixed overheads on a consolidated basis even if some expenditure may be attributable to non-financial services. This is to help ensure that during a period of stress there is no undue pressure upon any FCA investment firms in the consolidation group. This could arise where the parent entity or other parts of the group need to wind down. We need to ensure that if this becomes necessary, it takes place in an orderly way to avoid an adverse impact on the regulated entity.

- 3.66** In MIFIDPRU 2.5.26R, we explained that if there is a material change in the activities of the FCA investment firm group, we may require a UK parent entity to adjust their consolidated FOR to reflect the change in the group's activities. Two respondents asked us to provide further detail of the methodology that should be applied to arrive at such a determination. They also asked if we can explain the process to follow if a revised consolidated FOR is required.

Our response

We direct firms to CP21/7 where we have provided some examples of what might constitute a material change for an individual FCA investment firm. Examples include selling or acquiring new business lines. We also set out monetary and percentage thresholds to determine materiality as well.

If it is assessed that a change in the activities of a relevant entity that is a member of the group represents a material change based on the individual firm level thresholds, we would expect the UK parent entity to adjust their consolidated FOR accordingly.

- 3.67** Two respondents asked us to clarify how they should treat fixed overheads in the case of CPMI (including AIFM and UCITS activities) where such entities are included in the audited consolidated financial statements of an investment firm group.
- 3.68** In CP20/24, we advised that 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 the CPMI undertakes.
- 3.69** One of the respondents asked us to provide further guidance since the calculation of the consolidated FOR does not include any allowance for deductions for the fixed overheads incurred in a CPMI. The respondent went on to explain that the fixed overheads of a CPMI would, generally, be comprised of fixed overheads incurred for both the AIFM/UCITS activities of the CPMI and for the investment services and/or activities of the CPMI.
- 3.70** The two respondents asked whether such a deduction would be allowed under the IFPR. If so, 1 respondent requested further guidance around what the appropriate methodology might look like for determining such a deduction. This would assist a UK parent in allocating the portion of fixed overheads between the AIFM/UCITS activities and the investment services and/or activities of a CPMI.

Our response

In CP20/24 we said that we would explain how our MIFIDPRU rules would apply to CPMI firms in a subsequent consultation. We do this in CP21/7, where we also set out our proposals for the calculation of the FOR (including deductions). Those proposals are based upon the FOR capturing the whole expenditure of the FCA investment firm (with relevant deductions) and not just in respect of MiFID business. The same would be true for a CPMI, on both an individual basis and where part of an investment firm group consolidated under MIFIDPRU 2.5. This is no different from the current approach under UK CRR and GENPRU.

Paragraph 3.38 of CP20/24 said 'to include only amounts that are attributable to the investment services and/or activities that CPMI firm undertakes'. We wish to clarify that this is only to be read in the context of the relevant section. I.e a UK parent as an SNI or non-SNI when applying prudential consolidation. For example, a CPMI should include only the AUM in respect of MiFID business when measuring whether the threshold for AUM makes the UK parent an SNI (on the basis of its consolidated situation). But should not include AUM in respect of its collective portfolio management.

Our proposals in CP21/7 also amend IPRU-INV Chapter 11 for the application of the FOR to CPMs and CPMI. The proposal is that both

sets of firms should now calculate their FOR under IPRU-INV by reference to MIFIDPRU 4. And no longer be reference to Article 97 of the UK CRR, which will be deleted. This is consistent with how the EU's regime amends the AIFMD and UCITS.

Consolidated permanent minimum requirement (consolidated PMR)

- 3.71** One respondent disagreed with the proposal to sum the individual permanent minimum requirements (PMRs) of each FCA investment firm within an investment firm group together with the applicable base own funds requirement or initial capital requirement of any other relevant financial undertaking that forms part of the group.
- 3.72** They suggested that would lead to double counting and it would not linearly scale with the number of entities. But they accept that, since each relevant entity must at least meet their individual PMR, the sum of all PMRs to arrive at the consolidated PMR would not cause any material issues.

Our response

We confirm our approach to calculating the consolidated PMR. The purpose of the consolidated PMR is to ensure that there is a floor to the amount of consolidated own funds an investment firm group needs to hold when applying MIFIDPRU 2.5. This is based upon the sum of an amount for each relevant entity in the group. We do not agree this gives rise to double counting. So we do not believe it is necessary to change our proposals.

Consolidated K-AUM and K-CMH

- 3.73** Some respondents noted that for the purpose of the consolidated K-AUM calculation, only amounts relating to FCA investment firms should be consolidated. They suggested that that the definition of an MIFIDPRU investment firm is constructed in a way that excludes any activity which is not a MIFID activity. One respondent pointed out that in CP20/24, we did not explicitly refer to MIFID business in the calculation of the K-AUM factor. However, the respondent observed that with reference to the K-CMH factor, we made explicit reference to MIFID business in our proposals when detailing the scope of the consolidated K-CMH requirements.
- 3.74** We were asked to confirm whether the investment services and/or activities to be included in the K-AUM and K-CMH calculations are consistent.
- 3.75** Another respondent asked us to confirm that in the case of an investment firm group which contain CPMs with no MIFID top up permissions that activities such as managing a UCITS should not be included in the consolidated K-AUM factor.

Our response

The consolidated calculation of K-AUM will follow the methodology that is used by individual firms in MIFIDPRU 4. We are consulting on the methodologies for calculating K-AUM and K-CMH in CP21/7. In that consultation paper, we have proposed that these should be determined by reference to amounts that arise in connection with MiFID business. In turn, these proposals would mean that collective portfolio management activities (i.e. managing an AIF or managing a UCITS) do not contribute towards K-AUM at either an individual or a consolidated level.

We will confirm the final rules for these calculations in our subsequent policy statement.

Consolidated K-NPR requirement

- 3.76** In CP20/24, we explained that 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.
- 3.77** We went on to explain that the consolidated K-NPR requirement applies to all trading book positions, and to other positions where they give rise to foreign exchange risk or commodity risk.
- 3.78** We also set out that when calculating the consolidated K-NPR requirement, the UK parent is unable to automatically offset positions in 1 entity with those of another entity in the investment firm group. Two respondents disagreed with our proposals. They suggested that automatic offsetting of positions in one entity with those of another entity within the consolidation group should be allowed without having to notify or get our permission.
- 3.79** The respondents felt this would be consistent with the intended approach set out in paragraph 7.37 for the K-CON factor, under which firms will not need to notify or get our permission to exclude intra-group exposures.
- 3.80** One respondent asked us to clarify that the consolidated K-NPR factor will not apply to firms that do not have any entities that can trade on their own account within their investment firm group.

Our response

We do not intend to change our approach to the calculation of the consolidated K-NPR requirement. Our proposals were consistent with the existing position under the UK CRR, where FCA permission would be required. Understanding reliance by a group of offsetting market risk positions between different group entities can be important from a supervisory perspective in identifying harm at individual firm level. We have not been presented with a compelling case to allow automatic

offsetting of positions in 1 entity with those of another entity within the consolidation group.

It would represent a divergence from our baseline approach for the implementation of the IFPR and we do not have any compelling reasons to deviate from this approach.

We can however confirm that the consolidated K-NPR factor will not apply to firms that do not have any entities that can trade on their own account within the FCA investment firm group.

Consolidated liquidity requirements

- 3.81** Six respondents had comments on our proposals on the consolidated liquidity requirements. One respondent pointed out that it is difficult to formulate a view of our proposals until they have sight of the details of how the liquidity requirements will be calculated at an individual FCA investment firm level.
- 3.82** Another respondent said that they were keenly awaiting the details of what constitutes liquid assets under the IFPR. This has been an ongoing issue for investment firms under the UK CRR. The respondent said they would welcome a definition of liquid assets that would reflect more closely the realities for FCA investment firms. In particular, they would like to see the definition extended to include cash at bank and other instruments held that can be liquidated to cash on a T+1 basis.
- 3.83** One respondent asked us for further clarity on what is meant by any guarantees in MIFIDPRU 2.5.48G(1) as applied to calculation of the consolidated liquidity requirements. They also asked for clarity on whether there is any restriction to the scope of services and/or activities which should be included when calculating the client guarantee component of the consolidated liquidity requirement.
- 3.84** Three respondents raised concerns about the requirement that an investment firm group must satisfy its consolidated liquidity requirement by holding liquid assets in a UK entity, even if the consolidated liquidity requirement is in part driven by entities outside the UK which contribute to the consolidated FOR. Respondents argue that this would add a layer of complexity to current treasury management processes without providing any significant benefit or reducing risk at the group level.
- 3.85** Some respondents have also asked for confirmation that the requirement to hold sufficient liquid assets in the UK would not be applied to their own assessment of liquidity risk.
- 3.86** Two respondents raised a concern where an investment firm group may be subject to consolidation in more than 1 jurisdiction. The requirement to hold consolidated liquid assets in the UK may result in a group having to satisfy a consolidated liquidity requirement twice for the same underlying liquidity requirement. They acknowledge that an exemption may be available as outlined in MIFIDPRU 2.5.19R (2), which may avoid this situation.

Our response

We encourage firms to refer to CP21/7, where we have set out our proposals for the basic liquid assets requirement for FCA investment firms. We have provided a list of core liquid assets that FCA investment firms can use to meet the basic liquid assets requirement.

Our proposals include details about the calculation of the total amount of any guarantees provided to clients. Our proposals do not limit client guarantees to those provided in the course of MIFID business. Therefore, if those proposals are adopted, the consolidated liquidity requirements would not be limited to client guarantees given in connection with MiFID or equivalent third country business performed by the entities in the consolidated group.

In CP21/7, we also proposed that the requirement to operate an ICARA process will not apply on a consolidated basis. Where an investment firm group chooses to use a group ICARA process, it must still allocate any additional amounts of liquid assets to individual firms. Under our proposals, each individual firm will need to hold sufficient liquid assets (including any additional liquid assets that result from any assessments under the ICARA process) on an individual basis.

The Group Capital Test

- 3.87** We received 10 responses to the question asking whether firms agree with our approach to the use of the Group Capital Test (GCT) as alternative to full prudential consolidation. Six respondents agreed with our proposals and many of them welcomed the availability of the GCT as an alternative method for full prudential consolidation.
- 3.88** Two respondents argued that in the current form the GCT is too complex and unworkable. Two respondents referred to the lack of clarity around what would constitute a group being 'sufficiently simple' or a group that does not 'pose a significant risk of harm to others'.
- 3.89** Both respondents pointed to our original suggestion that the presence of connected undertakings in an investment firm group would mean that the group would not qualify with a sufficiently simple structure. Hence, the UK parent would not be able to apply to use the GCT.
- 3.90** In addition, 1 respondent asked us to provide further clarification around the calculation of the GCT. On paragraph 3.89 in CP20/24, the respondent asked if the reference to 'book value' coincides with the standard accounting definition.

Our response

We do not agree with the view expressed by two respondents that the GCT is too complex and unworkable. The GCT draws upon the same terms and concepts as prudential consolidation to identify an

investment firm group and its constituent parts. We expect firms to provide a full explanation in their GCT applications of why they have concluded that a group is sufficiently simple and does not pose significant risks that would require consolidated supervision instead. We would expect a firm to consider all relevant factors, which will vary depending on the nature of the relevant group. These could include issues such as:

- the number and size of entities involved
- whether there are significant numbers of minority shareholders
- whether the group includes entities from a large number of jurisdictions and whether those jurisdictions have prudential regimes that achieve similar outcomes to the UK IFPR
- the nature of the business undertaken by the entities in the group and the potential risks involved
- how interconnected the group or its individual members are with the broader financial system of the UK

We will consider a firm's arguments, having regard to the complexity of the group, the risks involved in its activities and any other relevant factors.

We have carefully considered the feedback we received and will consider whether there are any areas that would benefit from further guidance in the future and in the light of experience of GCT applications. We confirm our approach to the application of the GCT.

We have explained the rationale for our approach to the availability of the GCT for investment firm groups containing connected undertakings above.

We have also amended our GCT rules to reflect the scope of our final powers under the FS Act. Under the new Part 9C FSMA, we have the power to make rules relating to non-authorized parent undertakings of FCA investment firms. However, in some investment firm groups, there may be entities that are intermediate unregulated parent undertakings of relevant financial undertakings, but are not parent undertakings of FCA investment firms. In our view, it is important that the GCT also applies to these parent undertakings to ensure all prudential risks arising from financial services activities in the investment firm group are adequately covered. The scope of our Part 9C FSMA powers means that we cannot make rules applying directly to these undertakings. So, to achieve the same substantive outcome as our original proposals we have introduced a new definition of a 'GCT parent undertaking' to clarify the parent undertakings to which the GCT applies directly. We have also updated the definition of a 'responsible UK parent' to clarify how the GCT applies indirectly to other entities. See Chapter 9 for details.

Applying for permission to use the group capital test

- 3.91** One respondent suggested that the FCA's discretion as to whether to grant permission for the GCT is not clearly defined. The respondent said that it is likely to discourage firms from making applications to use the GCT. Another respondent had a different view where they believe that the GCT will be the option taken up by most client firms operating in a group structure.
- 3.92** One respondent argued that a 'sufficiently simple structure' is not well-defined other than by the guidance in MIFIDPRU 2.4.4G (3) where it states that a group with 'material' connected undertakings is unlikely to be considered a sufficiently simple structure.
- 3.93** There was some concern that the boundary between the definitions of subsidiary by way of unified management and that of connected undertaking was unclear. The respondent asked for us to provide guidance as to when a connected undertaking would be considered a material connected undertaking. They also requested a clear definition of unified management in order to be able to make a distinction between subsidiaries and connected undertakings.

Our response

We have set out above our views on when two entities may be managed on a unified basis. However, we also noted that this is a company law test under section 1162(4) of the Companies Act 2006 and therefore only a court is competent to give a definitive interpretation. As we explained above, we consider that this is different from the test for whether an entity is a connected undertaking by virtue of single management. Please refer to our earlier comments for further information.

We expect to grant GCT permissions where the applicant has included enough information to demonstrate that the group is sufficiently simple. And that there are no significant risks that would otherwise require consolidated supervision. In addition, the application must include all the information required by MIFIDPRU 2.14.18R. We do not consider that it would be helpful to specify additional criteria for these purposes because the nature of investment firm groups may vary considerably. Firms are best placed to articulate the risks that arise in relation to their groups and to identify any complexities within their own structures. We expect firms to use that analysis to determine whether there is a reasonable argument that they fulfil the relevant conditions. We will then assess the information provided and determine if we agree with the firm's conclusions. Where appropriate, we may contact a firm to have further discussions about the application and its implications. We think that this is likely to be a more productive and risk-sensitive approach than specifying an exhaustive list of detailed criteria that may be ill-adapted for the business models of some investment firm groups.

We have clarified in MIFIDPRU 2.4.18R (2)(h) that an application for the group capital test should explain how the group will maintain systems to transfer the necessary information so that the UK parent

can monitor capital and funding in the group. This should cover both the situation where the GCT is approved under MIFIDPRU 2.6 and the equivalent obligation under MIFIDPRU 2.5 should it not be approved. (See also Chapter 9).

Transitional arrangement for temporary use of the group capital test

- 3.94** In CP20/24, we proposed that an investment firm group can choose to apply the requirements of the GCT, rather than those of prudential consolidation, on a temporary basis (and before we have given it permission to do so), if it meets certain conditions.
- 3.95** One respondent noted that MIFIDPRU TP 3.3 establishes a two-year period in which an investment firm group can continue to use the GCT pending our authorisation. This would be the case if the UK parent entity had applied to use the GCT during the first month after IFPR implementation.
- 3.96** The respondent suggested that this works well for those firms that are in position to apply to use the GCT at that time. But noted that an FCA investment firm where a consolidated situation first occurs at some point after January 2022 (say following an acquisition which first triggers a consolidated situation) would be unable to benefit from the transitional arrangement. In addition, it would have to apply full prudential consolidation until such time that the GCT application is approved (if we approved it). The respondent felt this would be disproportionate. They would recommend that the transitional provisions should apply on an ongoing basis.

Our response

We stated that the transitional arrangement will apply for up to 2 years after the rules apply, or the date we specified in the notification of our decision to the UK parent or FCA investment firm on its application, whichever is earlier. We accept that FCA investment firms that are not in a consolidated situation during January 2022, will not be able to benefit from the transitional arrangement for the temporary use of the GCT.

We consider that this is the appropriate outcome. The transitional arrangement is designed to avoid disruption for existing group structures as a result of transitioning to the new regime. It prevents existing investment firm groups that have a reasonable basis to conclude that they would be eligible to use the GCT from needing to implement full prudential consolidation before the FCA has been able to consider their applications. Otherwise, it would mean that they would have to apply full prudential consolidation for a limited period and then revert to using the GCT if we were to grant permission.

The same rationale does not apply where there is a change in an FCA investment firm's group structure once the new regime begins to

apply. Taking the example of an acquisition, we would expect that the firm and the acquirer would consider the impact of the acquisition at an early stage to determine if this would affect its status as member of an investment firm group. If a firm wishes to apply the GCT to the post-acquisition structure immediately, it should apply for the GCT on the basis of the investment firm group as it will be structured following the acquisition. Provided that the application is made in good time, this will permit us (where the relevant conditions are met) to grant a GCT permission that can be used with effect from the completion of the acquisition.

Relationship between prudential consolidation and individual firm capital requirements

- 3.97** One respondent said they were unclear about the relationship between the prudential consolidation rules and the individual firm own funds requirement rules was unclear. While they understood there will be a choice for firms between applying full prudential consolidation and applying to use the GCT, they were not clear how this decision will affect the individual investment firm's capital requirements.
- 3.98** For example, where a firm satisfies the requirements for the GCT, and the UK parent holds enough own funds to meet the conditions set out in paragraph 3.89 of CP20/24, the respondent asked if the individual FCA investment firms that make up the investment firm group would still need to meet individual investment firm level capital requirements.

Our response

The answer to this question is yes. We would expect all relevant entities to meet their capital requirements on an individual basis. The UK parent would be holding appropriate capital against its investment in the relevant entities. All the parent is doing is holding 'proper' regulatory capital against its investment. In principle, the UK parent would not be holding anything against the potential harm that an individual firm might cause. For the avoidance of doubt, both the GCT and full consolidation supplement but do not replace the own funds or liquidity requirements that apply to an FCA investment firm on an individual basis.

4 Own funds

- 4.1** In this chapter, we summarise the feedback to our proposals for the types and treatment of own funds and our response.
- 4.2** We follow a similar structure to Chapter 4 of CP20/24 in the way we discuss the feedback and give our responses. We address the most significant issues that respondents raised and provide further clarifications. We encourage firms to examine the near-final rules (as amended) for own funds in MIFIDPRU 3.
- 4.3** Unless otherwise stated, all references to the UK CRR in this chapter refer to the on-shored UK CRR in the form in which it would appear if it contained equivalent amendments to those made to the EU CRR by the EU IFR and CRR2. As explained in CP20/24, we expect that such amendments will largely be made to the UK CRR by UK primary and secondary legislation. This remains consistent with the Treasury's stated legislative approach in its 'Prudential standards in the Financial Services Bill: June update'.

Key proposals

- 4.4** We carried across the types and treatment of own funds under the UK CRR to the IFPR with some amendments. We proposed that own funds would be made of the following 3 classes of capital:
- Common Equity Tier 1 (CET1)
 - Additional Tier 1 (AT1)
 - Tier 2 (T2)
- 4.5** In CP20/24, we proposed changes to the way in which we apply the rules on own funds in the UK CRR to FCA investment firms under MIFIDPRU. Specifically, simplifying the calculation of certain deductions, and to remove references to concepts that are not included in the IFPR, such as risk weighted assets.
- 4.6** We also discussed the prior permissions that firms require from us to count certain items as part of regulatory capital. We described the minimum proportions in which own funds must be held to meet the own funds requirements at both individual and consolidated level. We also described the minimum proportions in which own funds must be held by a parent entity to meet the group capital test (GCT). We commented on applying our proposals on own funds to FCA investment firms that are not joint-stock companies (ie partnerships and limited liability partnerships (LLPs)).

Definition of own funds

- 4.7** In the CP, we asked the following question on the definition and composition of capital that FCA investment firms should use to calculate their own funds:

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.*

Feedback and responses

4.8 We received 16 responses to this question. They generally supported most of our proposals, but several asked for further clarification and there were areas of disagreement. In particular, most respondents disagreed with the disapplication of certain articles of the UK CRR that provide thresholds and offsets in the calculation of deductions from own funds.

Deductions from own funds

4.9 Under the UK CRR, firms need to deduct various items from the different tiers of own funds. However, for some of these items the UK CRR allows for the potential partial deduction according to detailed calculations. These items include:

- defined benefit pension fund assets on the balance sheet of the firm
- deferred tax assets that rely upon 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

4.10 Our proposals mean that these items should be deducted in full under the IFPR rather being partially deducted following detailed calculations. Also, as intangible assets, we proposed that software assets be deducted in full under the IFPR.

4.11 Nine out of the 16 respondents raised concerns around the decision not to replicate the articles from the UK CRR that permitted partial deduction. The relevant articles provide firms with thresholds and offsets in the calculation of the appropriate deductions required from own funds.

4.12 Respondents recognised that the decision to disapply these articles has met the objective of simplifying the calculation of own funds. However, some argued that it will erode the own funds for some firms transitioning from the UK CRR to the IFPR. They suggested that disapplying these articles is likely to require firms to raise more capital, not as a result of an increase in the assessment of risk, but because of a change in the definition of own funds.

4.13 Respondents also argued that retaining the UK CRR exemptions would ensure a level playing field with banks. They pointed out a key objective of the IFPR is that FCA investment firms should have a more proportionate approach to own funds compared to banks. However, many respondents thought that the proposed approach will result in a more onerous outcome compared to the UK CRR. One respondent further suggested that 2 entities under the same parent – 1 under the UK prudential regime and the other under EU rules – would not have the same level playing field when it comes to own funds.

- 4.14** Feedback also pointed out that although the calculation may have been simplified, some existing firms have been undertaking these more complex calculations since the effective date of the CRR. As a consequence it would be easier for firms to retain the thresholds and offsets.
- 4.15** Respondents asked us to reconsider omitting the articles that provide firms with thresholds and offsets when calculating the deductions required from own funds.
- 4.16** Given this topic covers a number of items which will no longer benefit from the potential for partial deductions from own funds, we address the feedback by discussing each item individually. First, however, we give a more general response to the cross-cutting points raised.

Our response

Our baseline for the IFPR is generally the EU's regime for MiFID investment firms (the IFD and IFR). Both the EU and UK regimes are designed with these firms in mind. This means that comparison with the CRR, which is a regime primarily designed for banks, is less relevant. And any comparison also needs to consider the regimes as a whole and not simply individual elements in isolation. Firms that are subject to the UK CRR will need to comply with a range of other obligations that will not apply to FCA investment firms.

All FCA investment firms will be subject to the same regime on an individual basis, even those which are part of a banking group. This allows level treatment between FCA investment firms and supports peer group comparison by us when supervising.

Even if some existing FCA investment firms have been undertaking complex calculations for partial offsets, any simplification would apply to all FCA investment firms under IFPR.

Deduction of software assets from CET1

- 4.17** Firms subject to the UK CRR currently benefit from the revised regulatory treatment of software assets. This provides relief for prudently valued software assets from the requirement to fully deduct intangible assets from CET1. We proposed not to provide this relief in the IFPR.
- 4.18** We received 9 responses on the deduction of software assets from CET1. Several respondents disagreed with our proposal to require prudently valued software assets (as an intangible asset) to be deducted in full under the IFPR. Respondents have argued that, although software assets may be intangible, this does not mean that they have zero asset value. Software assets may generate significant revenue for firms and can be integral to firm valuations.
- 4.19** Feedback suggested that the deduction of software assets in full penalises smaller fintech firms that rely upon them to generate revenue and raise capital. Some

respondents said that software assets are amortised and values recognised accordingly on the balance sheet in line with accounting rules.

- 4.20** Other respondents explained that treating software as having no value would appear to go against the direction of travel of the UK's digital economy aspirations. It may be inconsistent with the Government's proposals for the UK to remain as a major fintech and innovation hub.
- 4.21** Respondents argued that it may have the unintended consequence of placing FCA investment firms at a competitive disadvantage compared to their EU counterparts. EU investment firms will be able to partially, rather than fully, deduct software assets under various situations.

Our response

We appreciate respondents' concerns about the impact this may have on innovation and 'fintech-orientated' FCA investment firms. We further understand that our proposals represent a difference from the EU's rules, which reflect the CRR2. However, an add-back for software assets that are prudently valued represents a departure from international Basel standards on which the CRR2 was based.

No credible evidence is presented that software assets are readily realisable or have recoverable value during a period of stress or in liquidation. The ability of these assets to absorb losses is severely reduced and full deduction is prudentially sound. This is irrespective of the nature of the investment firm's business model. This can be particularly relevant for businesses that rely heavily on the valuation of these assets.

This is in line with the views expressed by the PRA, as explained in its '[PRA statement on the EU requirement on prudential treatment of software assets](#)'. In PRA CP5/21, the PRA also consulted on maintaining the earlier position whereby software assets continue to be deducted fully from CET1 under their application of the UK CRR.

We have not identified a clear prudential basis to change our proposal in favour of a partial deduction instead of full deduction of software assets from CET1 under the IFPR. However, we do propose to allow FCA investment firms to deduct expenditure attached to the amortisation of such assets from total expenditure when calculating the fixed overheads requirement (See Chapter 4 of CP21/7).

Deduction of deferred tax assets that rely upon future profitability

- 4.22** Two respondents said that full deduction of deferred tax assets that rely upon future profitability would cause a material reduction in their own funds as a direct result of our proposals. However, they did not provide evidence to support that claim.

- 4.23** One respondent pointed out that our proposal does not adequately take into account the business model(s) of the investment firm industry, where deferred tax assets can often relate to timing issues with the accounting recognition of bonus payments. They argued that the use of discretionary and deferred bonuses plays an important role in an investment firm's cost model as it provides room for management action on costs under stressed conditions.
- 4.24** Suggestions include that we amend the proposals so that the value of deferred tax assets that rely upon future profitability in excess of 10% of the firm's own funds should be deducted from capital. Alternatively, respondents asked us to consider a transitional period of 3 years to allow firms to build up capital gradually.

Our response

Recognition of deferred tax assets that rely upon future profitability is based upon whether it is more likely than not that sufficient and suitable taxable profits will be available in the future, against which firms can deduct the reversal of temporary differences.

Any threshold, such as the 10% put forward by respondents, would be arbitrary. Deferred tax assets that are less than 10% of a firm's own funds may be sizeable in absolute terms.

Although we expect a reduction in the own funds of some FCA investment firms as a result of these proposals, we do not have evidence to suggest that many firms would experience a significant deterioration in their own funds position. However, if any individual firm that is currently only subject to partial deduction faces a material reduction in own funds because of this change, this would suggest that their existing own funds may be inadequate.

In principle, the uncertainty and significant judgment involved in determining deferred tax assets creates concerns that these assets are not readily realisable, nor can their value be reliably measured ahead of time when there is a period of stress.

We do not intend to amend our proposal to apply the full deduction from CET1 of deferred tax assets that rely on future profitability. We believe that full deduction of these assets is both prudent and appropriate. This is consistent with the EU's IFR for EU investment firms. We have also considered the relief that a transitional provision may provide to existing IFPRU investment firms. However, we do not consider it appropriate to provide a transitional period as only a few such firms would benefit materially from this relief. We have not seen any evidence that our proposed approach would result in firms being in breach of their regulatory capital requirements under the new regime. Any firms who are affected should seek to increase the quality of their own funds as part of their implementation planning. In our view, this approach is both simpler and more prudentially sound than retaining a deduction threshold or phasing in full deduction over a transitional period.

Deduction of defined benefit pension fund assets

- 4.25** Our proposal is that defined benefit pension fund assets on the balance sheet of the institution are deducted in full under the IFPR. Two respondents disagreed with this proposal.
- 4.26** In their view, respondents understood that the basis for the proposal centred around the belief that the amount of defined benefit pension fund assets held on an FCA investment firm's balance sheet are likely to be immaterial. Hence, a full deduction will have little to no impact, as opposed to one that attracts a corresponding risk weighting.
- 4.27** One respondent suggested that it would be material for several firms. These firms would see capital resources decrease materially from the inability to offset the defined benefit pension assets' associated deferred tax liabilities from the corresponding deductions.

Our response

To address the feedback, we provide some further clarifications. At the outset, defined benefit pension fund liabilities, as included on the balance sheet, must be fully recognised in the calculation of CET1. Therefore, it is not possible to increase CET1 through derecognition of these liabilities.

For each defined benefit pension fund that is an asset on the balance sheet, these assets would represent a 'surplus' over any associated liabilities. The requirement under the UK CRR, is that firms should deduct these assets when calculating CET1, net of any associated deferred tax liability which would be extinguished if the asset became impaired or de-recognised under the relevant accounting standards.

We recognise that the value of the deduction would be too high where a corresponding future tax liability would automatically be reduced if the defined benefit pension fund assets could no longer be recognised on the balance sheet. So we have changed our near-final rules to allow for such an offset. (See Chapter 9 for details).

Under Basel standards and the UK CRR, the assets in the fund to which a firm has unrestricted and unfettered access can, with supervisory approval, offset the deduction. In offsetting the deduction, a risk weight would attach to these assets, which would be akin to the risk weight attached to assets that the firm directly owned. However, the IFPR has no risk weights and so such an offset would amount to a less prudent approach.

We do not permit firms to use defined pension fund assets as their own assets and so will not be including this offset in our near-final rules. It would be highly irregular for defined pension fund assets to be easily withdrawn and used for the benefit of the firm during a period of stress. This is consistent with the EU's IFR for EU investment firms.

Holdings of significant and non-significant investments in financial sector entities

- 4.28** We received 4 responses on the topic of deductions from CET1 for holdings of significant and non-significant investments in financial sector entities.
- 4.29** In CP20/24, we proposed that non-significant investments in financial sector entities (FSEs), where they relate to holdings of capital instruments that are not held in the trading book, should be deducted in full under the IFPR. Similarly, significant investments in CET1 instruments of financial sector entities should be deducted in full.
- 4.30** Two respondents recommended that similar provisions on material holdings detailed in GENPRU 2.2.209R should be carried across to the IFPR where the deduction of a holding should only be necessary upon a breach of 10% thresholds. It would require a deduction of a holding when either the FCA investment firm holds:
- more than 10% of the issued share capital of the FSE – in which case the entire value of the investment would be deducted
 - less than 10% of the shares of the FSE, but the value of the holding exceeds 10% of the firm's capital – in which case only the amount over and above the 10% of the firm's capital would be deducted

Our response

Adopting the treatment set out in GENPRU 2.2.209R for material holdings under the IFPR would represent a departure from our general approach as explained in the opening chapter of this Policy Statement. It would also add complexity into the calculations.

Our baseline for the IFPR is the EU's IFD/IFR and we have not been presented with a compelling case to diverge from this.

- 4.31** Respondents asked for clarification on whether the stated position of the European Banking Authority (EBA) in '[Q&A 2015 2383](#)' would be carried across to the IFPR.
- 4.32** The EBA answer explained that investment funds as defined in Article 1(2) of UCITS and equivalent funds in third countries would not be considered as FSEs under the EU CRR as long as these funds (as part of their principal activities) do not pursue 1 or more of the activities listed in points 2 to 12 and point 15 of Annex I CRD activities.
- 4.33** Respondents argued that if the position under the IFPR were to differ, it could have a material impact on the own funds of several firms. They emphasised that adopting the same position as the EBA on this question would ensure consistent interpretation and application of the requirements for investments in FSEs.
- 4.34** One respondent sought further clarity where a firm may have a portfolio of investments in funds, made either to provide a performance track record or to nurture funds until there is enough external interest to make the fund viable.

Our response

We recognise the potential impact that the deduction of investments in funds could have upon the own funds of a significant population of FCA investment firms and have considered the EBA answer in context. For the purposes of the deductions in MIFIDPRU 3.3.6R, and the qualifying holdings in non-financial sector entities (non-FSE) deduction in MIFIDPRU 3.3.15R (which was MIFIDPRU 3.3.14R in our original proposals), we now make it clear that an FCA investment firm should treat holdings in a fund as holdings in a non-FSE.

However, this is specifically limited to the context of deductions in MIFIDPRU 3.3. It does not affect the more general meaning of the FSE and non-FSE defined terms in any other context, which will need to be considered on a case-by-case basis.

(See Chapter 9 for details).

Holdings of CET1 instruments issued by a financial sector entity within an investment firm group

- 4.35** One respondent asked about the conditions attaching to holdings of CET1 instruments issued by an FSE within an investment group as set out in MIFIDPRU 3.3.13R in our original draft rules (now MIFIDPRU 3.3.14R in our near-final rules). In our proposals, if various conditions are all met, a firm would not be required to deduct these holdings from CET1.
- 4.36** This question was about one of those conditions, specifically where the parent undertakings' risk evaluation, measurement and control procedures would need to include the FSE.
- 4.37** We were asked about the situation where an investment firm is both a subsidiary and a parent entity (ie it is an intermediate parent firm where a parent, child, grandchild relationship exists). We were asked to clarify if the ultimate parent or the (intermediate) parent investment firm is required to include the lowest level subsidiary in the risk evaluation, measurement and control procedures for the condition to be met.
- 4.38** Feedback suggested that in many instances the risk management framework will be applied at the UK group level incorporating all entities, and not at the intermediate parent level.
- 4.39** On a related point, we were asked to further consider how this condition would interact with any decision to require all firms to conduct the ICARA process at an individual firm level. The recommendation is that this should be at the discretion of the firm – in other words to decide whether the ICARA process is undertaken at group or solo level.

Our response

If the risk management framework is applied at the UK group level incorporating all entities, it is reasonable to expect that the risk evaluation, measurement and control procedures of a parent may

include the FSE (that is issuing the corresponding CET1 instruments). This parent need not be the 'intermediate' parent in the example raised.

Our requirements now make clear that the risk evaluation, measurement and control procedures may be carried out by a parent undertaking (whether it is the intermediate or ultimate parent) within the investment firm group. This is provided that investment firm group is subject to prudential consolidation under MIFIDPRU2.5. (See Chapter 9 for details).

On the related point, we have set out our approach to the ICARA process in Chapter 7 of our second consultation paper on the IFPR, CP2 21/7.

Ongoing reliance upon CRR and cross-references to CRR2

- 4.40** We received 2 responses asking whether any cross-referencing to the UK CRR will extend to CRR2.
- 4.41** These respondents also asked for clarification on whether the rules in the UK CRR that are relevant to FCA investment firms will be carried across into MIFIDPRU.

Our response

As stated in the editor's notes to our draft instrument, the standard position is that unless otherwise stated, references to the UK CRR in MIFIDPRU are intended to be references to the UK CRR as it would appear, taking into account amendments made as a result of the IFPR and the UK version of CRR2. These amendments are being made through a combination of the Financial Services Act 2021, secondary legislation that will be published by the Treasury and new CRR rules that will be published by the PRA. We expect to include an updated Handbook Glossary definition of the UK CRR in the policy statement containing feedback on CP21/7. That definition will explain how references to the UK CRR should be read in the context of different parts of the Handbook.

Where possible, our aim is that the prudential rules for FCA investment firms will be self-contained in MIFIDPRU, while recognising that other parts of the Handbook, such as SYSC, also help complete the IFPR. But there are certain areas where the EU's IFR cross-refers to the EU CRR in detail. One of these is own funds. The IFPR will, at least initially, need to do the same with cross-references to the UK CRR.

We are using cross-references to many of the detailed own funds rules of the UK CRR as we consider this the most efficient and proportionate way to prepare the IFPR rules in good time. We will consider if we are able to further bring the detailed content on own funds provisions into

MIFIDPRU 3 and so remove UK CRR cross-references in the future, wherever possible.

Our long-term goal is to break the link with the UK CRR altogether, but this would require careful consideration and take time to complete.

Additional valuation adjustments

- 4.42** We received 1 response on the approaches allowed for additional valuation adjustments (AVAs). AVAs need to be deducted from own funds under Article 34 of the UK CRR. That article applies the requirements of Article 105 of UK CRR (requirements for prudent valuation in a trading book) to all assets measured at fair value, including those not in a trading book. Article 105 of the EU's CRR is then supported by regulatory technical standards on the methods of calculation.
- 4.43** The EU regulatory technical standards provide 2 methods, the simplified approach and the core approach. The simplified approach is available for firms with gross trading assets plus liabilities of less than EUR 15bn, and simply takes 0.10% of the gross trading assets plus liabilities as the deduction.
- 4.44** This feedback suggested that the simplified approach should be available to all FCA investment firms, irrespective of their total gross assets and liabilities. These respondents further suggested that the core approach should be available to be used by these firms on a voluntary basis or under our direct instruction.
- 4.45** They thought that balance sheet size is not an effective metric for assessing risk in valuation uncertainties and it fails to consider the varying risks among different trading books.
- 4.46** These respondents suggested that the core approach would generally be disproportionate for FCA investment firms, as it has high implementation costs and data requirements for firms. They thought that the simplified approach would be sufficiently conservative and appropriate for these firms. In the respondent's view, most instruments that firms trade are exchanged-listed and have a ready market, which means that market price uncertainty, and close-out-cost AVAs would tend to be close to zero.

Our response

The effect of the IFPR applying Article 34 of the UK CRR would be to apply prudent valuation requirements of Article 105 of the UK CRR to all positions, both trading book and non-trading book, that are measured at fair value. This is for the purpose of calculating AVAs to own funds. It would apply to all FCA investment firms including those that do not have a trading book or deal on own account.

To answer the question raised by the respondent, it is necessary to consider how we might deal with Articles 34 and 105 of the UK CRR and interaction between the 2 for the implementation of IFPR. This in turn

requires consideration of the 2 approaches set out in the regulatory technical standards.

We will address this question in our third CP on the IFPR. There we plan to set out our proposals to deal with any relevant regulatory technical standards, including those on prudent valuation.

Interim verified profits

- 4.47** Respondents welcomed the continued inclusion of interim and year-end profits as part of CET1.
- 4.48** Our proposal, set out in MIFIDPRU 3.3.2R, means that an FCA investment firm has to get our permission to include interim or year-end profits as part of its CET1 capital. This is necessary where a formal decision has not yet been taken that would confirm the final profit or loss for the year.
- 4.49** Three respondents disagreed with our proposal that FCA investment firms need our permission before interim profits can be included as part of CET1. They argued that once interim profits have been verified by a firm's external auditors, it should be unnecessary for them to seek our permission before including these as part of own funds.
- 4.50** Respondents thought this requirement would place an undue burden on firms. They argued that independent verification of interim profits should provide us with sufficient assurance that the interim profits have been adequately scrutinised.
- 4.51** One recommendation was that a firm should simply notify us of its intention to include interim profits as part of CET1. This could be accompanied by a verification report signed by the firm's external auditor. Only in the case where a firm does not require their financial accounts to be audited should it be necessary for permission to be required (in the absence of independent verification by external auditors).
- 4.52** One respondent noted that our proposed draft rules do not define the term 'formal decision' in the context of interim profits. We were asked for greater clarity about when a formal decision would be deemed to have been made.

Our response

The requirement to get our permission before including interim or year-end profits in CET1 is consistent with Article 26(2) of the UK CRR. If firms have taken a formal decision confirming the final profit for the year, no permission to include year-end profits in CET1 is needed.

The requirement for permission will depend upon the firm's governance process for confirming a formal decision and the timing of the decision/confirmation. For example, the formal decision to approve the interim or year-end profit may be taken or confirmed by the Board or at the annual general meeting.

We recognise that in certain other parts of our Handbook, it is not necessary for a firm to require permission from, and/or to notify, us to include interim profits – as long as the firm's external auditor has verified these profits.

Nevertheless, we do not believe that it would be too burdensome for firms to ask our permission before interim profits could be included as part of CET1. It would not be too different from the effort required to notify us.

We have not been presented with compelling evidence that shows the burden that this requirement would place upon firms. To do away with the obligation to seek permission would remove an important supervisory check on increases in the level of CET1 capital of FCA investment firms. In our experience, requiring firms to apply for permission also means that they are more likely to verify that the underlying conditions are met, such as independent auditing of the interim amounts and deduction of foreseeable charges or dividends. CET1 capital plays a crucial role in helping FCA investment firms meet their own funds requirements and our monitoring of trigger points as proposed under the ICARA process in CP21/7. It would also represent a divergence from our general approach towards the UK implementation of the EU's IFD/IFR. Hence, we retain the requirement for an FCA investment firm to seek permission from us before interim profits can be included as part of its own funds.

We do not believe that it is necessary to include a definition of 'formal decision'. It should depend on the individual FCA investment firm's governance process surrounding the confirmation of a formal decision and its timing. It would also depend on the legal structure of the relevant firm. For example, the formal decision to approve the interim or year-end profit may be taken or confirmed by the Board or at the annual general meeting or by the management committee of a partnership. An FCA investment firm is responsible for determining its own formal decision-making process, taking into account any applicable requirements in company or partnership law.

Interim dividends

- 4.53** One respondent asked us to clarify, in the case of limited companies, whether interim dividends may be deducted from interim profits without attracting a corresponding deduction from own funds – unless the dividend exceeded the interim profit.

Our response

We confirm FCA investment firms that are limited companies, may deduct interim dividends from interim profits without attracting a corresponding deduction from own funds as long as the dividend is less than the interim profit. However, we remind these firms to consider any implications under their ICARA assessment (see Chapter 7 of CP21/7) when distributing a potential source of own funds.

Short term subordinated debt

- 4.54** Some FCA investment firms that were not previously subject to the CRR, such as BIPRU firms, are currently able to use Tier 3 capital instruments (commonly short-term subordinated debt) that meet certain conditions as part of their own funds. These instruments will no longer be eligible to be part of a firm's own funds under the IFPR.
- 4.55** One respondent suggested that BIPRU and exempt-CAD firms will struggle to reach adequate own funds levels with the introduction of MIFIDPRU since they rely upon this type of short-term capital.
- 4.56** Two respondents requested that we follow the approach used when the CRR was introduced, to transition away from Tier 3 capital over a period of up to 5 years.

Our response

We have considered carefully how no longer being able to include any Tier 3 capital currently held by some FCA investment firms would affect their regulatory capital positions under the IFPR. We understand that only a relatively small number of firms make use of T3 capital to support their regulatory capital positions.

We are reluctant to allow a period of time for firms to transition away from Tier 3 capital as it is of a lower quality than the types of capital that make up own funds under the UK CRR (ie CET1, AT1 and T2 capital). Under UK CRR, Tier 2 subordinated debt is amortised over its last 5 years and where Tier 3 represents short-dated subordinated debt, the relevant amount of capital will need to be refinanced sooner than that anyway. There have always been restrictions on the proportion of Tier 3 capital that a firm may use and the purposes for which Tier 3 capital can be held to ensure that firms are not over-reliant on this form of funding. We also note that the existence of Tier 3 capital under the current BIPRU/GENPRU regime is itself a form of legacy treatment based on a derogation under UK CRR, pending the review of the regulatory capital regime for investment firms. So we do not consider that it would be appropriate to extend this legacy treatment for any further period under the new UK IFPR.

We believe that it is necessary to uphold the quality of regulatory capital so that all FCA investment firms become more resilient and have a sufficient capacity to absorb losses. It would be inappropriate to reintroduce this flexibility as it goes against this objective.

Additional simplification

- 4.57** One respondent questioned whether any additional simplification is needed in terms of our approach to the definition and composition of capital. They suggested that it may be appropriate to provide firms with greater flexibility on our approvals for reducing T2 capital when own funds are above a certain level in excess of the regulatory requirements.
- 4.58** They noted that firms will increase own funds in response to near term anticipated needs but may find that those needs are either temporary or do not materialise to the extent anticipated. In these situations where a firm has excess regulatory capital, they suggested that permitting the reduction in excess T2 capital through a simplified or streamlined FCA sign-off process would reduce the timeframe in which excess T2 capital could be repaid. The respondent indicated that this would be beneficial for firms in terms of cost savings, but without jeopardising the soundness of the firm's regulatory capital position.

Our response

We accept that, where a firm may have excess regulatory capital well-above their needs, it would prove beneficial for firms to have a simplified and streamlined approval process to reduce excess T2 capital.

It is important however that careful consideration is given to ensure that any 'excess' regulatory capital identified is genuinely excess to the needs of the FCA investment firm. This is especially so in circumstances where the level of its own funds requirements can change quickly. We are therefore proceeding with our original proposals. We will, however, consider whether we might be able to simplify and streamline the FCA sign-off process without endangering the financial soundness of the firm as part of our future prudential work.

Investment firms that are not joint-stock companies

- 4.59** In CP20/24, we clarified our rules for CET1 instruments of partnerships (including general and limited partnerships and limited liability partnerships). We received 2 responses.
- 4.60** Both respondents were concerned about the proposals for including partners' or members' accounts of partnerships and limited liability partnerships (LLPs) within CET1 capital. In particular, the conditions that need to be met for a partner's or

member's account to qualify as CET1 capital. These conditions relate to the withdrawal of capital by a partner or member.

- 4.61** While in principle, the respondents agreed that when a partner or member withdraws capital it should be replaced by another partner/member contributing equivalent capital, they believe the definition as it stands is impractical and unnecessarily restrictive.
- 4.62** Respondents accept that there needs to be a degree of permanence to capital for it to be eligible. However, they argue that eligibility should allow for scenarios where a partner or member makes a partial withdrawal of capital, as long as it is simultaneously replaced by another partner or member contributing the same amount as replacement capital.
- 4.63** Feedback pointed out that each partner's or member's contributions are not necessarily a fixed amount per partner or member, but rather a function of the size of their ownership stake in the partnership or LLP.
- 4.64** It is likely to increase over time as partners or members increase their ownership. Conversely, it may decline as partners or members approach retirement or in scenarios where the partnership or LLP requires a member to reduce their ownership stake (eg to provide scope for new partners or members to buy into the partnership or LLP). None of these scenarios involve a reduction in the overall level of partner/member capital, but they do involve individual partner's or member's capital being partially withdrawn at points other than when they cease to be a partner or member.
- 4.65** One respondent asked whether it would be possible to seek a waiver where the partnership or LLP has satisfied that a capital withdrawal would not limit the ability of that partnership or LLP to meet its future capital requirements. In their view, preventing a capital withdrawal by any of the partners or members would be too restrictive where that partnership or LLP has and would maintain a regulatory capital surplus.

Our response

We acknowledge that the conditions that need to be met for a partner's or member's account to qualify as CET1 capital should accommodate scenarios where a partner or member (who remains as a partner or member) makes a partial withdrawal of capital. As long as another partner or member (including, where applicable, a new incoming partner or member) contributes simultaneously the same amount as replacement capital. We note that IFPRU investment firms that are partnerships or LLPs currently face under the UK CRR the same restrictions as set out in our original proposals. However, as we are making our own rules under the IFPR we have taken the opportunity to amend our rules in MIFIDPRU 3 to make clear that this is allowed. (See Chapter 9 for details).

No further change is required to our rules. It is only prudent that any intention to reduce CET1 capital instruments in circumstances other than that above should continue to require an FCA investment firm to apply for our permission.

Trigger events for Additional Tier (AT1) capital

4.66 In CP20/24 we explained that the purpose of AT1 is that it can, if necessary, be converted to CET1 to bolster an FCA investment firm's CET1. Or it can otherwise be written down so that it absorbs losses in the same way as CET1 on a going-concern basis. This would help prevent a firm from falling below the minimum percentage of own funds that must be in the form of CET1. The conversion or write-down would happen once a trigger event has occurred. We proposed 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.

4.67 We asked this question on trigger events for AT1 capital:

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?*

4.68 We received 5 responses to this question. All respondents supported for our proposals around trigger events for AT1 capital.

4.69 One respondent did comment on the continued reliance upon the UK CRR in our proposals. They suggested that it does not provide the best solution for severing the link between the prudential regime for FCA investment firms and those firms that are subject to the UK CRR.

Our response

We are grateful for the positive feedback that we received to our proposals around the trigger events for AT1 capital.

On the point raised about the continued reliance upon cross-references to the UK CRR we note that own funds is one area where the EU IFR cross-refers to the EU CRR for a lot of its detailed provisions. The IFPR will, at least initially, need to do the same with cross-references to the UK CRR. This will help ensure the rules are published in time for the IFPR's implementation.

However, it is our longer-term aim for the rules on own funds for FCA investment firms to be as self-contained as possible within MIFIDPRU. This would also provide an opportunity to review whether it would be appropriate to make changes to their detailed content. But this would require careful consideration and take some time to complete.

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

- 4.70** We explained that the proportions of own funds to be held by a UK parent when subject to the group capital test (GCT) would be different from those that will apply at individual FCA investment firm level or under prudential consolidation.
- 4.71** When applying the GCT, we explained that 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
- 4.72** In MIFIDPRU 2.6.5R, cross references to the UK CRR identify direct, indirect and synthetic holdings of CET1, AT1 and T2 instruments, other than short-term underwriting holdings of AT1 and T2.
- 4.73** One respondent asked us to clarify if this represents a complete list of what is meant by holdings, subordinated claims and instruments or are there other items on a parent's balance sheet that may need to be included and/or deducted. Some examples of the items could be long-term loans to a subsidiary (which may be equity-like), a loan account reported by the parent as a current receivable or current payable and long-term liabilities to a subsidiary.

Our response

References to the UK CRR as set out in MIFIDPRU 2.6.5R set out an exhaustive list of the items that should be included in determining the sum of the full book value of parent's holdings for the purposes of the GCT. Unless the balance sheet items qualify as being either point (i) of Article 36(1) (as reflected in MIFIDPRU 3.3.6R(8) in our rules), point (d) of Article 56, or point (d) of Article 66 of the UK CRR (in relevant financial undertakings in the investment firm group), they should not be included as part of the parent's holdings of the relevant capital instruments.

However, items such as long-term loans or liabilities to another entity in the investment firm group can still give rise to risk that may affect an FCA investment firm in that group. As such they should, where applicable, form part of any consideration of the potential for harm under the ICARA process (see Chapter 7 of CP21/7 for details).

Transitional provisions for existing own funds instruments

- 4.74** In CP20/24, we explained the transitional provisions we propose to introduce for certain own funds permissions granted by us to IFPRU investment firms before the IFPR applies.

- 4.75** We also proposed 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.
- 4.76** In the CP, we asked a question on the transitional provisions for existing own funds instruments:
- 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.*
- 4.77** We received 6 responses to this question.
- 4.78** All respondents supported our proposals. Several respondents welcomed the consistency that the new rules provide for the treatment of own funds instruments.
- 4.79** Respondents found the additional information on the procedures required to include interim profits during the transitional period helpful. They also pointed out that the clarification around the characteristics of partnership capital that meets certain conditions has provided a subset of firms with the assurance they sought.
- 4.80** One respondent asked us for clarity around the requirement for firms that were not previously subject to the UK CRR to seek permission for own funds instruments that have been issued under the superseded regime. The respondent also sought clarity on what period the FCA feels is 'sufficient' when firms are notifying them of the subsequent issuance of own funds instruments.
- 4.81** Another respondent repeated a request for there to be a transitional available to firms currently permitted to use short term subordinated debt (eg commodity firms).

Our response

We appreciate the positive feedback we have received to our proposals for transitional provisions for existing own funds instruments.

For details on our proposed requirement to seek permission for the issuance of own funds instruments, please see Chapter 15 of CP21/7 on applications and notifications. And we can advise that what we mean by sufficient time for subsequent issuance of own funds instruments would be 20 business days.

Our response on short-term subordinated debt is dealt with above.

5 Own funds requirements

5.1 In this chapter, we summarise the feedback to our proposals for part of the own funds requirements that would apply to FCA investment firms, and our responses.

Key proposals

- 5.2** We proposed that there should be an initial capital requirement (ICR), which is the amount of capital required for an applicant firm to become authorised as an FCA investment firm. The level of the ICR depends on the MiFID investment services and activities that the new firm is seeking permission for. Our proposal was that the ICR would be the same as the proposed level of permanent minimum capital requirement (PMR) that would apply if the applicant firm was granted the relevant permissions.
- 5.3** We proposed that the PMR would be an ongoing permanent minimum capital requirement that all FCA investment firms would have to meet. The level of the PMR is based on the MiFID investment services and activities carried out. An FCA investment firm should consider this if ever applying for any future variations in permission.
- 5.4** We further set out our proposals for the own funds requirement for FCA investment firms that do not meet the criteria to be classified as small and non-interconnected (SNI), known as a 'non-SNI' firm. For a non-SNI, the own funds requirement was proposed to be the highest of its PMR, fixed overheads requirement (FOR) and K-factor requirement (KFR). (We consulted subsequently on the FOR in [CP21/7](#)).
- 5.5** The KFR comprises a number of different K-factors. In Chapter 5 of CP20/24, we set out the calculations required to arrive at the K-factors that will apply to firms that deal on own account (ie trade in their own name, including where they do so on behalf of clients). In CP21/7, we consulted on the remaining K-factors, that could apply to any FCA investment firm (as well as on the FOR).
- 5.6** In CP20/24, we asked 5 questions covering aspects such as an FCA investment firm's ongoing PMR and interactions with the ICR, and the calculations for the K-factors that can only apply to firms that deal on own account:

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?*

Feedback and responses

5.7 We received 11 responses to question 10, 8 responses to question 11 and 6 to question 12, 5 responses to question 13 and 7 to question 14. Respondents broadly supported our proposals, but suggested areas where we should further clarify or refine the policy.

Ongoing permanent minimum capital requirement and initial capital requirement

5.8 Most respondents expressed support for our proposals that set out the ongoing PMR for FCA investment firms and how that interacts with the ICR. They thought that the proposals were clear and unambiguous.

5.9 One respondent indicated that they believe the effective increase in the PMR, from €50,000 to £75,000, is too great for exempt-CAD firms that only undertake a set of limited activities. They suggested that we should align with the EU and have the requirement as EUR75k given equivalence considerations.

Our response

We consider that a PMR of £75,000 is an appropriate minimum amount of own funds for FCA investment firms that only conduct a more limited set of MiFID services and activities. The €50,000 requirement has been in place since 1993 and so has not kept pace with inflation.

In MIFIDPRU TP2.12R we provide a transitional provision that will be of benefit for any FCA investment firm that was formerly an exempt-CAD firm, which finds the PMR to be its biting MIFIDPRU 4 own funds requirement. This means that the full amount of £75,000 does not have to be reached until the start of the sixth year after the date of initial implementation of the IFPR. We consider this to be adequate time for these firms to prepare for what is only a small absolute increase in requirement.

EU legislation uses euros to define limits because the Euro is the currency used by a number of its Member States. It follows that the IFPR should use the UK's currency. To do otherwise would continue to expose FCA investment firms to currency risk. Specifically, if the

PMR was redenominated into euros, for many firms whose assets and liabilities are held exclusively in Sterling, their minimum capital requirement would fluctuate with the exchange rate.

We confirm our approach that sets out the amount of the PMR that we propose will apply to an FCA investment firm based on the MiFID investment services and activities it carries out. We further confirm that the ICR will be the same as the PMR that would apply if an applicant firm is granted the permissions that it had requested as part of its application for authorisation.

K-factor capital requirements

- 5.10** The K-factor capital requirements represent a mixture of activity- and exposure-based requirements. In this section, we discuss the feedback we received in connection with the K-factors that only apply to FCA investment firms that deal on own account (ie trade in their own name, including where they do so on behalf of clients).
- 5.11** The K-factor requirement for concentration risk (K-CON) also applies to FCA investment firms that deal on own account. We do not cover feedback on K-CON in this chapter, but as part of Chapter 7 on Concentration Risk.

Trading book and dealing on own account: general provisions

- 5.12** In our draft rules published with CP20/24, we stated that an FCA investment firm must manage its trading book in accordance with Chapter 3 of Title I of Part Three of the UK CRR (with certain modifications). We think it is helpful to clarify that the references to the UK CRR here will relate to the provisions as they will stand before any UK version of CRR2 amendments that are expected to come into effect on 1 January 2022.
- 5.13** We recognise that under the PRA's proposals for implementing the CRR2 regime in the UK, there is likely to be significant amendments to the provisions in the UK CRR, which relate to the management of the trading book. However, our proposed rules in CP20/24 were intended to be based upon the existing UK CRR provisions for managing the trading book, rather than CRR2 versions. This is consistent with our approach to applying 'frozen in time' UK CRR rules for the purposes of calculating net position risk (K-NPR). This will help minimise changes for those firms that calculate market risk requirements under the current UK CRR.
- 5.14** We want to bring firms' attention to a new rule we have drafted in MIFIDPRU 4.11.8R. The purpose of this rule is to explain the permissions required to exclude positions designed to hedge foreign exchange risks. This is for the own funds requirements or for items deducted from own funds. Our original draft text in CP20/24 did not provide a mechanism for firms to apply for the relevant treatments. (See Chapter 9 for details).

Net position risk – K-NPR

- 5.15** The K-factor capital requirement for net position risk, K-NPR, is intended to capture market risk in an FCA investment firm's trading book positions. It also applies to positions that are not in the trading book but create foreign exchange or commodities risk.

- 5.16** Several respondents agreed with our approach to the calculation of K-NPR and the decision to carry forward the UK CRR provisions to the extent that they meet the policy objective of the IFPR. The objective is a more proportionate prudential regime applicable to the size, nature and complexity of FCA investment firms' business models.
- 5.17** One respondent welcomed the clarity provided in MIFIDPRU 4.11.4R in terms of the scope of application of certain K-factors (including the K-NPR). More specifically as it applies to firms that deal on own account, whether on their own behalf or on behalf of their clients. They did suggest that wording of this rule could be tweaked to clarify that the K-NPR relates to firms that deal on their own account or act as a sponsor or originator.
- 5.18** Another respondent provided some further suggestions detailing how the K-NPR could be calculated without cross-referencing the UK CRR.
- 5.19** Respondents argued that the existing internal model requirements in the UK CRR are not proportionate for FCA investment firms. With the carry forward of these provisions, the suggestion is that these firms will simply continue not to apply to use internal models. In their view the provisions for applying an internal model should be changed so that the models are simple to implement while at the same time keeping the outcome of the Value-at-Risk (VaR) models consistent and appropriate to the risk of the portfolio across all products and asset classes.
- 5.20** One recommendation put forward is that FCA investment firms should be able to use, third party platforms that specialise in VaR models for the purposes of their internal model. This could provide external verification and be less resource intensive for us. Other concerns involve the suitability of internal models such as VaR and stressed VaR – since these do not necessarily provide a capital requirement that reflects risk attached to certain instruments (eg fixed income instruments).

Our response

The suggestion to extend the scope of K-NPR to where FCA investment firms 'act as a sponsor or originator' relates to securitisations. MIFIDPRU 4.11.1G confirms that the trading book can include positions in securitisations. Where this is the case, K-NPR applies in such cases. However, while acting as a sponsor or originator of a securitisation may create a potential source of harm, it is not one that is best dealt with under the K-NPR. Instead, any FCA investment firm that acts as a sponsor or originator for (or incurs credit risk from) a securitisation should assess such activity as part of its ICARA process (see Chapter 7 of CP21/7). We confirm that we will keep to the original wording of the draft provision.

While we appreciate the suggestions of how we might calculate the K-NPR without cross-referencing the UK CRR, it would represent a departure from our general approach. The baseline for our rules on K-NPR remains the EU's IFR, which in turn uses the detailed market risk provisions of the EU's CRR. We have not been presented with a compelling reason to diverge by abandoning cross-references to the market risk provisions in the current UK CRR. And we do not

believe that this would be appropriate or practical in time for the initial implementation of the IFPR. Looking ahead, however, we recognise that there may be value in bringing all requirements for K-NPR into our Handbook (and so breaking the link with the UK CRR), and it may be useful to revisit this in the future.

Our proposals for the calculation of the K-NPR requirement provide for an FCA investment firm to either use the current standardised approach to market risk or to apply to us for permission to use the current internal models approach. We accept that from a practical perspective it can be challenging for FCA investment firms to implement an internal model framework for market risk. We also know that there may be shortcomings in capturing risk when using these models. It is difficult to strike the right balance between model complexity and the flexibility that an internal model can provide in measuring market risk. To redesign the internal model framework to take into account some of the feedback would require a departure from our baseline approach in implementing the IFPR. It would further require a complete review of the framework and assessment of the costs and benefits attached. We do not believe that this would be appropriate or practical at this time.

As we noted in DP20/2, the EU's IFR also provides for a revised alternative standardised approach, and an alternative internal model approach, to become available for EU investment firms to use when calculating K-NPR in the future. A series of reviews and adjustments to the relevant parts of the Basel global framework for banking regulation was completed in January 2019. This includes updated treatment of market risk known as the 'Fundamental Review of the Trading Book (or FRTB)'. As such, these revised approaches for implementing FRTB are not yet fully incorporated into the EU or UK CRR. If the new alternative approaches do not become available for EU credit institutions within 5 years of the IFR's application, then the current CRR approaches to market risk will continue to apply for the purposes of EU investment firms calculating K-NPR until those new approaches are implemented. As our approach to market risk in the UK IFPR is based on the original EU framework, we consider that it would also be appropriate to keep our K-NPR rules under review, taking into account any future implementation of the FRTB into the UK CRR framework by the PRA. Therefore, we are likely to need to revisit the overall approach to calculating K-NPR by FCA investment firms under the IFPR over the next few years. We expect this to be a major exercise.

Non-delta risk of options

- 5.21** When re-examining the proposed text of MIFIDPRU 4.12.10R, we noted that it could be read as permitting a firm to use an internal model for determining the delta of options in circumstances where not all of the conditions in Article 329 of the UK CRR were met. This was not the intention of the provision. Our intention was to require firms to meet all the conditions in Article 329 of the UK CRR.
- 5.22** So we have amended the provision to reflect this. We want to remind firms that they must apply the on-shored BTS 528/2014 for non-delta risk for options. We have also

added a reference to Articles 352 and 358 of the UK CRR, which impose equivalent conditions for foreign exchange options and commodities options.

- 5.23** If a firm does not meet the conditions to use its own model (and, if the option is exchange traded, delta is not available from the exchange) then a default delta of '1' would apply.

Sensitivity models for interest rate risk

- 5.24** Our proposed text for MIFIDPRU 4.12 did not include a mechanism for granting the permissions required under Article 331(1) of the UK CRR. This covers the use of sensitivity models for interest rate risk on derivatives and certain bonds.
- 5.25** We have added in a new provision in MIFIDPRU 4.12.66R to address this omission. We have also included a cross-reference in MIFIDPRU 4.12.21G to alert firms that this provision exists. (See also Chapter 9).

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

- 5.26** In CP20/24, we explained that an FCA investment firm may apply to us for permission to use the K-factor for clearing margin given (K-CMG), instead of K-NPR, to calculate its market risk requirements for specific portfolios.
- 5.27** Most respondents expressed support for our proposals around the calculation of K-CMG. Respondents welcomed the additional clarifications on the use of K-CMG, which they believe are in line with a proportionate and prudentially sound regime for FCA investment firms. Respondents also welcomed the extension of the scope of K-CMG to central clearing counterparty (CCP) margin and to indirect clearing.
- 5.28** Several respondents provided very helpful feedback on what they identified as some shortcomings with our approach to K-CMG. We were asked to make a number of refinements and further clarifications, and these can be broadly summarised as follows:
- K-CMG should be allowed to be applied by investment firms which use a non-UK clearing member or an investment firm clearing member which is not a PRA designated investment firm
 - K-CMG should be allowed for certain types of portfolios which are settled free-of-payment under the responsibility of the clearing member
 - further clarifications have been sought on adjusting K-CMG under certain circumstances and on applying K-CMG in the context of settled trades.

Scope of K-CMG

- 5.29** Several respondents suggested that our proposed K-CMG requirements were too restrictive about the clearing member entity type and the location of the clearing member.
- 5.30** Under our original proposals in MIFIDPRU 4.13.9R (2)(c), clearing members could only be one of following types, if its FCA investment firm clients wish to apply for the permission to use K-CMG:

- the firm itself
- a UK credit institution
- a PRA-designated investment firm

5.31 Respondents suggested that this could create an unlevel playing field between clearing members that fall into one of the qualifying categories and those that do not. It would have both commercial and other implications for both clearing members that do not fall into a qualifying category and their UK investment firm clients.

5.32 Our proposals set out a location requirement for clearing members of UK investment firm clients who would like to apply for and benefit from K-CMG. In other words, UK investment firm clients that access authorised and/or recognised CCPs globally via non-UK credit institutions or non-UK investment firms would not meet the conditions for K-CMG and so could not benefit from it. One respondent noted that there does not appear to be a clear rationale for this limitation, especially because market risk that K-CMG is designed to mitigate does not depend upon the location of the clearing member.

5.33 According to the feedback we received, restricting access of K-CMG only to clients of UK clearing members will have negative effects upon liquidity, market stability and on the UK financial market's openness and competitiveness.

5.34 Specifically, our eligibility conditions for a K-CMG permission would cause significant disruption to non-bank clearing activities in some markets (eg short-term interest rate derivatives). Feedback indicated that non-bank clearing arrangements may be significant to firms which provide a lot of the liquidity in those markets.

5.35 Respondents also told us that the default K-NPR requirement for these types of derivatives (eg short-term interest rate derivatives) could be in the region of twice the equivalent K-CMG requirement for a portfolio. We were told that some UK firms contract directly with non-UK clearing providers – eg they might contract directly with a US-based non-bank clearer when trading on the Chicago exchange.

Our response

We have carefully considered the feedback we have received. In response, we have amended our rules to address the points raised. We have amended the conditions for a K-CMG permission in MIFIDPRU 4.13.9R (2)(c) so that the clearing member for the portfolio can also be an FCA investment firm (including a firm that is self-clearing, as we originally proposed), a third-country investment firm or a third country credit institution.

Where the clearing member is an FCA investment firm or a third country investment firm, the resulting margin requirement should be determined by reference to the margin model of the CCP (which also includes a third country CCP that is recognised under the UK on-shored EMIR framework). And not that of the MIFIDPRU investment firm or third country investment firm. Where the clearing member is a third-country credit institution, the margin model of that clearer should be used for determining the margin required for the K-CMG calculation.

We have also made equivalent amendments to MIFIDPRU 2.5.40R(3) to allow the same population of eligible clearing members to be used for clearing when K-CMG is calculated for an investment firm group under prudential consolidation.

Trading desk

- 5.36** One respondent pointed out that our proposals on the use of K-CMG assume that every FCA investment firm operates a trading desk model. Some firms do not necessarily operate in this way and may have a central team who are responsible for all instruments traded. Under these circumstances, they said it is unclear how one would be able to designate portfolios or trading desks. This would leave only 1 option available to the firm, namely, to apply for permission to use K-CMG across all trading-book activities.
- 5.37** They argued that this would place some firms at a material competitive disadvantage compared to firms that operate under a siloed-type trading desk model. A proposed solution was that the application for use of the K-CMG to be applied to a clearly defined subset of the trading book should be neutral on how a firm may structure its trading desks.

Our response

We refer to our Glossary definition of 'trading desk'. This is 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. The Glossary definition of 'portfolio' then allows for a subset of trading book positions attributable to a trading desk that share identified common characteristics and risks.

We believe that this is sufficiently flexible to cater for the scenario raised above and there is no need to amend our rules.

Indirect clients

- 5.38** Some respondents welcomed our proposal to make K-CMG available to FCA investment firm clearing members and to those firms that access markets indirectly as clients of clients (ie indirect clients).
- 5.39** In terms of indirect clients, respondents were not clear about the requirements that these clients would need to meet for the firm to be permitted to use K-CMG. More specifically, they were unclear about any conditions that may attach to direct clients that provide clearing services to the in-scope indirect clients – and with whom they have a direct contractual relationship.

Our response

We were asked to provide further clarification in our rules to remove this ambiguity. We have amended MIFIDPRU 4.13.12R (1) to clarify that the indirect clearing arrangement must satisfy all of the conditions in MIFIDPRU 4.13.9R. This is subject to the added condition that both the clearing member and the client of the clearing member that is providing clearing services to the FCA investment firm must be entities that are listed in MIFIDPRU 4.13.9R (2)(c). (See above for a relevant change made to MIFIDPRU 4.13.9R (2)(c)).

Calculation of total margin

- 5.40** We have been asked us to provide greater clarity on how we propose firms should consider settled positions of cleared trades when calculating total margin.
- 5.41** Respondents point to the proposed text in CP20/24, where it would suggest that settled trades could be part of the 'margin required by the margin model of the relevant clearing member'. However, respondents point to paragraph 5.37 in CP20/24, and read this to imply that the clearing member needs to split the investment firm's portfolio into derivatives and non-derivatives transactions. Then, subsequently, calculating the margin requirements separately.
- 5.42** From the original CP text, respondents were not entirely clear whether an option position would be allowed to be hedged by an underlying shares position in a K-CMG calculation for the combined position. Alternatively, whether the clearing member should first calculate a combined margin requirement added by a haircut on the underlying position.
- 5.43** One respondent suggested that K-CMG should be structured in a way that allows it to be a more dynamic measure. They argue that most trading firms that would seek to use K-CMG have the ability to manage positions, risk and margin requirements in real-time. The respondent suggested that the K-CMG should be recalculated daily rather than based on the third highest value over the previous 3 months. This is because the 3-month calculation may create a situation where a firm has materially de-risked its activities but would still be required to absorb a higher capital charge.

Our response

Paragraph 5.37 of CP20/24 should be read in conjunction with paragraphs 5.38 to 5.40. Together they explain our approach to settled trades. For the purposes of the K-CMG requirement, the total margin calculation should be calculated as the sum of (1) the amount of margin required by the margin model, plus (2) the value of any 'haircut' applied by the clearing member or CCP to positions included in the portfolio that represent settled trades. And which the clearing member or CCP is treating as collateral to secure the present or future obligations of the FCA investment firm. We believe that the rule in MIFIDPRU 4.13.6R is sufficiently clear.

From the feedback received, it appears that some respondents may be confused about how to derive the margin amount for the purposes of K-CMG. The amount of margin is as determined by the clearing member or CCP as applicable, subject to adding the value of any haircut on settled trades as described above. There is no hedging or model-based calculation to be undertaken by the FCA investment firm that is using the K-CMG, unless an adjustment is required as described under the section on margin model criteria below.

We recognise the justification that has been put forward for moving to a more dynamic measure for K-CMG. However, this would introduce significant fluctuations in the K-CMG measure and have a knock-on effect in terms of trying to manage firms' own funds. The K-CMG was designed to be a relatively more stable alternative requirement to the K-NPR. It is up to an individual FCA investment firm to choose whether it wishes to use this alternative. And in order to use K-CMG our prior permission is required. We do not believe there is a compelling case for moving away from the approach to calculate the K-CMG.

Margin model criteria and adjustment mechanism

- 5.44** In MIFIDPRU 4.13.14R, we describe the minimum criteria that a margin model must normally satisfy where a firm is seeking permission to calculate K-CMG in relation to a portfolio. These include that the margin requirements are sufficient to cover losses resulting from at least 99% of the exposures movements over an appropriate time horizon with at least a 2 business days' holding period. Alternatively, if the margin model does not meet these criteria, an adjustment mechanism should be applied to produce an alternative margin requirement that is at least equivalent to this.
- 5.45** One respondent asked us if we mean that even in cases when the model is not specifically designed with the 99% and 2 business days parameters, but it nevertheless reaches the same (or a higher) level of prudence, then it would be deemed to be eligible for K-CMG without the need for the adjustment mechanism.
- 5.46** Respondents supported our proposals to allow a downward adjustment, should the margin model parameters exceed the standard criteria.
- 5.47** One respondent asked if we could provide guidance on the permitted approaches that can be used to normalise both the margin period of risk (MPoR) and associated confidence levels. In particular:
- whether adjustment for MPoR via the square root of time can be applied
 - the appropriate distribution to normalise for a clearing member margin model's stated confidence level
- 5.48** They also suggested that the adjustment mechanism should remove any amounts not related to market risk. They felt this would disincentivise lower capital requirements. Items recommended for removal would include:

- liquidation requirements – collected to cover for the cost of liquidating an investment firm’s portfolio – in the event of default
- minimum equity requirements – generally used to collateralise operational risk

Our response

We believe that MIFIDPRU 4.13.14R (2) is clear that where a margin model does not meet the criteria, such as ‘at least 99%’, then it can only be used if there is an upward adjustment to increase the margin to achieve an alternative margin requirement that would at least meet (or exceed) the minimum criteria. An example is given in MIFIDPRU 4.13.15G (2).

We also note that MIFIDPRU 4.13.16G permits, but does not require, an adjustment downwards where the margin model uses parameters that are more conservative than the minimum criteria.

We are not convinced by the suggestion to reduce the amount of total margin for amounts that may not be related to market risk. We believe that this could introduce complexity, lead to inconsistent treatment among FCA investment firms and clearers, and incentivise arbitrage. This also is consistent with the EU’s IFR and supporting regulatory technical standard, which do not make such provision. K-CMG is intended to be a simpler alternative requirement to K-NPR and is based on the margin the investment firm is required to give up to the clearing member.

To provide guidance on the permitted approaches, we would need to carefully consider the implications of normalising both the MPoR and associated confidence levels under each case. We would also need to consider what might be the appropriate distribution that should be used (ie normal distribution or an alternative distribution that may be skewed). These considerations would require detailed investigation before we could provide guidance. To achieve timely implementation of the IFPR we believe that our draft rules as consulted upon, and which are based on minimum criteria that reflect the margin requirements in EMIR, remain appropriate.

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

- 5.49** In CP20/24, we explained that the trading counterparty default K-factor requirement (K-TCD) is designed to capture the risk of an FCA investment firm’s exposure to the default of its trading counterparties.
- 5.50** Most respondents were in favour of our proposals on how this requirement will apply to certain types of transactions that are recorded in the trading book of an FCA investment firm that deals on own account – whether this is on behalf of itself or on behalf of a client. Broadly, they felt our proposals are clear and proportionate.

- 5.51** In our proposals, we explained that an FCA investment firm can apply for our prior consent to exclude certain intra-group transactions with other UK entities provided that various conditions are met. One respondent disagreed with this proposal. They suggested that an FCA investment firm should be able to automatically exclude certain transactions with other UK entities without having to notify or get our permission. The suggestion is that this would only be permitted if the various conditions as set out in MIFIDPRU 4.14.6R (2) are met.
- 5.52** According to 1 respondent, this would be consistent with our approach for the K-factor requirement for concentration risk (K-CON), where firms will not need to notify or get our permission to exclude intra-group exposures.

Our response

We believe it is beneficial for us to be aware of and to consent to a firm wanting to exclude certain intra-group transactions (such as derivatives that are not centrally cleared) with other UK entities with which it trades, for the purposes of K-TCD. Such transactions could suggest that the financial position of the FCA investment firm is closely linked to that of other parts of the group. Even though we would expect all the conditions as set out in MIFIDPRU 4.14.6R (2) to be met, it is important for us to be able to grant consent. This is also consistent with the approach of the EU's IFR. It should be relatively straightforward for firms to complete the necessary form and submit it to us.

Certain intra-group exposures which meet the relevant conditions may be automatically excluded from the K-CON. This is also consistent with the EU's IFR. However, in Chapter 7 on Concentration risk we make clear that intra-group exposures that are exempted for the purposes of K-CON should be included for the purposes of reporting on concentration risk.

Calculating K-TCD

- 5.53** In general, respondents felt that our proposed calculation methodology was clearly set out. Given that it is based around the existing counterparty credit risk (CCR) under the UK CRR, respondents suggested it should be broadly familiar and understood by most firms.
- 5.54** Nevertheless, some respondents highlighted several areas where they considered that the methodology leads to an inappropriate outcome (in terms of the requirement) or where at least we should provide further clarity.

Potential future exposure (PFE) netting methodologies

- 5.55** Under the netting ratio approach for measuring the potential future exposure (PFE), we were asked at what point should the absolute value of the effective notional amount be used. One recommendation put forward would be to apply this at the derivative position level. Consequently, the suggestion would be to amend MIFIDPRU 4.14.18R

(2) to insert the word 'absolute' into effective notional amount such that the provision reads as follows '... calculated by multiplying the effective absolute notional amount ...'.

Our response

We welcome the suggestion. PFE_{gross} is a gross figure. If the absolute value is not used, this might imply that derivative contracts in the netting set are effectively netted within the calculation of PFE_{gross} itself, which was not our intention.

We have therefore amended MIFIDPRU 4.14.18R (2) to require the absolute value of the effective notional amount to be used under the netting ratio approach. (See also Chapter 9).

Under the netting ratio approach, if RC_{net} takes on a value that is less than or equal to 0, RC_{net} would revert to 0. And thus, PFE_{net} would be 0 as well. The reason for this is that the PFE is only one element in the formula for determining the exposure value. For example, if RC_{net} is less than or equal to 0, this could be because the firm is posting collateral under the arrangement. Where a firm posts collateral, the formula for calculating the exposure value in MIFIDPRU 4.14.8R and the rules for calculating collateral in MIFIDPRU 4.14.24R would mean that the collateral will have negative value, and so will increase the exposure value.

So we have added some wording to MIFIDPRU 4.14.8R (3) to make the effect of this clearer in the exposure value formula. If the value of C is negative, then the exposure value will increase. We have also added wording MIFIDPRU 4.14.8R (1) to make clear that if the RC is negative then the exposure value could decrease (See also Chapter 9).

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- 5.56** Under the hedging approach (to calculating PFE), 1 respondent explained that the effective notional amount should be calculated on a net basis at an asset class level. They suggested it would be appropriate to use both positive and negative supervisory deltas in the calculation at the per-contract level.
- 5.57** The next step would be to net all contracts within the netting set to determine the net effective notional amount per asset class. At that point, they suggested the absolute net effective notional amount should be used when applying the relevant supervisory factor to arrive at the PFE value. The respondent recommended that we amend MIFIDPRU 4.14.16R– by inserting the word 'absolute' so that it reads '...multiplying the absolute net notional amount under MIFIDPRU 4.14.14R (1)(c) for each asset class within the netting set by the supervisory factor...'.

Our response

Respondents asked us to clarify that absolute values should be used for the purposes of calculating the PFE of each asset class within a netting set under the hedging approach. We welcome this suggestion and have amended the text in MIFIDPRU 4.14.16R (1) to make it clear that this is the case. (See also Chapter 9)

- 5.58** One respondent noted that to facilitate our netting methodologies, we should extend the notion of supervisory deltas to negative values as well as positive values. This would enable netting under the hedging approach.

Our response

While we believe that our proposed rules would work to provide for netting as intended, we have amended MIFIDPRU 4.14.14R (1)(c) to make clear that when applying the hedging approach a firm must treat long positions as positive values and short positions as negative values.

For the avoidance of doubt, we have also amended MIFIDPRU 4.14.20R(5)(b) to state that the supervisory delta for transactions other than swaptions or options (for which a firm cannot use a model) shall be 1 or -1. And added a new limb (c) to that rule to make clear that in each case the supervisory delta shall reflect the relationship between the contract and the underlying.

The distinction between positive and negative supervisory deltas is relevant only to the hedging approach. This is because the derivative netting ratio approach requires the use of absolute values for the effective notional amount under MIFIDPRU 4.14.18R(2) when determining PFE_{gross}.

See also Chapter 9 for these clarificatory changes.

Written options

- 5.59** We have clarified MIFIDPRU 4.14.13G concerning how firms should treat written options for the purposes of applying the hedging approach when calculating PFE for the K-TCD requirement.
- 5.60** Our amendments help to clarify that a firm is not required to calculate a PFE for a written option, unless that option is being netted with a derivative other than a written option. Where netting applies, the firm is allowed to cap the PFE for the written option at an amount which would result in a replacement cost of 0. However, firms are not obliged to apply the cap to the PFE for written options in the netting set. (See also Chapter 9).
- 5.61** We have also made a minor clarification to MIFIDPRU 4.14.17G (2) on the netting ratio approach. This now clarifies that the exemption from calculating a PFE for written options applies unless they are being netted with other derivative contracts that are not written options. The PFE cap for written options included within a mixed netting set does not apply to the netting ratio approach. (See also Chapter 9).

Netting of foreign exchange derivative contracts and interest rate derivative contracts

- 5.62** In MIFIDPRU 4.14.15G (4) we now clarify how firms should treat foreign exchange derivative contracts where they relate to a pair of currencies and its inverse pair (eg USD/EUR and EUR/USD). They may treat one of the positions as a long position and one as a short position. (See also Chapter 9).

5.63 We have also added MIFIDPRU 4.14.15G (5) to clarify that where an interest rate derivative has multiple legs, a firm should determine the PFE of that instrument by adding together the adjusted notional of each leg, treating payments received as positive values and payments made as negative values. (See also Chapter 9).

Supervisory factors

5.64 Respondents pointed out that for the K-TCD, the calculation of the exposure of over the counter (OTC) derivative contracts is outlined in Article 29 of the IFR, which is based upon the PFE calculation. It is a similar approach as the mark-to-market method under Article 274 of the CRR.

5.65 However, respondents highlighted that the difference is that the supervisory factors applied to the various asset classes, especially equities and commodities, are much higher under the IFR than CRR. One respondent commented that the supervisory factor for the equity single asset class are too high at 32% given the observed volatility of most equity instruments.

5.66 In the case of interest rate and foreign exchange contracts, one partial suggestion given to explain this difference is that the CRR takes into account the residual maturity of contracts (shorter term contracts have lower factors applied), but IFR does not. For firms with a significant diversified commodities portfolio, they suggested that the increase in supervisory factors will be greater still.

5.67 Under Article 25(4) of the IFR, there is a derogation available to firms for the calculation of the exposure value under K-TCD as per the current CRR methodology (with approval of competent authority).

5.68 However, respondents have pointed out that there is no equivalent derogation available under the proposed MIFIDPRU rules. They argued this could place FCA investment firms at a competitive disadvantage compared to their EU counterparts. Respondents have asked us to include such a derogation in MIFIDPRU 4.14 to ensure a level playing field with EU counterparts.

5.69 Another issue respondents raised is the treatment of precious metals in terms of asset class allocation for the purposes of applying the correct supervisory factor. They note that transactions relating to gold or gold derivatives should be allocated to the foreign exchange asset class. Some respondents have asked us to clarify how other precious metals should be treated (eg transactions relating to silver or silver derivatives).

Our response

The supervisory factors (which are consistent with those in the EU's IFR) are just one part of the framework for calculating the K-TCD requirement. This framework needs to be considered in the round, for example, how our MIFIDPRU rules for the K-TCD under the IFPR make use of exemptions, collateral and the hedging and netting ratio approaches.

Our baseline for the IFPR is the EU's IFD/IFR, and in making our proposals for K-TCD we considered the content of Article 25(4). In our view the option in the first sub-paragraph of that article only deals with

the calculation of the exposure value and would not provide for risk reduction (ie contractual netting). Further, the IFR does not extend this option to all exposures that are covered by the scope of K-TCD. It would also introduce complexity into the regime.

Introducing an option to allow FCA investment firms that are part of a consolidation group under the UK CRR to have different treatment would also introduce further complexity (eg risk weights). We do not believe that such firms should be treated differently to the majority of other FCA investment firms to which K-TCD will apply.

Such options would be inconsistent with our overall approach to reduce linkages to the UK CRR, where it is practical to do so for initial implementation of the IFPR. We also note that our draft rules include a series of transitional provisions on own funds requirements for FCA investment firms (see both Chapter 6 of CP20/24 and Chapter 6 of this PS) that face significant increases in their capital requirements, which provide up to 5 years to adjust.

So we do not believe it is appropriate to introduce such options. We will, however, consider the information reported for K-TCD where it is a major component of overall own funds requirements, during the period of the transitional provisions for own funds.

We confirm that in the case of transactions relating to precious metals (other than gold or gold derivatives), firms should apply the supervisory factor attaching to the commodity and emission allowance asset class.

Credit valuation adjustment (CVA)

- 5.70** Similar to the derogation available in connection with supervisory factors, respondents have pointed to Article 25(5) of the IFR, which allows firms to calculate the credit valuation adjustment (CVA) under the CRR rules rather than applying a 1.5 uplift to relevant counterparties.
- 5.71** Respondents have argued that the 50% uplift would yield a significantly more punitive capital requirement compared to the previous CRR calculation. Therefore, respondents have asked us to include such a derogation in MIFIDPRU 4.14 for the same reasons around level playing field considerations.

Our response

The option in the second paragraph of Article 25(5) of the EU's IFR to apply a CVA according to the provisions of the CRR is only available to investment firms that are part of a consolidation group under the CRR. (The first sub-paragraph of that article still requires CVA to be calculated according to Article 32 of the IFR).

Introducing an option to allow FCA investment firms that are part of a consolidation group under the UK CRR to have a different treatment for CVA would introduce complexity and create a further link to the UK

CRR. We do not believe that such firms should be treated differently to the majority of other FCA investment firms to which K-TCD will apply.

We also see no justification either for going beyond the EU's IFR to apply the UK CRR treatment of CVA to all FCA investment firms. This would increase complexity and add further links to the UK CRR. The impact of the framework for K-TCD needs to be considered in the round.

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

5.72 In CP20/24 we outlined that the K-factor capital requirement for daily trading flow (K-DTF) is designed to capture the operational risks from the value of trading activity an FCA investment firm conducts throughout each business day. We asked:

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?*

5.73 Four out of the 7 responses that answered question 14 supported our proposals, saying they were both clear and proportionate.

Calculating K-DTF

5.74 We explained that the daily trading flow (DTF) has 2 components that are measured separately – cash trades and derivatives trades. Two respondents welcomed our clarifications about how cash trades should be calculated and valued.

5.75 One respondent suggested that we should include a provision in our rules that specifies that the amount paid or received for trades in government bonds should be adjusted for the time to maturity, in years, of the bond for the purposes of calculating K-DTF under the IFPR.

5.76 In the case of derivative trades, where the notional amount relies upon the same method used to calculate the notional amount for the purposes of K-TCD, 1 respondent asked us to clarify the definitions and calculations of components of the PFE.

Our response

Consistent with the EU's IFR, the K-DTF only applies a duration adjustment to address the specific issue of the notional amount interest rate derivatives. We have seen no evidence of the need to extend this to other asset classes.

As part of our response to the feedback we received on calculating K-TCD, we have provided further clarifications around the components of the PFE and netting methodologies.

- 5.77** One respondent said that non-MiFID activity cannot be allocated to any of the regulated activities of Receipt and Transmission of Orders (COH), Execution (COH/DTF) or Dealing on Own Account (DTF). They suggested that spot commodities and spot foreign exchange are excluded from volumes. They have requested further clarification to determine if their interpretation is correct.

Our response

In MIFIDPRU 4.15.1R (1) the K-DTF requirement is based upon an amount of the DTF attributable to cash trades and to derivatives trades. Both are introduced as defined terms in our Handbook Glossary for the purposes of MIFIDPRU and involve the purchase or sale of a MiFID financial instrument. Therefore, to the extent that the instrument traded is not a MiFID instrument, we can confirm that according to MIFIDPRU it is not included within the K-DTF requirement. No amendment to our MIFIDPRU rules is required.

- 5.78** One respondent pointed out that our proposals do not provide specific reference to securities financing transactions (SFTs) being either cash or derivative trades. The respondent believed that SFTs should not be classified as derivatives trades.

Our response

SFTs will involve the purchase or sale of an underlying security. Where the underlying security is a MiFID instrument (as is normally the case), we consider that the transaction will be a cash trade. We do not believe that any amendment to our rules is necessary.

- 5.79** One respondent raised the situation of an FCA investment firm that acts as a matched principal, where there is a buy leg and a sell leg. However, there is a single order. The respondent suggested that simply adding these legs of the same transaction would lead to double counting.

- 5.80** Another respondent asked us to clarify the treatment of cash equities traded, where the buy and sell cash will be the same value in aggregate, but it may be filled by different trade sizes on each side. They noted that as the buy and sell trades would be placed independently of one another, their understanding is that both the buy and sell side orders would be recorded separately.

Our response

The K-DTF is intended as a simple way of providing for the potential harm that could arise from operational events when conducting trading activity. When there is both a purchase and a sale transaction there is the potential for harm on each transaction. The UK was still an EU Member State while the EU's IFR was being developed and negotiated and it is our understanding that the calibration of K-DTF took this into account.

A matched principal transaction consists of both a purchase and a sale and so should be treated as two separate transactions for the purposes of the K-DTF requirement. No amendment is necessary as the Handbook Glossary term introduced for daily trading flow covers 'the daily value of transactions'.

Where there is both a buy and a sell order of the same aggregate value, it does not matter if they are fulfilled by different combinations of trade sizes. As noted above, K-DTF applies to the daily value of transactions and both a buy and a sell side order should be included in the total.

- 5.81** One respondent asked us for further clarity on how cancelled trades, derivative terminations and restructuring should be dealt with for the purposes of calculating the K-DTF.

Our response

We note that cancellation or termination could mean different things according to the circumstances. The Handbook Glossary term introduced for daily trading flow covers transactions that an FCA investment firm 'enters' (through dealing on own account or the execution of orders on behalf of clients in the firm's own name). This is the determining factor in any given situation, and it does not matter how long a transaction exists for once it is entered-into. For example, if an order never reaches execution, or is otherwise deemed void from the outset, it would not be included in the calculation of K-DTF. Whereas if a transaction is closed-out through an offsetting transaction, then both the original and the offsetting transaction would be included within K-DTF (although not necessarily for the same day's trading flow).

In the light of our explanation above, we do not believe that any amendment is necessary.

- 5.82** In our proposals, we explained that the DTF is measured as a rolling average of an FCA investment firm's daily trading flow measured over the previous 9 months but excludes the 3 most recent months (summing of the absolute values of each buy and sell order).

- 5.83** One respondent commented that the rolling average should smooth out any market volatility and give enough warning of any increased capital requirements. Another respondent pointed out that any short-term volatility should be tempered over the assessment period. Any periods of higher volatility that persist will lead to a higher K-factor capital requirement.
- 5.84** Two respondents described the calculation of historical trading flow as inappropriate as it fails to consider current market conditions.
- 5.85** Respondents agreed that K-DTF coefficients should be able to be adjusted in situations of extreme market stress and volatility. One respondent suggest that we consider using an approach based upon a statistical methodology that can objectively identify the existence of stressed versus normal market conditions.

Our response

As noted above, the K-DTF is designed as a rolling average to smooth out shorter-term fluctuations in trading. It also does not need to take account of current market conditions due to the exclusion of the 3 most recent months. This gives FCA investment firms time to act accordingly to any changes in conditions.

In CP20/24, as part of Question 14, we asked should there be the possibility of an adjustment to calculating the coefficients for K DTF in periods of extreme market stress and volatility. In Chapter 4 of CP21/7 we now consult on an approach for calculating an adjusted coefficient for K-DTF. This proposal is consistent with the approach the EU has now arrived at under regulatory technical standards for the IFR. However, we welcome that a respondent made a detailed suggestion in response to CP20/24, which happens to be different from that we propose in CP21/7. We will consider this alongside any other responses we receive and address this in our subsequent PS.

6 Own funds requirements – transitional requirements

6.1 In this chapter, we summarise the feedback received on our proposals for the transitional provisions (TPs), as applied to the capital or own funds requirements under the IFPR, and our responses.

Key proposals

- 6.2** We proposed a series of TPs to help the different categories of existing MiFID investment firms adjust to the proposed new own funds requirements set out in MIPRU under the IFPR. We also proposed a TP for firms that will only be authorised as FCA investment firms after the IFPR is introduced.
- 6.3** We explained that the TPs would apply to the PMR, FOR or K-factor requirement (KFR). Under our proposals, it is possible to use more than one TP where applicable.
- 6.4** We also proposed that the TPs would remain available for a period of up to 5 years after the IFPR takes effect, except where we stated otherwise.
- 6.5** In Chapter 6 of CP20/24, we asked 3 questions broadly covering the various TPs involving the own funds requirements, the initial collection and use of K-factor metrics, and advance data collection of the K-factor metrics:

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?*

Feedback and responses

6.6 We received 14 responses to question 15, 8 responses to question 16, and 5 responses to question 17. Only one respondent mentioned the TPs in MIFIDPRU TP2 that cover the PMR and agreed with our proposals. We cover our proposed TP3 covering transitional arrangements for the group capital test in Chapter 3 of this PS.

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

- 6.7** Our proposals for the various TPs attached to own funds requirements under the IFPR drew wide support from respondents. Many welcomed the proposals and saw them as a positive step towards helping FCA investment firms transition to the proposed new minimum capital requirements under the IFPR. We received 6 responses that were broadly in agreement with our approach.
- 6.8** One respondent suggested that we could have made it clearer that TPs are optional and so firms could choose not to use the transitional relief provided and simply move to the new requirements under the IFPR.
- 6.9** Another respondent said they supported the TPs which effectively allow FCA investment firms to gradually increase their own funds requirements over a period of 5 years. However, they asked us to provide transitional relief for applicants for authorisation that are in the process of being authorised as an FCA investment firm. The respondent highlighted that there may be situations where a firm has applied for authorisation before 1 January 2022, but they are yet to receive their Part 4A permission until after that date. In this case, the firm would be able to benefit from the TPs proposed.

Our response

We confirm that all the various TPs set out in MIFIDPRU TP2 contain the word 'may'. FCA investment firms therefore have the option to use a TP in MIFIDPRU TP2 (subject to any conditions being met). But they can also choose not to use that TP and simply apply the full capital requirements under the IFPR. (MIFIDPRU TP3 is only relevant where an investment firm group wishes to apply for permission to use the GCT, see Chapter 3 of this PS). MIFIDPRU TP4 is intended to help FCA investment firms ensure they can comply with the KFR before they have collected data over a sufficiently long period. And MIFIDPRU TP5 on advance data collection is mandatory.

We proposed MIFIDPRU TP2.11R for firms that are only authorised as FCA investment firms after the IFPR is introduced. This TP limits the KFR of such firms to twice its FOR.

An FCA investment firm that is only authorised after the introduction of IFPR would not previously have been operating capital calculations under the rules for say an IFPRU or a BIPRU firm. But equally, it does not need the systems to perform such calculations that a current IFPRU or BIPRU firm would require where one of the latter makes use of MIFIDPRU TP2.7R.

We believe that this is the correct approach as the TPs are there to help existing authorised firms adjust to a new prudential regime and transition smoothly towards their full requirements under the IFPR. The own funds requirements under the IFPR (set out in MIFIDPRU 4) have been structured in a way so that they represent the minimum capital firms should hold for (1) the activities they undertake and the

potential harm (to consumers and markets) they may cause, and (2) the ability to wind-down or exit the market in an orderly way. Our expectations are that new firms obtaining authorisation should adhere to the new capital requirements under the IFPR.

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

- 6.10** One respondent welcomed the TP that effectively caps the FOR or KFR at twice the current own funds requirement for current IFPRU or BIPRU firms (as is applied under the UK CRR or GENPRU, as appropriate).
- 6.11** Another respondent acknowledged that some firms using a TP are likely going to have to calculate their own funds requirements under both the IFPR and the UK CRR for a period. While this may go against the intention to simplify the prudential regime for FCA investment firms, they accepted that this was to be expected – an inevitable consequence with the move away from the UK CRR and across to the IFPR.
- 6.12** The same respondent explained that our proposals to cap the own funds requirements at twice the level under the current regime is reasonable. They thought this may be because anecdotal evidence suggests a firm's Pillar 2 requirements tends to be in the range of 150% to 250% of their Pillar 1 requirements. We were asked to provide further clarity as to why the figure of 200% was chosen, as opposed to say 150%.

Our response

We will proceed with our proposals with respect to the TP provisions concerning the fixed overheads requirement and K-factor requirement for current IFPRU and BIPRU firms.

The cap of two times is consistent with the EU's IFR. In our view to set it any lower would not incentivise FCA investment firms to plan to move towards their full requirements by the end of the transitional period. And may not be prudent.

FCA investment firms to which this TP applies should note that they will still need to calculate their PMR. Where the PMR is higher than the transitional requirement, the FCA investment firm would need to hold the higher requirement as the minimum. The PMR may be capped by another transitional provision, where applicable.

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

- 6.13** We received 2 responses that agreed with our transitional proposals for current exempt-CAD firms.
- 6.14** However, both asked us to consider extending the TP to accompany any existing Pillar 2 requirement. This would, in effect, provide transitional relief from any additional own funds requirements that may be the outcome of the ICARA process. Their concern was that any additional own funds requirements that could arise under the ICARA

process could far outweigh the own funds requirements (of MIFIDPRU 4) under the transitional provisions.

- 6.15** Alternatively, one of those respondents asked us to introduce a TP that would delay the implementation of the ICARA for exempt-CAD firms (for a period of 5 years). They thought this would help firms to get used to the new requirements and ICARA process.

Our response

We set out our proposals on, and our expectations for the operation of, the ICARA process in Chapter 7 of CP21/7. We will respond to matters that relate to the ICARA in due course in the separate PS for that consultation. We would, however, note that the key principles for the ICARA process set out in paragraph 7.4 of CP21/7 state that 'our expectations on firms are proportionate to the risk of harm posed'.

This may be particularly relevant where an FCA investment firm has a genuinely simple business model (with more limited potential sources of harm). This will need to be considered by reference to the business of each individual firm.

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

- 6.16** One respondent seemed unclear over how the transitional provisions in MIFIDPRU TP 2.21R for the FOR and the KFR for exempt commodities firms might work. They suggested that it could create significant administrative burden for these firms having to run 2 capital requirement calculations over the next 5 years. Instead they requested that the same type of TP should be available to firms currently subject to (Chapter 3 of) IPRU-INV as was being made available to exempt IFPRU and BIPRU firms.
- 6.17** To address any concerns that the new MIFIDPRU rules together with a TP may give rise to lower own funds requirements (especially during the first few years of the transitional period), the respondent suggested introducing a capital 'floor'. The recommendation would be that own funds requirement should never fall below the average total financial resources requirement reported on a firm's FSA033 returns (measured across the 4 quarters of 2021).
- 6.18** Another respondent noted that a former IFPRU firm could currently rely on own estimates for delta in accordance with the UK CRR for the purposes of determining its alternative capital requirement under the transitional arrangements. But (under IPRU-INV Chapter 3) a former exempt commodities firm could not. They suggested this would lead to an unfair playing field during the transitional period.

Our response

We acknowledge that under our proposed transitional arrangements, an exempt commodities firm would still need to be able calculate its capital requirements using IPRU-INV Chapter 3, where applicable, as a 'floor' below which the alternative amount must not drop. However, this is little different to a current BIPRU or IFPRU investment firm

which would make use of MIFIDPRU TP2.7R. Such firms would also have to continue to be able to perform a capital calculation under their existing (pre-IFPR) applicable rules. In MIFIDPRU TP2.9G for BIPRU and IFPRU firms, and MIFIDPRU TP2.22G for exempt commodities firms, our guidance explains that we expect these calculations to be updated to coincide with a firm reporting its own funds position to us under MIFIDPRU 9. In practice, this means that the calculation of the alternative requirement should take place on at least a quarterly basis.

Paragraph (5) of MIFIDPRU TP2.21R contains the 'floor' mentioned above, which does not allow the alternative requirement to fall below the amount of capital required by continuing to apply IPRU-INV Chapter 3. This is to prevent firms from 'back-sliding' (ie reducing their own funds requirements during a transitional period before having to increase them back up again). It is necessary for any transitional floor to be dynamic and relate to the up-to-date business of the FCA investment firm, and not be based on historic figures.

We have added a new point (6) to TP2.21R to permit an exempt commodities firm to use delta from the exchange in relation to options, or to use own estimates of delta for OTC options or options where delta is not available from the exchange if it meets the conditions in MIFIDPRU 4.12.10R.

We believe that MIFIDPRU TP2.21R is a proportionate way to phase in the requirements of MIFIDPRU 4. We confirm that we will introduce this TP as consulted upon for all current exempt commodities firms (including those which are currently subject to Chapter 3 of IPRU-INV), but with the changes noted above (see also Chapter 9).

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- 6.19** Another respondent raised an issue that they believe has not been addressed in CP20/24. It relates to UK commodities firms and the prudential regime that will apply to them between 26 June 2021 and the date of the application of the IFPR.
- 6.20** The respondent explained that an IFPRU (or BIPRU) exempt commodities firm is currently eligible to apply the prudential rules in Chapter 3 of IPRU-INV (instead of the UK CRR), however this exemption under the EU CRR, which was on-shored into UK CRR, expires on 26 June 2021 (when the EU's IFR/IFD would start to apply).
- 6.21** According to the respondent, after this period it is their understanding that the UK CRR would start to apply to such firms automatically until the UK implements IFPR, (which will only be from 1 January 2022). They asked us to discuss the timing gap with HMT as a matter of priority and to determine what legislative fix may be necessary. Ideally, the solution would allow UK commodities dealers to be able to continue to rely on the exemption from the UK CRR for the period between 26 June 2021 and the 31 December 2021.

Our response

- We were aware of this issue and had previously raised it with the Treasury. The Treasury has since published [legislation](#) to address this.

Transitional provision for calculating the consolidated own funds requirement

6.22 In the calculation of the transitional provision for the consolidated FOR and consolidated KFR, it is possible to deduct a transitional credit. To calculate the transitional credit for the consolidation group, one must first calculate any credit available for each FCA investment firm individually. In paragraph 6.31 of CP20/24, we stated that if an FCA investment firm does not have a TP for its FOR, then there would be no credit available. One respondent asked us to clarify how this may come about – is it referring to:

- a category of FCA investment firms for which an FOR TP is not available, or
- firms for which an FOR TP is available but where it is not applicable on an individual basis (eg because the KFR TP amount is higher than the FOR TP amount and therefore takes precedence).

Our response

The purpose of the transitional in TP 2.23R for the consolidated FOR and consolidated KFR is to ensure that any transitional relief in the FOR or KFR requirements claimed by an FCA investment firm at an individual level is not lost where prudential consolidation applies under MIFIDPRU 2.5. I.e. the amount of any reduced FOR or KFR under one of the provisions in TP2 claimed by an FCA investment firm at individual level may also be used when it comes to its contribution to the consolidated FOR or consolidated KFR (as appropriate).

Therefore, for the avoidance of doubt, the reference in paragraph 6.31 of CP20/24 was to a situation where no transitional relief for its FOR is available to the particular FCA investment firm in question. For the purposes of determining the transitional consolidated FOR of an investment firm group, an individual firm's alternative transitional requirement for its FOR should be used. This is the case even if, in practice, that firm's individual own funds requirement is determined by its KFR instead.

Where a TP for the FOR or the KFR is not available to an FCA investment firm at individual level there would be no transitional credit available under TP 2.23R for a consolidated FOR or KFR. Any TP in respect of the FOR at individual firm level cannot be used against the consolidated KFR. And any TP in respect of the KFR at individual firm level cannot be used against the consolidated FOR.

We confirm that there is no transitional credit available for entities included within the prudential consolidation that are not FCA investment firms. This would introduce complexity, such as in dealing with third-country subsidiaries in a group.

We confirm that we will introduce this TP as consulted upon. We note that MIFIDPRU 2.6 includes an alternative to prudential consolidation, the GCT. If the GCT applies the investment firm group would not have a consolidated FOR or consolidated KFR.

K-factor metric calculations – transitional provisions

- 6.23** In CP20/24, we recognised that the calculations behind some of the K-factor requirements would require varying periods of historical observations of underlying metrics.
- 6.24** We therefore proposed TPs that would 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.
- 6.25** Most respondents were supportive of our proposals to introduce TPs in this way as they would assist with the K-factor calculations. Many respondents suggested that the TPs were essential given the delay in the publication of final definitions for the K-factor calculations. Respondents also appreciated the additional flexibility and they indicated it would allow firms to invest in data collection systems once the additional details emerge concerning the K-factor calculations.
- 6.26** One respondent commented that the transitional provisions are very generous and in practice FCA investment firms should not have any difficulty in collecting the appropriate data well in advance of the implementation of the IFPR.

Our response

We appreciate the positive feedback with respect to our proposals to introduce TPs that will help with the calculation of the K-factor requirements for existing FCA investment firms that are undertaking the relevant activities immediately before the IFPR takes effect. We confirm that we will proceed with our TP proposals as set out in MIFIDPRU TP 4.

Data collection in advance of the IFPR taking effect – transitional provision on collecting K-factor metrics

- 6.27** Most respondents were supportive of our proposal in MIFIDPRU TP 5 that would enable both FCA investment firms, and the ultimate UK parent undertaking of an FCA investment firm group where prudential consolidation applies, to calculate a K-factor requirement from the first day that the IFPR takes effect.
- 6.28** One respondent commented that they were already preparing for the new IFPR regime, and thus in their case the TPs for the collection of data would be unnecessary. Other respondents, however, welcomed the need for MIFIDPRU TP 5.
- 6.29** A separate respondent believed the transitional provisions are very generous and that in practice there should be no reason that investment firms cannot have collected appropriate data well in advance of the implementation of the IFPR. They noted that the underlying metrics are deliberately crucial to the way investment firms operate their business. And that there should be no reason that firms are not able to access historical data for items such as customer orders, client assets, AUM and daily trading transactions in the ongoing day to day commercial management of their business. They suggested that no further changes or allowances be factored into these transitional provisions.

- 6.30** Another respondent pointed out that the linkage between MIFIDPRU TP 4 and MIFIDPRU TP 5 suggests that the two TPs are inter-reliant. The respondent commented that the mandate to collect advanced data does not feel unreasonable, so long as the final definitions for the K-factor calculations are provided in time. This would allow FCA investment firms to design, test and implement the data collection process.
- 6.31** One respondent asked us to clarify whether a firm would initially be assessing its capital adequacy against a single month's data (if the KFR was the biting requirement). In this case, they thought it would not provide the firm with the 'smoothing' and 'lagging' benefits that should be expected. They did not, however, suggest an alternative way of calculating the K-factors if the historical data was not available.
- 6.32** One respondent commented that MIFIDPRU TP2.7R, which caps the FOR or KFR at twice the own funds requirement of a current BIPRU firm, is overly punitive without an alternative TP to enable a firm to calculate its K-factor metrics on a basis that does not rely on data relating to a period in advance of the calculation basis.

Our response

We confirm that under MIFIDPRU TP5 we will require firms to collect one month of advance data in advance of the IFPR taking effect. This is so that all FCA investment firms that are subject to the KFR will have some measure of the relevant K-factor metrics and be able to calculate their KFR.

Under MIFIDPRU TP 4 we are allowing firms to initially calculate their KFR using just 1 month's worth of data, collected under MIFIDPRU TP 5 before the date the IFPR takes effect. The purpose of MIFIDPRU TP 4 is to allow FCA investment firms time while they build up sufficient historical data. We know this means that FCA investment firms using the modified calculation under MIFIDPRU TP 4.11R will not immediately benefit from the smoothing and lagging that the regime provides. But this will build up over time.

Alternatively, MIFIDPRU TP4 permits firms to use reasonable estimates to fill in any missing historical data instead. This would retain the benefits of smoothing and lagging, but only if firms have a reasonable basis for such estimates. Our intention is that MIFIDPRU TP5, in conjunction with MIFIDPRU TP4, will provide firms with a basis for the alternative calculation (without the benefits of smoothing or lagging to begin with) where the firm has no reasonable basis on which to generate estimates.

Where an FCA investment firm has a sufficiently long run of historical data available that meets the KFR calculation requirements or has reasonable estimates to fill any missing historical data points, it is able to use that data. And will benefit from the smoothing and lagging benefits sooner. As noted by two respondents above, some firms will have this data available.

We do not believe that the provisions in MIFIDPRU TP 2.7R which cap the FOR or KFR at twice the current own funds requirement of a current BIPRU firm is overly punitive. It provides more favourable treatment than would be the case if no TP were available. We reiterate that firms may use reasonable estimates to fill any missing historical data gaps. If asked, they must be able to explain how it has reached those historical estimates.

7 Concentration risk and K-CON

7.1 In this chapter we summarise the feedback we received and our response to our proposals for:

- all FCA investment firms to monitor and control concentration risk
- non-SNI firms to report on specific sources of concentration risk
- firms that deal on own account to have additional requirements on their trading book exposures and an additional K-factor requirement, K-CON

Monitoring and control of concentration risk

7.2 Most of the feedback we received supported our proposals. It did however include some concerns that it would be complex for firms to identify all their connected clients. We address the feedback received on the monitoring and control of concentration risk by grouping this under suitable headings.

Internal process and controls

7.3 Some respondents asked that we provide additional guidance on the internal process and controls FCA investment firms should use to monitor and control their concentration risk.

Our response

We expect all FCA investment firms to consider the potential risks and harm that could be caused by concentration to a single client or a group of connected clients as part of their overall risk management.

FCA investment firms will benefit from identifying connected clients as it will give them a better understanding of their true exposure to clients who should be considered as a single risk.

The Handbook already contains material relevant to concentration risk in specific areas, eg CASS 7 for client money diversification, and the MiFID Org Regulation for concentrations in outsourcing. And the concept is, by its nature, intended to be flexible. But we will consider in the future whether detailed guidance might be helpful in the light of experience with non-SNI firms reporting on specific sources of concentration risk.

Scope of activities

7.4 We received several requests to clarify which activities should be included in the concentration risk monitoring requirement. For example, we were asked whether an SNI firm (which, by definition, cannot safeguard and administer client assets) is

required to monitor concentration risk for the activity of arranging for the safeguarding and administration of assets.

Our response

All FCA investment firms (ie both SNI and non-SNI) will be required to monitor and control concentration risk. This is something we generally expect FCA investment firms to be doing already as part of their regular risk management processes.

MIFIDPRU 5.1.5R states that the monitoring obligation in MIFIDPRU 5.2 applies to all of a firm's activities which may give rise to concentration risk. This includes any concentration risk from non-MiFID activities. For example, where an FCA investment firm arranges for the safeguarding and administration of a client's assets, there may be potential for harm if the firm is over-reliant upon an individual third-party for that safeguarding.

Geographical scope

7.5 We received a question on the treatment of exposures to non-UK governments and non-UK public sector entities (PSEs).

Our response

We have clarified that the treatment in MIFIDPRU 5.1.14R can apply to regional governments and local authorities in a third country as well as the UK, so long as the relevant conditions are met. Firms will need to determine whether the relevant conditions are met in third countries.

We have also amended MIFIDPRU 5.10.1R(3)(b) so that exposures to regional governments and local authorities in a third country benefit from the exclusion in MIFIDPRU 5.10. This is the case as long as there is no difference in risk when compared to a central government which benefits from a 0% risk weighting under the UK CRR. (See also Chapter 9).

Otherwise, we consider that the treatment of exposures to non-UK governments and non-UK PSEs is clear, when MIFIDPRU 5 is read with the underlying UK CRR material that is cross-referred to.

7.6 We were asked to clarify what we meant by the 'location' of client money, client assets, or the FCA investment firm's own cash.

Our response

We set out in paragraph 7.6 of CP20/24 what we mean by the location of client money, client assets or an investment firm's own cash. This said:

'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.'

Principal banking arrangements

7.7 We were also asked whether concentration risk applied to an FCA investment firm's principal banking arrangements.

Our response

FCA investment firms will need to monitor and control all sources of concentration risk. This may include concentration risk from a firm's principal banking arrangements.

Reporting of concentration risk

7.8 In this section we clarify what is included in our requirements for concentration risk reporting (excluding the reporting of K-CON, which is dealt with in the next section). Reporting on concentration risk applies to all non-SNI firms.

7.9 We have also added to our Guidance notes to form MIF004 – 'Non-K-CON concentration risk reporting', that reporting for 'exposures' (in the first section of that form) will only apply to firms that deal on own account, including on behalf of clients). See also Chapter 8 of this PS, which summarises the feedback we received on our reporting proposals as a whole and our response.

Applying K-CON exclusions to non-K-CON reporting

7.10 We were asked if exposures which can be excluded from the K-CON capital requirement (which applies to FCA investment firms that deal on own account) can also be excluded from non-K-CON reporting on positions or exposures (which applies to all non-SNI firms). We were also asked about the treatment of intragroup exposures for earnings concentration, eg intragroup recharges.

Our response

There are no exclusions from the wider obligation to monitor and control, or from the wider obligation to report on concentration risk in MIF004. The K-CON exclusions are not relevant when firms make their non-K-CON reports.

This means that intragroup earnings will need to be taken into account when determining the top 5 largest sources of concentration risk and be reported accordingly.

We also remind FCA investment firms that deal on own account that when they submit their non-K-CON reporting, they should report the sum of their trading book, non-trading book, and off-balance sheet exposures, including any exposures to counterparties covered by K-CON exclusions.

Alternative ways of reporting on earnings concentration

- 7.11** We received several suggestions on alternative ways of reporting on the concentration of earnings, such as by industrial sector or geographical location. Another suggestion was that the concentration of earnings would be better viewed as part of the ICARA process.

Our response

As part of our overall supervision we are interested in how reliant an FCA investment firm might be on a specific client or a group of connected clients for its earnings. Information about the 5 largest sources of earnings may indicate if a firm is exposed to any concentration risk from earnings. We are not proposing to set a threshold for reporting on earnings. Non-SNI firms are required to include the largest 5 sources of earnings from individual clients in their regular reporting.

All FCA investment firms should also consider any potential concentration risk from sources of earnings as part of the ICARA process. This is not just where this might arise from individual clients or groups of connected clients, but from other aspects of their business model, such as industrial sector or geographical location.

Concentration risk requirements for FCA investment firms that deal on own account

- 7.12** Respondents found our proposals and worked examples to be clear and helpful. We were asked how long a counterparty needed to be a client for K-CON reporting and if there were any existing guidelines or RTSs that were relevant to calculating K-CON.
- 7.13** We also received concerns that not including banking-book like exposures in the large exposure limit could add to risks within the investment firm sector.

Our response

A counterparty should continue to be considered a client for the purpose of K-CON for as long as an FCA investment firm has an exposure to or a position with that counterparty. In other words, where there is an exposure, there needs to be a counterparty to that exposure. MIFIDPRU 5.9.1R and 5.9.2G set out how to determine how long an exposure value excess (EVE) has persisted.

The IFPR is a new UK regime for FCA investment firms. Thus there is no existing material that would be relevant to the K-CON calculation.

We note that the EU's IFR did not contain any mandate for an RTS on concentration risk as part of the EU's regime.

FCA investment firms do not, in general, have material 'banking-book type' exposures. However where they do have such exposures, we expect them to consider any potential risk or harm from holding the relevant assets as part of their ICARA process, including where they might contribute to concentration risk.

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- 7.14** Some respondents were concerned about the proposed requirement to notify us without delay of exposures that exceed the concentration risk soft limit. They felt this could be unduly burdensome for some trading firms. We also received some alternative suggestions for receiving this information.
- 7.15** One respondent asked why the soft limit is set at the higher of (1) 25% of the firm's capital, or (2) the lower of £150m or 100% of the firm's capital. They suggested that we should remove the effective £150m maximum amount.

Our response

Currently, FCA investment firms that deal on own account and are categorised as 'full-scope' are subject to the large exposures requirement (LER) in the UK CRR and must notify us without delays of large exposures that exceed the relevant limits. The existing limits themselves are similar to the limits we are proposing under IFPR, and will now only apply to trading book exposures. So, while we appreciate that the IFPR brings more firms within scope of concentration risk notifications, the frequency of notifications received from investment firms to date under the current regime does not suggest that this is an onerous requirement.

Notification of breaches of the soft limit will allow us to act upon potential issues more quickly. These breaches may not show up in the quarterly K-CON reporting, depending on how long the exposure persists for.

The £150m is an alternative limit which provides proportionality for smaller investment firms, where it is higher than 25% of a firm's own funds. But we consider that it is appropriate to cap this alternative at 100% of an investment firm's own funds as part of prudent risk management. This reflects the status quo for the LER under the UK CRR. And the threshold is only a soft limit – an FCA investment firm can still incur a trading book exposure larger than this provided it can meet the K-CON own funds requirement.

On both issues, we have not been presented with a compelling reason to diverge from our general approach to reflect the EU's IFD/IFR requirements as our baseline. The EU's IFD/IFR requirements are themselves based on the status quo that applies to the LER today under the UK CRR, but without the need to include non-trading book exposures in the K-CON.

- 7.16** Above we included our response to a question on the treatment of exposures to non-UK governments and non-UK PSEs, for the purposes of the monitoring and control of concentration risk. We have responded in part by amending MIFIDPRU 5.10.1 to clarify that exposures to non-UK PSEs may be treated in the same manner as similar UK exposures. This means that exposures to non-UK regional governments and local authorities can be excluded from the K-CON capital requirement, where the relevant conditions are met. See Chapter 9 for further details.

8 Reporting requirements

8.1 In this chapter, we summarise the feedback received and our responses to our proposals for:

- a single suite of reporting forms for all FCA investment firms
- the frequency of reporting
- the clarity of the reporting form instructions
- our expectations during the first year

Single suite of reporting forms for all FCA investment firms

8.2 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. In CP 20/24, we proposed introducing a single suite of IFPR reporting forms for all FCA investment firms. This would allow us to collect an appropriate amount of data to supervise them against the IFPR prudential requirements.

8.3 In addition to our proposal to introduce a single suite of IFPR reporting forms for all FCA investment firms, we proposed retiring FSA001 and FSA002 – replacing them with FSA029 and FSA030 respectively – and all COREP returns.

8.4 We received 15 responses to Q.21 of our CP.

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?*

8.5 Respondents all agreed with our proposals that all FCA investment firms should have the same basic regulatory reporting forms.

Our response

We confirm that upon introduction of the IFPR we will cease to collect COREP returns and the following FSA0xx returns will no longer need to be completed by FCA investment firms that currently do so: FSA001, FSA002, FSA003, FSA004, FSA005, FSA006, FSA016, FSA018, FSA028, FSA032, FSA045, FSA046, FSA047, FSA048, FSA050, FSA051, FSA052, FSA053, FSA054, FSA055.

For the avoidance of doubt, we will no longer collect FINREP returns. Firms that currently use FINREP will also move to FSA029 and FSA030. There will be no change to the current guidance for completing these 2 returns.

We are, however, still considering our approach to securitisation reporting and if we should replace FSA046 and FSA058, and the securitisation requirements under COREP, with a new reporting form. This is because they use credit risk concepts from the UK CRR that do not form part of the IFPR. We may include proposals on this in a future consultation.

Frequency of reporting

- 8.6** We received 15 responses to Q22 of the CP, which asked for views on the frequency of reporting proposals. We proposed that all FCA investment firms should report information quarterly to us, with the relevant reporting reference dates being the last business day in March, June, September and December.
- 8.7** There was some disagreement with the proposed frequency of reporting. Some respondents requested that reporting be only bi-annually for SNI FCA investment firms, rather than quarterly. They felt that quarterly reporting for SNIs would be too onerous and asked for clarification on why we have opted to diverge from the EU's approach in its IFR.

Our response

Quarterly reporting supports more agile supervision, as it allows us to see trends more quickly. We believe FCA investment firms are more likely to submit correct information if it is something they must do more often. The data we are requesting should not be difficult to provide, as these are figures that should be readily available as part of managing the business.

We are not adopting the annual reporting for SNIs proposed by the EBA for EU investment firms. FCA investment firms should note that the volume of data required by the EBA is considerably larger and more detailed than we are requiring under the IFPR. We also propose to use a proportionate means of reporting. This is likely to be easier for FCA investment firms to implement and will ensure that we receive more regular, targeted and useful information that is relevant to our supervisors. There are also considerably more investment firms in the UK, and we believe our overall approach to reporting is necessary to deliver a more effective regime for supervising FCA investment firms.

We can confirm that all FCA investment firms will be moving to quarterly reporting (with reference dates of the last business day in March, June, September and December) as this provides us with more timely information.

FSA029 and FSA030 will now also be collected quarterly but remain in line with the accounting reference date of the firm.

- 8.8** One respondent also suggested reporting on a monthly basis, as the data we are requesting from them is data they tend to calculate on the first day of every month.
- 8.9** Two respondents also expressed their concerns on setting fixed reporting dates. They thought that it would be an additional burden to complete some returns on the calendar quarter dates, and some to their accounting reference date, where this is different.

Our response

We agree there may be benefits with monthly reporting, but this needs to be balanced with proportionality. It is something we may consider, for example for larger trading firms, in due course.

Common reporting dates for all FCA investment firms makes it easier for us to compare firms with their peers. Unlike CRR, most IFPR reporting should not need to tie in to accounting reference dates. We do not think this information should be difficult for firms to report on. However, FSA029 and FSA030, being financial statement information, will still be collected in line with a firm's accounting reference date.

We still intend to collect MIF004 – Non-K-CON reporting at the end of each calendar quarter. We have however amended the guidance notes for reporting information on concentration risk in earnings. This should still to be submitted in the same MIF004 form on a calendar quarter basis. But we now allow FCA investment firms to use the earnings information taken from quarters based on their most recent accounting reference date should they chose to do so.

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- 8.10** The following table provides a summary of the main reporting forms required under IFPR. It is not intended to be a substitute for detailed analysis of the relevant rules, reporting forms and their guidance notes.

Table 3: summary of forms and reporting schedule.

Form number	Form Title	Frequency	Date	Type of firm
MIF001	Own funds	Quarterly	Last business day in March, June, September and December	All FCA investment firms
MIF002 (see note 1)	Liquid assets	Quarterly	Last business day in March, June, September and December	All FCA investment firms
MIF003	SNI Threshold monitoring	Quarterly	Last business day in March, June, September and December	All FCA investment firms
MIF004 (see note 2)	Concentration risk (Non-K-CON)	Quarterly	Last business day in March, June, September and December	Only firms who deal on own account
MIF005	K-CON concentration risk	Quarterly	In line with accounting reference date	Only non-SNI firms
MIF006	Group capital test	Quarterly	Last business day in March, June, September and December	Only firms with permission to use the GCT.
MIF007	ICARA questionnaire	Annually (see note 3)	Submission date specified by firm	All FCA investment firms
MIF008 (see note 4)	Remuneration	Annually	Within 4 months of accounting reference date	All FCA investment firms
FSA029	Balance sheet	Quarterly	In line with accounting reference date	All FCA investment firms
FSA030	Income statement	Quarterly	In line with accounting reference date	All FCA investment firms

Note 1: In CP21/7, we proposed a revised format for this report to reflect our proposed rules around liquidity requirements. We will confirm the final format in the second policy statement.

Note 2: Reporting information on concentration risk in earnings should still to be submitted in the same MIF004 form on the dates specified. But FCA investment firms are allowed to use the earnings information taken from quarters based on their most recent accounting reference date should they chose to do so.

Note 3: We have proposed that FCA investment firms submit this form more frequently if they review their ICARA process more regularly than the minimum annual frequency. FCA investment firms will submit an updated ICARA questionnaire post any major business change. This was consulted on in CP21/7. Frequency and dates will be confirmed in our next PS.

Note 4: This was consulted on in CP21/7. Frequency and dates will be confirmed in our next PS.

Clarity of reporting form instructions

- 8.11** In CP20/24, we provided instructions for completing the proposed reporting forms. We consulted on whether the instructions were clear and to specify where additional reporting detail may be required. Most feedback agreed that the instructions were clear and concise.
- 8.12** One respondent asked that we consider requesting more detailed information for the fixed overheads requirement (FOR) to avoid any reporting errors. Another suggested that we should ask for more information, including the value of deductions for each of the main categories of deduction from own funds.

Our response

We believe that requesting such granular detail on the FOR and not for other areas would be disproportionate. This could entail covering every deduction from total expenses. CP21/7, published in April, contains our proposals for calculating the FOR and we will consider any specific feedback on how to calculate it in our subsequent policy statement for that CP.

While requiring detailed reporting on each of the main categories of deduction from own funds may provide more information for supervision, we believe it would be disproportionate. Deductions from own funds would now generally be made in full (see Chapter 4 for further details). We would however expect FCA investment firms to consider whether the items deducted from own funds may give rise to any additional source of harm as part of its ICARA process and we can require detailed information from an individual firm as part of our supervisory review if appropriate.

- 8.13** Some respondents raised concerns about our proposals to request that FCA investment firms provide us with the identification of clients' legal entity identifiers (LEIs) in earnings concentration reporting. They suggested that we use other proxies.

Our response

Using an internal reference number instead of an LEI does not allow us to easily monitor if multiple FCA investment firms have connections to the same client/counterparty. The data reported to us remains confidential and will not be shared publicly.

Many firms already use LEIs for transaction reporting purposes under MiFIR and EMIR. This means that we already receive information allowing individual clients to be identified.

Therefore, we do not consider that our proposals raise any significant additional issues of information security or data protection. If the client is a natural person, another proxy only known to the firm could be used.

- 8.14** Further clarity was also sought on MIF004 – Non-K-CON concentration risk reporting for the definitions of 'exposures', 'client securities' and 'cash'. In particular, whether on and off-balance sheet exposures are included. We were also asked if intragroup exposures should be included.

Our response

We have amended MIF004 to separate out intragroup exposures from other exposures. We have updated the guidance notes to provide greater clarity on how this is to be reported. We are also clarifying that information on the 'exposures' section of MIF004 will only have to be completed by FCA investment firms who deal on own account. This information must include both trading and non-trading book exposures.

- 8.15** Two respondents asked whether firms should show a money market fund (MMF) manager and full MMF holdings as the counterparty or whether they should show an underlying bank and underlying exposure to that bank as the counterparty for the purposes of concentration risk reporting.

Our response

We can confirm that our rules in MIFIDPRU5 do not require FCA investment firms to look through fund and securitisation structures in the same way they are required to under Art 390(7) in UK CRR.

- 8.16** Two respondents asked for further guidance about the valuation of assets under advice if not valued frequently.

Our response

Our proposals for the measurement of assets under advice for the purposes of calculating K-AUM are covered in CP21/7. There we propose that AUM should be measured on a monthly basis. We will respond to any such questions as part of our subsequent policy statement for that CP.

- 8.17** We received concerns about the instructions for completing the templates, which provide references to UK CRR as modified by MIFIDPRU. It was noted that the use of a combination of source rules appears overly cumbersome and it was suggested we include any relevant parts of UK CRR into the MIFIDPRU source book or another part of the FCA Handbook.

Our response

Where possible, our rules try to be self-contained. However, there are areas where MIFIDPRU will, at least initially, need to cross refer to the UK CRR in order to ensure timely implementation of the IFPR.

FCA expectations during the first year of the regime

- 8.18** We were asked for more clarity on the transitional requirements and how capital requirements would apply in Year 1.

Our response

There are a series of transitional provisions that will limit any increase in own funds requirement for eligible firms (see Chapter 6 of this PS for further information). MIF001 – Own funds asks FCA investment firms to identify any transitional provisions that they are relying on and to report the resulting transitional requirement.

There are also transitional arrangements explaining how firms should calculate K-factor metrics at the beginning of the new regime if they did not have enough historical data to perform calculations according to the standard methodology.

This means that we expect firms to report data in MIF001 that covers:

- their capital requirements under IFPR as they would apply using the standard methodology. Where applicable, this may include figures that the firm has determined using transitional arrangements to replace missing data; and
 - to the extent applicable, their transitional own funds requirement.
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Other questions

- 8.19** Other feedback pointed out that the dropdown option for recording PMR under MIF001 does not support the amount for the consolidated position, which is the sum of the PMRs of the relevant entities in the investment firm group.
- 8.20** We were also asked to clarify what FCA investment firms should do where the split of annual gross revenue between MiFID and non-MiFID for the purposes of reporting form MIF003 is not easily available.
- 8.21** One respondent asked about the currency FCA investment firms should submit their returns in and what units to use, ie whether numeric values should be considered absolute or in thousands.

Our response

We have amended the PMR data point under MIF001 and it will now be free text.

We can confirm that all FCA investment firms must record all gross revenue that cannot be identified as a result of non-MiFID business as being due to MiFID business when completing form MIF003.

FCA investment firms should complete these returns in sterling and in thousands. This is consistent with other reporting forms. We have amended the guidance to reflect this.

Changes introduced since CP20/24

8.22

Since CP20/24, we have also published our second IFPR consultation paper, CP21/7. There are some reporting aspects in CP21/7 that have consequential impacts on the reporting forms consulted on in CP20/24. In summary, we have made:

- some changes to MIF001 – Own funds to take account of the ICARA process; we have added a section headed, 'Own funds threshold requirement/wind-down trigger'.
- several changes to MIF002 – Liquid assets to take account of the ICARA process and our proposals for a basic liquid asset requirement that will apply to all FCA investment firms. We are not finalising the MIF002 reporting form in this PS. It will be included in our PS for CP21/7.

9 Summary of amendments to Handbook text

- 9.1** In this chapter we provide additional technical information on the main changes to the Handbook text consulted on in CP20/24. This includes those that have been described elsewhere in this PS and those that we have made so that the rules work as intended.
- 9.2** This information is provided as a guide for FCA investment firms to help them identify what and where those changes are. The information contained in this guide should be read in the context of the rules in the Handbook and any other rules that may affect their application. This chapter is not intended to be exhaustive and firms should ensure that they read the Handbook rules in full to understand the implications for their businesses.

Table 4: Rules affected

Main rule reference	Connected rules also being amended	Purpose of amendment	Explanation
'Financial institution' definition	N/A	Adds AIFMs to the list of entities that constitute a financial institution and clarifies the activities in Annex I to the CRD that relevant to that definition	AIFMs were always intended to be included within the original definition, in accordance with the approach taken under UK CRR and the EU IFR. This addition is intended to correct a drafting omission in the drafting in CP20/24. Firms and groups will therefore need to treat AIFMs as financial institutions (and therefore also as 'relevant financial undertakings') when applying the MIFIDPRU rules. In particular, they should ensure that they take this into account when identifying members of an investment firm group for prudential consolidation or group capital test purposes. The original drafting also referred to all activities in Annex I to CRD as being relevant to determining whether an entity is a financial institution. We have therefore clarified that the relevant activities are only those in points 2 to 12, point 15 and the final paragraph of the list of Annex I activities.
'Relevant financial undertakings' definition	MIFIDPRU 2.4.2G	Adds credit institutions to the list of entities that constitute a relevant financial undertaking	Our original draft Handbook text in CP20/24 followed the EU IFR approach to specifying entities included within the scope of consolidation. However, upon reflection, we consider that a third country credit institution should be consolidated within an investment firm group if that group does not contain a UK credit institution as a full parent or subsidiary. This is because such a group would not be subject to prudential consolidation under the UK CRR. In addition, a UK credit institution may be included in an investment firm group as a connected undertaking and, if so, should also be consolidated.

Main rule reference	Connected rules also being amended	Purpose of amendment	Explanation
<p>'Investment firm group' and 'parent undertaking' definitions</p>	<p>MIFIDPRU 2.4.4G MIFIDPRU 2.4.15R(2) MIFIDPRU 2.4.18R(2)(e) MIFIDPRU 2.4.19G</p>	<p>To clarify that: entities that are 'connected undertakings' by virtue of participations are not deemed to be complex relationships for the purpose of groups assessing whether they can apply the group capital test; and the group capital test requires a parent undertaking to hold sufficient own funds to cover its holdings in subsidiaries or in entities in which it holds a participation</p>	<p>We originally suggested that the group capital test (GCT) was unlikely to be appropriate for groups that contain connected undertakings. This is because most relationships that result in an entity being classified as a 'connected undertaking' under MIFIDPRU 2.4 do not involve holding capital in the other entity.</p> <p>Upon reflection, we noted that where a group contains a connected undertaking due to holding a participation in another entity, there will be a capital holding. This means that the GCT can be applied to that relationship. We have therefore clarified in the definitions and in the rules relating to groups in MIFIDPRU 2 that the GCT means that a parent undertaking must hold own funds instruments covering its holdings in subsidiaries that are relevant financial undertakings and its participations in relevant financial undertakings. We have also updated our guidance to clarify that participations are not generally evidence of a group being complex for the purposes of applying the GCT.</p>
<p>Definitions of 'investment firm group' and 'consolidated situation'</p>	<p>MIFIDPRU 2.4.2G(1)</p>	<p>To clarify that the obligations under either MIFIDPRU 2.5 (prudential consolidation) or MIFIDPRU 2.6 (group capital test) do not apply above the highest UK parent in the structure</p>	<p>It was always our intention that prudential consolidation or the GCT would apply in relation to all relevant subsidiaries (and where relevant, connected undertakings) downstream from the UK parent entity. However, our original definition of an 'investment firm group' was territorially neutral and therefore respondents suggested that it could be read as requiring a UK parent entity to consolidate upwards or to apply the GCT to parent undertakings above the top UK parent.</p> <p>In order to clarify this issue, we have amended the definitions of an 'investment firm group' and 'consolidated situation' to make it clearer that the group consists of a UK parent and its subsidiaries (and where applicable, connected undertakings). This will ensure that the definition does not inadvertently capture non-UK entities above the UK parent entity.</p> <p>However, in appropriate cases, we may still apply individual requirements to specific UK parent entities to include other entities (including those higher up in the structure) within the scope of consolidation if we consider it desirable to do so to advance our operational objectives.</p>

Main rule reference	Connected rules also being amended	Purpose of amendment	Explanation
<p>Definitions of 'responsible UK parent', 'UK investment holding company', 'UK mixed-activity holding company', 'UK mixed financial holding company', 'UK parent investment firm', 'UK parent investment holding company', 'UK parent mixed financial holding company'</p>	<p>MIFIDPRU 2.6.5R MIFIDPRU 2.6.8G(2)</p>	<p>To align the FCA Glossary definitions for parent undertakings with the revised drafting of the FS Act.</p>	<p>For parent undertakings (both authorised and non-authorised), the FS Act has now confirmed the territorial scope of the FCA's rule-making powers under Part 9C of FSMA. This has been amended from the original text in the FS Bill. Our previous draft Handbook text in CP20/24 referred to undertakings that were incorporated in, or had their registered or head office in, the UK. The revised text in our near-final rules refers to undertakings that are incorporated in, or have their principal place of business, in the UK. The FCA IFPR Glossary definitions that relate to parent undertakings have therefore also been updated to reflect the revised legislative drafting.</p> <p>Note that the definition of an FCA investment firm still refers to an undertaking that is incorporated in, or has its registered or head office in, the UK. This means that references to UK parent investment firms and to other (non-parent undertaking) entities have not been updated to refer to the principal place of business test.</p>
<p>Definitions of 'GCT parent undertaking' and 'responsible UK parent'</p>	<p>MIFIDPRU 2.6.5R MIFIDPRU 2.6.6G MIFIDPRU 2.6.7R MIFIDPRU 2.6.8G MIFIDPRU 2.6.10R MIFIDPRU 2.6.11R MIFIDPRU 2.6.12G MIFIDPRU 9.1.1R MIFIDPRU 9.4.1R MIFIDPRU 9.4.3R MIFIDPRU 9.4.4R MIFIDPRU 9.4.5G MIFIDPRU TP3.1R MIF006 – reporting instructions</p>	<p>To amend the GCT obligations to reflect the scope of our final powers under the FS Act.</p>	<p>We have introduced a new definition of a 'GCT parent undertaking' to clarify the parent undertakings to which the GCT applies directly. Where a parent undertaking is not a GCT parent undertaking, but has a relevant financial undertaking as a subsidiary, our rules apply the GCT obligation to the responsible UK parent instead. This is a UK parent undertaking that is directly subject to the GCT. It can choose either to ensure compliance with the GCT by its subsidiary, or can hold additional own funds instruments itself to cover its subsidiary's situation. This is consistent with our approach to third country parent undertakings to which the GCT does not directly apply, as proposed in CP20/24. In practice, this achieves the same substantive outcome as our original proposals – i.e. there is effectively a GCT requirement for all relevant parent undertakings in the investment firm group. However, investment firm groups will have some additional flexibility in relation to whether to hold own funds instruments at the level of the responsible UK parent or its unregulated UK subsidiary (which is itself a parent undertaking of a relevant financial undertaking). We have also updated the MIF006 reporting obligations in MIFIDPRU 2.6 and MIFIDPRU 9 to reflect these changes.</p>

Main rule reference	Connected rules also being amended	Purpose of amendment	Explanation
MIFIDPRU 1.2.10R(4)(b)	N/A	To clarify (based on work on 'AUM' and 'COH' definitions for CP21/7) that when applying the SNI AUM and COH conditions on a combined basis under MIFIDPRU 1.2.10R, references to 'MiFID business' in the AUM and COH definitions include equivalent third country business carried on by a third country investment firm	<p>Firms have asked us to clarify that in general, the metrics for the K-factors should be determined by reference to a firm's MiFID business. This is generally the correct approach and we have amended some of the K-factor definitions proposed in CP21/7 to make this clearer.</p> <p>However, 'MiFID business' as defined generally means investment services and/or activities carried on by a (UK) MiFID investment firm. For consolidation, this does not matter, because the entire consolidation group is deemed to be a single, large hypothetical MIFIDPRU investment firm. But the combined test in MIFIDPRU 1.2.10R for determining the SNI status of FCA investment firms within the same group does not work in the same way. We are adding some new wording to MIFIDPRU 1.2.10R(4) to clarify that for these purposes, those definitions should be deemed to include investment services and/or activities carried on by a third country investment firm in the UK.</p>
MIFIDPRU 2.4.11G	N/A	Clarification of the meaning of 'significant influence' when identifying connected undertakings in investment firm groups	<p>Our original draft Handbook text in CP20/24 provided a list of indicators that we proposed could be evidence that a firm has significant influence over another undertaking. We were asked to clarify the status of those indicators and the overall meaning of the concept of 'significant influence' in this context.</p> <p>We have amended the guidance in MIFIDPRU 2.4.11G to clarify that the indicators listed are not conclusive, but may be evidence that significant influence exists. Each situation should be analysed by reference to all relevant facts and circumstances.</p> <p>The overall test for significant influence is whether the firm has the power to participate in the financial and operating policy decisions of the other undertaking, even though the firm does not have control or joint control of those policies. For these purposes, we have also clarified that it will be relevant for firms to consider the analogous accounting concepts of significant influence under IAS 28 for IFRS and FRS 102 for UK GAAP. Therefore, firms may be able to reuse elements of any accounting analysis applicable to their group when assessing whether significant influence exists. We consider that this is also consistent with the approach of the EU IFR, where the EBA indicated that the concept of significant influence had been developed by reference to IAS 28.</p>
MIFIDPRU 2.4.18R(2)(h)	N/A	To clarify that an application for the group capital test should explain how the group will maintain systems to transfer the necessary information so that the UK parent can monitor capital and funding in the group	The original draft Handbook text in CP20/24 indicated that a GCT application should explain how it would comply with the systems requirement for the UK parent of a consolidation group under MIFIDPRU 2.5.8R. We have amended this to state that the application should explain how the UK parent entity will comply with the equivalent obligation for a GCT in MIFIDPRU 2.6.9R or how it would comply with MIFIDPRU 2.5.8R if the GCT application were not granted.

Main rule reference	Connected rules also being amended	Purpose of amendment	Explanation
MIFIDPRU 2.5.4G	N/A	Amendment of guidance provision to clarify that if a credit institution forms part of an investment firm group only as a connected undertaking (rather than a full parent or subsidiary), then the group may still be an investment firm group	<p>This is a minor clarification of the existing guidance provision in MIFIDPRU 2.5.4G to ensure consistency with the underlying Glossary definitions. A group will not be an investment firm group if it includes a UK credit institution as a subsidiary. However, we have amended this guidance to clarify that where a UK credit institution is merely a connected undertaking, the group will still be an investment firm group.</p> <p>Where a group contains a non-UK credit institution, whether as a subsidiary or a connected undertaking, this does not prevent it from being an investment firm group.</p>
MIFIDPRU 2.5.6G(2) – (4)	N/A	Clarification that amounts attributable to tied agents of third country investment firms must be included within the consolidated situation if the third country investment firm is included within the consolidated situation	<p>This is a minor clarification to the guidance in relation to amounts being attributable to tied agents of investment firms. The updated wording makes it clear that this is equally applicable to third country investment firms included within the consolidated situation.</p>
MIFIDPRU 3.3.6R and 3.3.15R	N/A	To clarify the treatment of investment in a fund, for the purposes of deductions of FSEs from CET1 capital and for material holdings.	<p>For the purposes of the deductions in MIFIDPRU 3.3.6R, and the qualifying holdings in non-financial sector entities (non-FSE) deduction in MIFIDPRU 3.3.15R (which was MIFIDPRU 3.3.14R in our original proposals), we now make it clear that an FCA investment firm should treat holdings in a fund as holdings in a non-FSE.</p> <p>However, this is specifically limited to the context of deductions in MIFIDPRU 3.3. It does not affect the more general meaning of the FSE and non-FSE defined terms in any other context, which will need to be considered on a case-by-case basis</p>
MIFIDPRU 3.3.6R(4)	N/A	Offsetting deferred tax liabilities associated with defined benefit pension assets from the corresponding deduction of such assets.	<p>For each defined benefit pension fund that is an asset on the balance sheet, these assets would represent a 'surplus' over any associated liabilities. The requirement under the UK CRR is that these assets should be deducted in the calculation of CET1 net of any associated deferred tax liability which would be extinguished if the asset should become impaired or derecognised under the relevant accounting standards.</p> <p>Our original proposed rule in CP20/24 required full deduction of all defined benefit pension scheme assets on the firm's balance sheet. However, we recognise that the value of the deduction would be too high where a corresponding future tax liability would automatically be reduced if the defined benefit pension fund assets could no longer be recognised on the balance sheet. We have therefore made a change to allow for the offset of associated deferred tax liabilities for these purposes on the same basis as under the current UK CRR.</p>

Main rule reference	Connected rules also being amended	Purpose of amendment	Explanation
MIFIDPRU 3.3.14R(3) and (4)	N/A	Clarifying how the exemption from deducting holdings of CET1 instruments issued by a financial sector entity within the same investment firm group applies where there are multiple parent undertakings	<p>Respondents to CP20/24 queried how the requirement in MIFIDPRU 3.3.14R (previously MIFIDPRU 3.3.13R in our original proposals) for the financial sector entity to be included within the risk management procedures of a parent undertaking should apply where the investment firm group contains both an intermediate and an ultimate parent.</p> <p>We have amended the provision to make it clear that the financial sector entity may be included within the risk management procedures of any parent undertaking (i.e. either the intermediate or the ultimate parent), provided that the investment firm group is subject to prudential consolidation under MIFIDPRU 2.5 and the relevant parent is included within the consolidated situation.</p>
MIFIDPRU 3.3.16R and 3.3.17R	N/A	To clarify the circumstances in which partial withdrawal of a partner's or member's capital is allowed for an FCA investment firm that is not a joint stock company	<p>We have clarified that the conditions that need to be met for a partner's or member's account to qualify as CET1 capital should accommodate scenarios where there is a partial withdrawal of capital by a partner or member (and who remains as a partner or member). This is provided that another partner or member (including, where applicable, a new incoming partner or member) contributes simultaneously the same amount as replacement capital. The UK CRR is silent on this point.</p>
MIFIDPRU 4.11.3R	N/A	Clarifying that the reference to Chapter 3, Title I, Part Three CRR is to those provisions as they stood before any CRR II-related amendments came into effect	<p>Under the PRA's proposals for implementing the CRR II regime, there will be significant amendments to the provisions in the UK CRR (article 102 onwards) which relate to the management of the trading book. Our proposed rules in CP20/24 were based on the existing UK CRR provisions for managing the trading book, rather than the CRR II versions. We therefore propose clarifying that our cross-reference to the CRR rules is to those rules before they were amended by CRR II. This is consistent with our approach to applying 'frozen in time' UK CRR rules for the purposes of calculating K-NPR.</p>
MIFIDPRU 4.11.8R	N/A	Adding a new rule to govern permissions for excluding positions designed to hedge foreign exchange (FX) risks for purposes of firms own funds requirement or for items deducted from own funds	<p>Article 352(2) UK CRR requires a firm to obtain the prior permission of the FCA to exclude from the calculation of a firm's net open currency position (for the purposes of FX risk) a position that is used to hedge FX risk on the firm's own funds requirement or to hedge FX risk on an item that has been deducted from the firm's own funds. Our draft Handbook text in CP20/24 did not include a rule governing the mechanism for firms to apply for this permission. We have therefore added this rule in MIFIDPRU 4.11. We consider MIFIDPRU 4.11 an appropriate place because FX risk applies to positions in and outside the trading book of a firm that deals on own account (see MIFIDPRU 4.11.7R).</p>

Main rule reference	Connected rules also being amended	Purpose of amendment	Explanation
MIFIDPRU 4.12.10R	Adding new Glossary definition of 'Non-Delta Risk of Options RTS'	Clarifying that use of delta model for the purposes of K-NPR requirement must be subject to conditions of article 329 UK CRR, 352 UK CRR or article 358 UK CRR (for commodities options)	<p>We note that the original consultation text in MIFIDPRU 4.12.10R consulted on in CP20/24, could be read as permitting the firm to use an internal model for determining the delta of options in circumstances where not all of the conditions in article 329 of the UK CRR were met. This was not the intention and the original text was intended to require firms to meet all of those conditions. Our amendments therefore clarify this and remind firms that they must apply on-shored BTS 528/2014 in relation to non-delta risk for options. We have also added a reference to articles 352 and 358 UK CRR, which impose equivalent conditions for FX options and commodities options.</p> <p>We have also clarified that if a firm does not meet the conditions to use its own model (and, if the option is exchange traded, delta is not available from the exchange) then a default delta of '1' applies.</p>
MIFIDPRU 4.12.66R	MIFIDPRU 4.12.21G	Adding a new rule to govern the granting of permissions for the purposes of article 331(1) UK CRR on sensitivity models for interest rate risk	The original text of MIFIDPRU 4.12 did not contain a mechanism by which the FCA could grant permissions for the purposes of article 331(1) of the UK CRR, which relates to the use of sensitivity models for interest rate risk on derivatives and certain bonds. We have added in a new provision in MIFIDPRU 4.12.66R to address this. We have also added a cross-reference in MIFIDPRU 4.12.21G to highlight the existence of this new provision.
MIFIDPRU 4.13.9R	MIFIDPRU 2.5.40R(3)	Widening potential eligibility for a K-CMG permission to firms whose clearing member is a MIFIDPRU investment firm or a third country investment firm	<p>We received feedback from a non-bank clearing firm that our eligibility conditions for a K-CMG permission in MIFIDPRU 4.13.9R(2) would cause significant disruption to non-bank clearing activities in some markets (e.g. short-term interest rate derivatives). The feedback indicated that non-bank clearing arrangements may be significant providers to firms which themselves provide liquidity in those markets. We were also informed that for these type of derivatives, the default K-NPR requirement could be around twice the equivalent K-CMG requirement for a portfolio. Feedback also stated that some UK firms contract directly with non-UK clearing providers (e.g. they might contract directly with a US-based non-bank clearer when trading on the Chicago exchange).</p> <p>We have therefore amended the conditions for a K-CMG permission so that the clearing member for the portfolio can also be a MIFIDPRU investment firm (including a firm that is self-clearing, as we originally proposed), a third country investment firm or a third country credit institution. In each case, these entities must still be clearing through an authorised CCP (which also includes a third country CCP that is recognised under the UK on-shored EMIR framework). In addition, the resulting margin requirement must be determined by reference to the margin model of the CCP (and not of the MIFIDPRU investment firm or third country investment firm).</p> <p>We have made equivalent amendments to MIFIDPRU 2.5.40R(3) to allow K-CMG to apply to designated investment firms included within the scope of consolidation on the basis of the same population of eligible clearing members.</p>

Main rule reference	Connected rules also being amended	Purpose of amendment	Explanation
MIFIDPRU 4.13.12R	N/A	To clarify how the conditions in MIFIDPRU 4.13.9R for a K-CMG permission apply in relation to indirect clearing arrangements	<p>Our original proposed rule in MIFIDPRU 4.13.12R stated that a firm that used indirect clearing arrangements could obtain a K-CMG permission for a portfolio if those clearing arrangements satisfied all of the conditions for a standard K-CMG permission in MIFIDPRU 4.13.9R.</p> <p>In an indirect clearing arrangement, there will be four parties in the clearing chain: the authorised or recognised CCP, the clearing member (i.e. the direct participant in the CCP), the indirect clearing provider (i.e. the direct client of the clearing member) and the FCA investment firm. Respondents to CP20/24 asked us to clarify how the conditions in MIFIDPRU 4.13.9R applied in relation to the status of the indirect clearing provider.</p> <p>We have now amended MIFIDPRU 4.13.12R(1) to clarify that both the clearing member and the indirect clearing provider must be an entity listed in MIFIDPRU 4.13.9R (as amended in our near final rules). This means that they must each be either a UK credit institution, a PRA designated investment firm, a MIFIDPRU investment firm, a third country investment firm or a third country credit institution. The remaining conditions in MIFIDPRU 4.13.9R apply in the same way as for a K-CMG permission for a portfolio that is cleared directly through a clearing member.</p>
MIFIDPRU 4.14.8R (1) and (3)	N/A	Clarification that the replacement cost and collateral components of the exposure value formula can be positive or negative	<p>One respondent noted that under the netting ratio approach, if RCnet takes on a value that is less than or equal to 0, RCnet would revert to 0 for the purposes of the formula. Thus, PFE_{net} would be 0 as well. The respondent asked us to confirm if this was our intention.</p> <p>We have maintained this approach in our final rules. The reason for this is that the PFE is only one element in the formula for determining the exposure value. For example, if RCnet is less than or equal to 0, this could be because the firm is posting collateral under the arrangement. Where a firm posts collateral, the formula for calculating the exposure value in MIFIDPRU 4.14.8R and the rules for calculating collateral in MIFIDPRU 4.14.24R would mean that the collateral will have a negative value, and therefore will increase the exposure value as a result.</p> <p>We have added wording to MIFIDPRU 4.14.8R (3) to make the effect of this clearer in the exposure value formula. If the value of C is negative, then the exposure value will increase.</p> <p>We have also added wording MIFIDPRU 4.14.8R (1) to make clear that if the RC is negative then the exposure value could decrease.</p>

Main rule reference	Connected rules also being amended	Purpose of amendment	Explanation
<p>MIFIDPRU 4.14.13G and MIFIDPRU 4.14.17G</p>		<p>Clarification of the approach to written options under the hedging approach, and under the netting ratio approach, to calculating potential future exposure under the K-TCD rules</p>	<p>We have clarified in 4.14.13G(2) how written options should be treated for the purposes of applying the hedging approach when calculating PFE for the K-TCD requirement. The amendments clarify that a firm is not required to calculate a PFE for a written option, unless that option is being netted with a derivative other than a written option. Where netting applies, the firm is permitted to cap the PFE in relation to the written option at an amount which would result in a replacement cost of zero (but is not required to do so, as our original guidance provision might have implied). This is to reflect industry feedback that within large mixed netting sets, it might be onerous for a firm to have to identify the individual written options and apply the PFE cap (even though doing so would be advantageous to the firm in terms of reducing the overall PFE). We have therefore clarified that the firm can choose to cap the PFE for written options in the netting set if it prefers to do so, but this is not a requirement.</p> <p>We have also made a minor clarification to MIFIDPRU 4.14.17G(2) in relation to the netting ratio approach to clarify that the exemption from calculating a PFE for written options applies unless they are being netted with other derivative contracts that are not written options. The PFE cap for written options included within a mixed netting set does not apply to the netting ratio approach.</p>
<p>MIFIDPRU 4.14.14R (1)(c) and MIFIDPRU 4.14.20R (5)</p>	<p>N/A</p>	<p>Clarification that the netting mechanics for the hedging approach for calculating PFE under K-TCD mean that long positions should be treated as positive amounts and short positions as negative amounts.</p> <p>And clarification of the how to treat the supervisory delta.</p>	<p>A response to CP20/24 asked us to revise the provisions on the supervisory delta under K-TCD to allow for negative supervisory deltas to facilitate our hedging approach.</p> <p>While we believe that our proposed rules would work to provide for netting as intended, we have amended MIFIDPRU 4.14.14R (1)(c) to make clear that when applying the hedging approach a firm must treat long positions as positive values and short positions as negative values.</p> <p>For the avoidance of doubt, we have also amended MIFIDPRU 4.14.20R(5)(b) to state that the supervisory delta for transactions (for which a firm cannot use a model) other than swaptions or options shall be 1 or -1.</p> <p>And we have added a new limb (c) to that rule to make clear that in each case the supervisory delta shall reflect the relationship between the contract and the underlying – i.e. a contract that increases exposure (by increasing RC) as the underlying increases shall have a positive supervisory delta, and a contract that decreases exposure (by decreasing RC) as the underlying increases shall have a negative supervisory delta.</p>
<p>MIFIDPRU 4.14.15G(4) and (5)</p>	<p>N/A</p>	<p>Clarification of how to net foreign exchange (FX) derivative contracts and interest rate derivative contracts</p>	<p>We have clarified that a firm may net FX derivative contracts where they relate to a pair of currencies and its inverse pair (e.g. USD/EUR and EUR/USD) by treating one of the positions as a long position and one as a short position.</p> <p>We have also clarified that where an interest rate derivative has multiple legs, a firm should determine the PFE of that instrument by adding together the adjusted notional of each leg, treating payments received as positive values and payments made as negative values.</p>

Main rule reference	Connected rules also being amended	Purpose of amendment	Explanation
MIFIDPRU 4.14.16R(1)		Clarification that absolute values should be used for the purposes of the PFE of each asset class under the hedging approach	A response to CP20/24 asked us to clarify that absolute values should be used for the purposes of the calculating the PFE of each asset class within a netting set under the hedging approach. We have amended the text to make it clear that this is the case.
MIFIDPRU 4.14.18R(2)		Clarification that absolute values should be used for the purposes of determining PFE _{gross} under the netting ratio approach	A response to CP20/24 asked us to clarify that absolute values should be used for the purposes of the calculating PFE _{gross} under the netting ratio approach. If the absolute value is not used, this might imply that derivative contracts in the netting set are effectively netted within the calculation of PFE _{gross} itself, which was not our intention. We have amended the text to make it clear that absolute values must be used.
MIFIDPRU 5.1.14R & 5.1.15G	N/A	Clarification that regional governments and local authorities in third countries also benefit from the treatment afforded to UK authorities for the purposes of the 'group of connected clients' definition.	A respondent asked whether a regional government or local authority in a third country can benefit from the treatment afforded to regional governments or local authorities for the purposes of the 'group of connected clients' definition. We have clarified that it can. We have also clarified that a firm may have regard to the list of UK regional governments and local authorities maintained by the PRA which are treated as exposures to the central government of the UK when determining if the test in MIFIDPRU 5.1.14R is met.
MIFIDPRU 5.10.1R	N/A	Clarification that exposures to regional governments and local authorities in third countries may also be excluded from the K-CON requirement.	We have updated MIFIDPRU 5.10.1(3)(b) so that regional governments and local authorities in a third country are able to benefit from the same treatment as regional governments and local authorities in the UK, so long as they pose no more risk than a central government with a 0% risk weight under the UK CRR.
MIFIDPRU TP 1.8R(2)	N/A	Removal of obligation to notify the FCA that the firm has applied for a modification to treat pre-IFPR AT1 capital as AT1 capital under MIFIDPRU	Where a firm has issued AT1 capital instruments before the IFPR begins to apply and makes an application under s.138A FSMA to modify the AT1 capital criteria in MIFIDPRU in respect of those instruments, we intend to treat the modification application itself as, effectively, also a notification of the firm's intention to deal with its existing AT1 capital by means of a rule modification. We have therefore drafted MIFIDPRU TP 1.8R(2) to remove this duplicative notification obligation if the firm chooses to take the modification route. Firms should note that when applying for a modification, they will need to demonstrate how the requested modification would still result in the AT1 instruments enabling the firm to meet its own funds requirement in times of financial stress.

Main rule reference	Connected rules also being amended	Purpose of amendment	Explanation
MIFIDPRU TP 2.21R(5) and (6)	N/A	Clarification that a former exempt commodities firm which is subject to the IPRU-INV 3 floor under the own funds transitional arrangements may use its own estimates of delta if it meets the conditions in MIFIDPRU 4.12.10R.	<p>A respondent to CP20/24 suggested that it would lead to an unfair playing field between former IFPRU firms and former exempt commodities firms where an IFPRU firm could currently rely on own estimates for delta in accordance with the UK CRR for the purposes of determining its alternative capital requirement under the transitional arrangements, but a commodities firm could not. We are therefore permitting an exempt commodities firm to use delta from the exchange in relation to options, or to use own estimates of delta for OTC options or options where delta is not available from the exchange if it meets the conditions in MIFIDPRU 4.12.10R.</p> <p>We have also clarified that the IPRU-INV 3 floor should be recalculated regularly, and at least as frequently as the firm reports information on its own funds requirements to the FCA under MIFIDPRU 9 (i.e. at least on a quarterly basis).</p>
MIFIDPRU TP 2.22G	N/A	Clarification that when applying the alternative calculation for the purposes of the transitional own funds requirement for exempt commodities firms, the firm generally need only recalculate the requirement on a quarterly basis (to coincide with reporting of own funds requirements to the FCA).	<p>A respondent to CP20/24 sought clarity over whether the alternative requirement under the own funds requirement transitional arrangements for exempt commodities firms required recalculation on a real-time basis. We have added guidance (equivalent to the guidance for CRR firms under their transitional) that we would expect the requirement to be recalculated at least as frequently as the firm reports its own funds requirement to the FCA under MIFIDPRU 9 (i.e. on a quarterly basis).</p>

Main rule reference	Connected rules also being amended	Purpose of amendment	Explanation
<p>Notification and application forms – requirement to submit specific forms and requirement to submit through the online notification and application system (i.e. Connect)</p>	<p>Various</p>	<p>To require firms to submit relevant notifications using specific forms, and to require firms to submit all IFPR-specific notifications via Connect.</p>	<p>While some of the rules we consulted on envisaged notifications being submitted through specific forms, many were silent. We have now introduced a requirement to notify using bespoke forms for the rules listed below. We are consulting in CP21/7 on the actual form of notification required in each case and will confirm the final format and content of each notification in our feedback to that consultation.</p> <p>The relevant rules are:</p> <ol style="list-style-type: none"> 1. MIFIDPRU 1.2.4 – alternative approach for calculating AUM/COH; 2. MIFIDPRU 1.2.7 – error in intra-day CMH; 3. MIFIDPRU 1.2.13 – non-SNI to SNI 4. MIFIDPRU 1.2.16 – SNI to non-SNI 5. MIFIDPRU 2.5.17 – proportional consolidation notification; 6. MIFIDPRU 3.3.3 – subsequent CET1 issuance notification; 7. MIFIDPRU 3.6.3 – reduction in own funds notification; 8. MIFIDPRU 4.12.7 – non-material changes to internal model; 9. MIFIDPRU 4.12.10 – own estimates for options delta (K-NPR); 10. MIFIDPRU 4.12.61 – quarterly submissions relating to internal models 11. MIFIDPRU 4.13.10 – notification that a K-CMG condition no longer met; 12. MIFIDPRU 4.13.20 – notification that K-CMG permission no longer used; 13. MIFIDPRU 4.14.20 – own estimates for options delta (K-TCD); 14. MIFIDPRU TP 1.8 – CRR AT1 instruments <p>The proposed rules in CP20/24 generally required firms to submit forms according to the instructions on the form. We have now decided that all IFPR-specific forms will be submitted through Connect, and have introduced requirements for firms to submit the relevant forms in this way.</p>

Annex 1

List of non-confidential respondents

Alternative Investment Management Association (AIMA)

Arete Research

Baillie Gifford

Barnett Waddingham

Blackrock

BNY Mellon

Brewin Dolphin Limited

British Private Equity and Venture Capital Association (BVCA)

Capita plc

Cboe Europe

Daiwa

DC Dwek Corporate Finance Limited

Futures Industry Association (FIA)

FIA European Principal Traders Association (FIA EPTA)

Fidelity International

Hargreaves Lansdown

ICE Futures

Interactive Investor

Invesco

KKR

Lane Clarke & Peacock LLP

Man Group

Morgan Stanley

Personal Investment Management & Financial Advice Association (PIMFA)

Pillar 4 Consultants

Project Imagine Ltd

Seedrs Limited

SMBC Capital Markets Ltd

Societe Generale International Ltd

The Investment Association

ThreeSixty

XPS Investment Limited

XTX Markets Limited

Annex 2

Abbreviations used in this paper

Abbreviation	Description
AIFMD	Alternative Investment Fund Management Directive
AT1	Additional Tier 1 capital
BCBS	Basel Committee on Banking Supervision
BIPRU	Prudential sourcebook for banks, building societies and investment firms
BRRD	Bank Recovery and Resolution Directive
CBA	Cost benefit analysis
CCP	Central counter party
CET1	Common Equity Tier 1 capital
CMV	Current market value
CP	Consultation Paper
CPMI	Collective Portfolio Management Investment firm
COREP	Common reporting
CRD	Capital Requirements Directive
CRR	Capital Requirements Regulation
CU	Connected Undertaking
EBA	European Banking Authority
EMP	Energy market participant
ESG	Environmental, Social and Governance
EU	European Union
FCA	Financial Conduct Authority
FICOD	Financial Conglomerates Directive

Abbreviation	Description
FINREP	Financial reporting
FOR	Fixed overheads requirement
FS Act	Financial Services Act 2021
FS Bill	Financial Services Bill
FSE	financial sector entities
FSMA	Financial Services and Markets Act
GENPRU	General Prudential sourcebook
GCT	Group capital test
IAS	International Accounting Standards
ICARA	Internal Capital Adequacy and Risk Assessment
IFCW	Investment Firm Consolidation Waiver
IFD	Investment Firm Directive
IFPR	Investment firm prudential regime
IFPRU	Prudential sourcebook for investment firms
IPRU-INV	Interim prudential sourcebook for investment business
IFR	Investment Firm Regulation
KFR	K-factor requirement
LRRA	Legislative Regulatory Reform Act
MPoR	Margin period of risk
MiFID	Markets in Financial Instruments Directive
MIFIDPRU	New Prudential sourcebook for solo regulated MiFID investment firms
OFR	Own funds requirement
OFRE	Own funds requirement for the excess
OMP	Oil market participant

Abbreviation	Description
OTC	Over the counter
OTF	Organised trading facility
PMC	Permanent minimum capital
PMR	Permanent minimum requirement
PRA	Prudential Regulation Authority
PS	Policy Statement
RC	Replacement cost
SFTs	Securities financing transactions
SNI	Small and non-interconnected investment firm
T2	Tier 2 capital
TOFR	Total own funds requirement
TP	Transitional provision
UCITS	Undertakings for Collective Investment in Transferable Securities Directive
VaR	Value at risk

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Appendix 1

Near-final rules (draft instrument)

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); 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 B; and
 - (2) solely for the purpose of enabling a person to comply with the rules in Part 2 of Annex B to this instrument, the provisions in Annex A and Part 1 of Annex B.
- D. This instrument comes into force for all remaining purposes on [*date*].

Amendments to the FCA Handbook

- E. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- F. The Supervision manual (SUP) is amended in accordance with Annex C to this instrument.

Making the Prudential sourcebook for MiFID Investment Firms (MIFIDPRU)

- G. The FCA makes the rules and gives the guidance in Annex B to this instrument.
- H. The Prudential sourcebook for MiFID Investment Firms (MIFIDPRU) is added to the Prudential Standards block within the Handbook, immediately after the Prudential sourcebook for Insurers (INSPRU).

Notes

- I. 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

- J. This instrument may be cited as the Investment Firms Prudential Regime Instrument 2021.
- K. The sourcebook in Annex B to this instrument may be cited as the Prudential sourcebook for MiFID Investment Firms (or MIFIDPRU).

By order of the Board
[*date*]

Annex A

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.

<i>ASA</i>	<i>assets safeguarded and administered.</i>
<i>assets safeguarded and administered</i>	[<i>Editor's note</i> : This definition will be populated following feedback on CP21/7.]
<i>assets under management</i>	[<i>Editor's note</i> : This definition will be populated following feedback on CP21/7.]
<i>AUM</i>	<i>assets under management.</i>
<i>cash trade</i>	(in <i>MIFIDPRU</i>) means an order relating to the purchase or sale of a <i>financial instrument</i> that is: <ol style="list-style-type: none"> (1) referred to in paragraphs 1 to 3 of Part 1 of Schedule 2 to the <i>Regulated Activities Order</i>; or (2) an exchange-traded option.
<i>clearing margin given</i>	the total margin required by a <i>clearing member</i> or <i>CCP</i> , where the execution and settlement of transactions of a <i>MIFIDPRU investment firm's dealing on own account</i> take place under the responsibility of a <i>clearing member</i> or <i>CCP</i> .
<i>client money held</i>	the <i>MIFID client money</i> that a <i>MIFIDPRU investment firm</i> holds, taking into account the legal arrangements in relation to asset segregation and irrespective of the accounting regime applicable to <i>client money held</i> by the <i>MIFIDPRU investment firm</i> .
<i>client orders handled</i>	the value of orders that a <i>MIFIDPRU investment firm</i> handles for <i>clients</i> through: <ol style="list-style-type: none"> (1) the reception and transmission of <i>client orders</i>; and (2) the <i>execution of orders on behalf of clients</i> in the name of the <i>client</i>.
<i>CMG</i>	<i>clearing margin given.</i>
<i>CMH</i>	<i>client money held.</i>

<i>CMV</i>	<i>current market value.</i>
<i>COH</i>	<i>client orders handled.</i>
<i>commodity and emission allowance dealer</i>	<p>a <i>MIFIDPRU investment firm</i> the main business of which consists exclusively of the provision of <i>investment services and/or activities</i> in relation to:</p> <ol style="list-style-type: none"> (1) <i>commodity derivatives</i> or commodity derivative contracts referred to in paragraphs 5, 6, 7, 9 and 10 of Part 1 of Schedule 2 to the <i>Regulated Activities Order</i>; (2) derivatives of <i>emission allowances</i> referred to in paragraph 4 of Part 1 of Schedule 2 to the <i>Regulated Activities Order</i>; or (3) <i>emission allowances</i> referred to in paragraph 11 of Part 1 of Schedule 2 to the <i>Regulated Activities Order</i>.
<i>CON own funds requirement</i>	the own funds requirement calculated in accordance with <i>MIFIDPRU 5.7.2R</i> that relates to a concentrated exposure to a <i>client</i> or <i>group of connected clients</i> .
<i>concentration risk</i>	the risks arising from the strength or extent of a <i>firm's</i> relationships with, or direct exposure to, a single <i>client</i> or <i>group of connected clients</i> .
<i>concentration risk soft limit</i>	the limit specified in <i>MIFIDPRU 5.5.1R</i> on the <i>exposure value</i> a <i>firm</i> has to a <i>client</i> or a <i>group of connected clients</i> , above which a <i>firm</i> is required to calculate the <i>K-CON requirement</i> .
<i>connected undertaking</i>	has the meaning in <i>MIFIDPRU 2.4.6R</i> .
<i>daily trading flow</i>	<p>the daily value of transactions that a <i>MIFIDPRU investment firm</i> enters through:</p> <ol style="list-style-type: none"> (1) <i>dealing on own account</i>; or (2) the <i>execution of orders on behalf of clients</i> in the <i>firm's</i> own name.
<i>derivatives trade</i>	(in <i>MIFIDPRU</i>) means an order relating to the purchase or sale of a <i>financial instrument</i> that is not a <i>cash trade</i> .
<i>DTF</i>	<i>daily trading flow.</i>
<i>EV</i>	(in <i>MIFIDPRU 5</i>) the <i>exposure value</i> .
<i>EVE</i>	(in <i>MIFIDPRU 5</i>) the <i>exposure value excess</i> .

<i>exposure value</i>	(in <i>MIFIDPRU 5</i>) the value of a <i>firm's</i> exposure to a <i>client</i> or <i>group of connected clients</i> , calculated in accordance with <i>MIFIDPRU 5.4</i> .
<i>exposure value excess</i>	(in <i>MIFIDPRU 5</i>) the value by which a <i>firm's</i> exposure to a <i>client</i> or <i>group of connected clients</i> exceeds the <i>concentration risk soft limit</i> , calculated in accordance with <i>MIFIDPRU 5.5.3R</i> .
<i>GCT parent undertaking</i>	<p>a <i>relevant financial undertaking</i> that:</p> <ol style="list-style-type: none"> (1) is a <i>parent undertaking</i>; and (2) either: <ol style="list-style-type: none"> (a) is an <i>authorised person</i>; or (b) satisfies both of the following conditions: <ol style="list-style-type: none"> (i) it is incorporated in, or has its principal place of business in, the <i>UK</i>; and (ii) it has a <i>MIFIDPRU investment firm</i> as a <i>subsidiary</i>.
<i>group capital test</i>	the requirement in <i>MIFIDPRU 2.6.5R</i> .
<i>ICARA process</i>	[<i>Editor's note</i> : This definition will be populated following feedback on CP21/7.]
<i>investment advice of an ongoing nature</i>	the recurring provision of <i>investment advice</i> as well as the continuous or periodic assessment and monitoring or review of a <i>client</i> portfolio of <i>financial instruments</i> , including of the <i>investments</i> undertaken by the <i>client</i> on the basis of a contractual arrangement.
<i>investment firm group</i>	<ol style="list-style-type: none"> (1) (in <i>MIFIDPRU 2.4</i> and any provision that refers to a group to which <i>MIFIDPRU 2.5</i> applies) a group of <i>undertakings</i> that: <ol style="list-style-type: none"> (a) consists of a <i>parent undertaking</i> (including an <i>undertaking</i> that is deemed to be a <i>parent undertaking</i> for the purposes of <i>MIFIDPRU 2.5</i>) that is incorporated in the <i>UK</i> or has its principal place of business in the <i>UK</i> (or, in the case of a <i>UK parent investment firm</i>, has its registered office, or if it has no registered office, its head office in the <i>UK</i>) and: <ol style="list-style-type: none"> (i) the <i>subsidiaries</i> and <i>connected undertakings</i> of that <i>parent undertaking</i>; 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 that refers to a group to which *MIFIDPRU 2.6* applies) a group of *undertakings* that:
- (a) consists of a *parent undertaking* that is incorporated in the *UK* or has its principal place of business in the *UK* (or, in the case of a *UK parent investment firm*, has its registered office, or if it has no registered office, its head office in the *UK*) and its:
 - (i) *subsidiaries*; and
 - (ii) *connected undertakings* in which it holds a *participation* in accordance with *MIFIDPRU 2.4.15R*;
 - (b) includes at least one *MIFIDPRU investment firm*; and
 - (c) does not include a *subsidiary* which is a *UK credit institution*.

investment holding company

a *financial institution* that satisfies 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).

<i>K-ASA requirement</i>	the part of the <i>K-factor requirement</i> calculated on the basis of the <i>ASA</i> of a <i>MIFIDPRU investment firm</i> in accordance with <i>MIFIDPRU</i> [4.9] ¹ .
<i>K-AUM requirement</i>	the part of the <i>K-factor requirement</i> calculated on the basis of the <i>AUM</i> of a <i>MIFIDPRU investment firm</i> in accordance with <i>MIFIDPRU</i> [4.7].
<i>K-CMG permission</i>	a permission granted to a <i>MIFIDPRU investment firm</i> in accordance with <i>MIFIDPRU</i> 4.13.9R allowing the <i>firm</i> to calculate a <i>K-CMG requirement</i> in respect of a <i>portfolio</i> .
<i>K-CMG requirement</i>	the part of the <i>K-factor requirement</i> calculated in accordance with <i>MIFIDPRU</i> 4.13 in relation to <i>portfolios</i> for which the firm has been granted a <i>K-CMG permission</i> .
<i>K-CMH requirement</i>	the part of the <i>K-factor requirement</i> calculated on the basis of the <i>CMH</i> of a <i>MIFIDPRU investment firm</i> in accordance with <i>MIFIDPRU</i> [4.8].
<i>K-COH requirement</i>	the part of the <i>K-factor requirement</i> calculated on the basis of the <i>COH</i> of a <i>MIFIDPRU investment firm</i> in accordance with <i>MIFIDPRU</i> [4.10].
<i>K-CON requirement</i>	the part of the <i>K-factor requirement</i> that accounts for <i>concentration risk</i> in the <i>trading book</i> of a <i>MIFIDPRU investment firm</i> , calculated in accordance with <i>MIFIDPRU</i> 5.7.
<i>K-DTF requirement</i>	the part of the <i>K-factor requirement</i> calculated on the basis of the <i>DTF</i> of a <i>MIFIDPRU investment firm</i> in accordance with <i>MIFIDPRU</i> 4.15.
<i>K-NPR requirement</i>	the part of the <i>K-factor requirement</i> calculated on the basis of the <i>NPR</i> of a <i>MIFIDPRU investment firm</i> in accordance with <i>MIFIDPRU</i> 4.12 where the <i>firm</i> is <i>dealing on own account</i> (whether on its own behalf or on behalf of its <i>clients</i>) and the relevant positions do not form part of a <i>portfolio</i> for which the <i>firm</i> has been granted a <i>K-CMG permission</i> .
<i>K-TCD requirement</i>	the part of the <i>K-factor requirement</i> calculated in accordance with <i>MIFIDPRU</i> 4.14 that is based on the transactions listed in <i>MIFIDPRU</i> 4.14.3R and not otherwise excluded by <i>MIFIDPRU</i> 4.14.5R or <i>MIFIDPRU</i> 4.14.6R, where those transactions are:

¹ *Editor's note*: References to *MIFIDPRU* 4.7 – 4.10 will be confirmed following feedback on CP21/7.

- (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.

liquid assets [*Editor's note*: This definition will be populated following feedback on CP21/7.]

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 Part 1 (FCA) of the *UK* version of Regulation (EU) No 529/2014 of 12 March 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for assessing the materiality of extensions and changes of the Internal Ratings Based Approach

and the Advanced Measurement Approach, which is part of *UK* law by virtue of the *EUWA*.

[*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.*²

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*;
- (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* that 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 that are comparable to those applied in the *UK*.

MIFIDPRU-eligible third country credit institution

a *credit institution* that satisfies the following conditions:

- (1) its registered office or, if it has no registered office, its head office is outside the *UK*;

² *Editor's note:* This definition will be confirmed following feedback on CP21/7.

- (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 that 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 means 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
- (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-Delta Risk of Options RTS

Part 1 (FCA) of the *UK* version of Regulation (EU) No 528/2014 12 March 2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to regulatory technical standards for non-delta risk of options in the standardised market risk approach, which is part of *UK* law by virtue of the *EUWA*.

non-financial sector entity

an entity that is not a *financial sector entity*.

<i>non-segregated account</i>	(in <i>MIFIDPRU</i>) any account that is not a <i>segregated account</i> .
<i>non-SNI MIFIDPRU investment firm</i>	a <i>MIFIDPRU investment firm</i> that is not an <i>SNI MIFIDPRU investment firm</i> .
<i>NPR</i>	<i>net position risk</i> .
<i>OFR</i>	(in <i>MIFIDPRU 5</i>) the own funds requirement for exposures to a <i>client</i> or <i>group of connected clients</i> calculated in accordance with <i>MIFIDPRU 5.7.3R(2)</i> .
<i>OFRE</i>	(in <i>MIFIDPRU 5</i>) the own funds requirement for the excess calculated in accordance with <i>MIFIDPRU 5.7.3R(1)</i> .
<i>own funds requirement</i>	the requirement for a <i>MIFIDPRU investment firm</i> to maintain a minimum level of <i>own funds</i> specified in <i>MIFIDPRU 4.3</i> . ³
<i>permanent minimum capital requirement</i>	the part of the <i>own funds requirement</i> calculated in accordance with <i>MIFIDPRU 4.4</i> .
<i>portfolio</i>	(in relation to the <i>K-CMG requirement</i> or a <i>K-CMG permission</i>) either: <ul style="list-style-type: none"> (1) all the <i>trading book</i> positions attributable to a specific <i>trading desk</i> within the <i>firm</i>; or (2) a subset of the positions in (1) that share identified common characteristics and risks.
<i>positions held with trading intent</i>	any of the following: <ul style="list-style-type: none"> (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.
<i>relevant financial undertaking</i>	any of the following: <ul style="list-style-type: none"> (1) an <i>investment firm</i>; (2) a <i>credit institution</i>; (3) a <i>financial institution</i>;

³ *Editor's note:* The reference to *MIFIDPRU 4.3* will be confirmed following feedback on CP21/7.

	(4) an <i>ancillary services undertaking</i> ; or
	(5) a <i>tied agent</i> .
<i>responsible UK parent</i>	(for the purposes of the <i>group capital test</i>) an <i>undertaking</i> (“A”) in relation to which all of the following conditions are satisfied: <ul style="list-style-type: none"> (1) A is a <i>GCT parent undertaking</i>; (2) A is part of an <i>investment firm group</i>; (3) A is the <i>parent undertaking</i> of one or both of the following: <ul style="list-style-type: none"> (a) an <i>undertaking</i> established in a <i>third country</i> (“B”); or (b) an <i>undertaking</i> incorporated in, or with its principal place of business in, the <i>UK</i> (“C”); (4) where (3)(a) applies, B: <ul style="list-style-type: none"> (a) is a <i>parent undertaking</i>; and (b) would be a <i>relevant financial undertaking</i> if B were established in the <i>UK</i>; (5) where (3)(b) applies, C: <ul style="list-style-type: none"> (a) is a <i>relevant financial undertaking</i>; (b) is a <i>parent undertaking</i>; and (c) is not a <i>GCT parent undertaking</i>; (6) A does not have a <i>subsidiary</i> that: <ul style="list-style-type: none"> (a) is a <i>GCT parent undertaking</i>; and (b) is a <i>parent undertaking</i> of: <ul style="list-style-type: none"> (i) where (3)(a) applies, B; and (ii) where (3)(b) applies, C.
<i>segregated account</i>	[<i>Editor’s note</i> : This definition will be populated following feedback on CP21/7.]
<i>SNI MIFIDPRU investment firm</i>	a <i>MIFIDPRU investment firm</i> that is classified as an <i>SNI MIFIDPRU investment firm</i> in accordance with <i>MIFIDPRU 1.2</i> .
<i>TCD</i>	<i>trading counterparty default</i> .

<i>TCD own funds requirement</i>	the own funds requirement calculated in accordance with <i>MIFIDPRU</i> 4.14.7R that applies to the transactions specified in <i>MIFIDPRU</i> 4.14.1R(2).
<i>trading counterparty default</i>	the exposures in the <i>trading book</i> of a <i>MIFIDPRU investment firm</i> in instruments and transactions specified in <i>MIFIDPRU</i> 4.14.3R, and not otherwise excluded by <i>MIFIDPRU</i> 4.14.5R or <i>MIFIDPRU</i> 4.14.6R, giving rise to the risk of trading counterparty default.
<i>trading desk</i>	an identified group of <i>individuals</i> established by a <i>firm</i> for the joint management of one or more portfolios of <i>trading book</i> positions in accordance with a well-defined and consistent business strategy, operating under the same risk management structure.
<i>UK credit institution</i>	a <i>credit institution</i> that meets the definition of “CRR firm” under article 4(1)(2A) of the <i>UK CRR</i> .
<i>UK investment holding company</i>	an <i>investment holding company</i> that is incorporated in the <i>UK</i> or that has its principal place of business in the <i>UK</i> .
<i>UK mixed-activity holding company</i>	a <i>mixed-activity holding company</i> that is incorporated in the <i>UK</i> or that has its principal place of business in the <i>UK</i> .
<i>UK mixed financial holding company</i>	a <i>mixed financial holding company</i> that is incorporated in the <i>UK</i> or that has its principal place of business in the <i>UK</i> .
<i>UK parent entity</i>	any of the following: <ul style="list-style-type: none"> (1) a <i>UK parent investment firm</i>; (2) a <i>UK parent investment holding company</i>; or (3) a <i>UK mixed financial holding company</i>.
<i>UK parent investment firm</i>	a <i>MIFIDPRU investment firm</i> that: <ul style="list-style-type: none"> (1) is part of an <i>investment firm group</i>; (2) holds a <i>participation</i> in or has a <i>subsidiary</i> that is: <ul style="list-style-type: none"> (a) a <i>MIFIDPRU investment firm</i>; (b) a <i>designated investment firm</i>; or (c) a <i>financial institution</i>; and (3) is not a <i>subsidiary</i> of: <ul style="list-style-type: none"> (a) a <i>MIFIDPRU investment firm</i>; or

- (b) an *investment holding company* or *mixed financial holding company* that is incorporated in the *UK* or that has its principal place of business in the *UK*.

UK parent investment holding company

an *investment holding company* incorporated in the *UK* or that has its principal place of business in the *UK* that:

- (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 principal place of business in the *UK*.

UK parent mixed financial holding company

a *mixed financial holding company* incorporated in the *UK* or that has its principal place of business in the *UK* that:

- (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 principal place of business 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 *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

...

(2A) (in *MIFIDPRU*, *FEES*, *CASS 6*, *CASS 7*, *CASS 7A* and *CASS 10* and, in so far as it relates to matters covered by *CASS 6*, *CASS 7*, *COBS* or *GENPRU* and *IPRU(INV) 11*) subject to the *client money rules*, *money* of any currency:

...

common equity tier 1 capital

(1) (in *MIFIDPRU*) as defined in article 50 of the *UK CRR*, as applied and modified by *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*.

<i>consolidated situation</i>	<p>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 9⁴ 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 that are its subsidiaries or connected undertakings or connected undertakings of its subsidiaries, a single MIFIDPRU investment firm.</p> <p><u>For the purpose of this definition, the terms investment firm, financial institution, ancillary services undertaking and tied agent also apply to undertakings established in other countries that, if established in the UK, would satisfy the definitions of those terms.</u></p>
<i>control</i>	<p>(1) (except in (2) and (2A) (2), (2A) and (2B))</p> <p>...</p> <p><u>(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.</u></p> <p>(3) (except in (2) and (2A) (2), (2A) and (2B)) ...</p> <p>...</p> <p>(4) (except in (2) and (2A) (2), (2A) and (2B)) ...</p> <p>...</p> <p>(5) (except in (2) and (2A) (2), (2A) and (2B)) ...</p> <p>...</p>
<i>convertible</i>	<p>(for the purposes of BIPRU and IFPRU MIFIDPRU) a security which gives the investor the right to convert the security into a share at an agreed price or on an agreed basis.</p>
<i>current market value</i>	<p>(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</p>

⁴ The FCA will consult on the content of MIFIDPRU 8 in a subsequent consultation.

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:~~

- (1) ~~(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*, *AIFM* or any other *undertaking* the principal activity of which is to acquire holdings or to pursue one or more of the activities listed in points 2 to 12, point 15 and the final paragraph of the *Annex 1 activities*; and
 - (b) it is not:

- (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 IPRU investment firm) the amount of own funds referred to in article 26(1)(a) to (c) 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

(1) (except in (2)) 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 1 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 satisfies 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).~~

~~[Note: Part 1 of Annex III of the *Banking Consolidation Directive* (Definitions) and Annex III, Part 1, point 5 of the *Banking Consolidation Directive*]~~

(in MIFIDPRU) a group of transactions with a single counterparty that satisfies 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

<i>own funds instruments</i>		<u>common equity tier 1 instruments, additional tier 1 instruments or tier 2 instruments.</u>
	(2)	<u>(in relation to a parent undertaking to which the group capital test applies) as defined in MIFIDPRU 2.6.2R.</u>
	(3)	<u>(in any other case) has the meaning in article 4(1)(119) of the UK CRR.</u>
<i>parent undertaking</i>	...	
	(3)	(for the purposes of <i>GENPRU 3</i> , <i>BIPRU 12</i> , <i>IFPRU</i> , <i>SYSC 19A</i> (<i>IFPRU Remuneration Code</i>) and <i>SYSC 19D</i> (<i>Dual-regulated firms Remuneration Code</i>)) has the meaning in article 4(1)(15) of the <i>UK CRR</i> but so that article 4(1)(15)(b) applies for the purpose of <i>GENPRU 3</i> . [Note: article 2(9) of the Financial Groups Directive]
	(4)	<u>(for the purposes of MIFIDPRU, [SYSC 19G (MIFIDPRU Remuneration Code)] and otherwise in relation to an investment firm group):</u>
	(a)	<u>an undertaking which is a parent undertaking under section 1162 of the Companies Act 2006, taken with Schedule 7 to that Act; or</u>
	(b)	<u>(for the purposes of MIFIDPRU 2.5):</u>
	(i)	<u>an undertaking referred to in (a); and</u>
	(ii)	<u>an undertaking that is deemed to be a parent undertaking in accordance with MIFIDPRU 2.4; or</u>
	(c)	<u>(for the purposes of MIFIDPRU 2.6):</u>
	(i)	<u>an undertaking referred to in (a); and</u>
	(ii)	<u>an undertaking that is deemed to be a parent undertaking in accordance with MIFIDPRU 2.4.15R(2).</u>
<i>participation</i>	(1)	(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*.

<i>securities or commodities lending or borrowing transaction</i>	<p>(for the purposes of <i>BIPRU</i>) any transaction in which an <i>undertaking</i> or its counterparty transfers securities or commodities against appropriate collateral subject to a commitment that the borrower will return equivalent securities or <i>commodities</i> at some future date or when requested to do so by the transferor, that transaction being <i>securities or commodities lending</i> for the <i>undertaking</i> transferring the securities or <i>commodities</i> and being <i>securities or commodities borrowing</i> for the <i>undertaking</i> to which they are transferred.</p> <p>[Note: article 4(34) of the Banking Consolidation Directive and Article 3(1)(n) of the Capital Adequacy Directive (Definitions)]</p> <p>a transaction that falls within the definition in article 3(7) of the <u><i>SFTR</i></u>.</p>
<i>securities financing transaction</i>	<p>...</p> <p>(1B) (in <i>CASS</i> and <u><i>MIFIDPRU</i></u>) a securities financing transaction as defined in article 3(11) of the <i>SFTR</i>.</p> <p>...</p>
<i>subsidiary</i>	<p>...</p> <p>(2) (in relation to <i>MiFID business</i>, other than for the purposes of <u><i>MIFIDPRU</i></u>, [<u><i>SYSC 19G (MIFIDPRU Remuneration Code)</i></u>] and the definition of an <i>investment firm group</i>) a subsidiary undertaking within the meaning of article 2(10) and article 22 of the <i>Accounting Directive</i>, including any subsidiary of a subsidiary undertaking of an ultimate <i>parent undertaking</i>.</p> <p>(3) (for the purpose of <i>IFPRU</i>) has the meaning in article 4(1)(16) of the <i>UK CRR</i>. (for the purposes of <u><i>MIFIDPRU</i></u>, [<u><i>SYSC 19G (MIFIDPRU Remuneration Code)</i></u>] and in the definition of an <i>investment firm group</i>) an <i>undertaking</i> which is a subsidiary undertaking under section 1162 of the Companies Act 2006, read with Schedule 7 to that Act.</p> <p>...</p>
<i>tier 2 capital</i>	<p>(1) <u>(in <i>MIFIDPRU</i>) as defined in article 71 of the <i>UK CRR</i>, as applied and modified by <i>MIFIDPRU 3.5</i>.</u></p> <p>(2) <u>(except in <i>MIFIDPRU</i>) as defined in article 71 of the <i>UK CRR</i>.</u></p>
<i>trading book</i>	<p>(1) [deleted]</p>

- (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

[*Editor's note:* It is anticipated that a revised version of this Glossary definition will now be provided following feedback to CP21/7.]

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) (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*.

Annex B

Prudential sourcebook for MiFID Investment Firms (MIFIDPRU)

In this Annex, all the text is new and is not underlined.

Part 1: Comes into force on *[date]*

Prudential sourcebook for MiFID Investment Firms (MIFIDPRU)

1 Application

1.1 Application and purpose

[Editor's note: This section will be populated following feedback on the proposals in CP21/7.]

1.2 SNI MIFIDPRU investment firms

Basic conditions for classification as an SNI MIFIDPRU investment firm

- 1.2.1 R A *MIFIDPRU investment firm* is an *SNI MIFIDPRU investment firm* if it satisfies the following conditions:
- (1) its *AUM*, calculated in accordance with *MIFIDPRU* *[Editor's note: insert the appropriate cross-reference to the calculation methodology for AUM in MIFIDPRU 4.7 following feedback on the proposals in CP21/7]* is less than £1.2 billion;
 - (2) its *COH*, calculated in accordance with *MIFIDPRU* *[Editor's note: insert the appropriate cross-reference to the calculation methodology for COH in MIFIDPRU 4.10 following feedback on the proposals in CP21/7]* is less than:
 - (a) £100 million per *day* for *cash trades*; and
 - (b) £1 billion per *day* for *derivatives trades*;
 - (3) its *ASA*, calculated in accordance with *MIFIDPRU* *[Editor's note: insert the appropriate cross-reference to the calculation methodology for ASA in MIFIDPRU 4.9 following feedback on the proposals in CP21/7]* is zero;
 - (4) its *CMH*, calculated in accordance with *MIFIDPRU* *[Editor's note: insert the appropriate cross-reference to the calculation methodology for CMH in MIFIDPRU 4.8 following feedback on the proposals in CP21/7]* is zero;

- (5) it does not have *permission to deal on own account*;
- (6) its on- and off-balance sheet total is less than £100 million; and
- (7) its total annual gross revenue from *investment services and/or activities* 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.

- 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*. A *firm* may therefore hold client assets or *client money* in the course of non-*MiFID business* (provided that it has the necessary *permissions* to do so) and still satisfy the conditions to be classified as an *SNI MIFIDPRU investment firm*. To determine whether client assets or *client money* are to be treated as held in the course of *MiFID business* for these purposes, a *firm* should refer to the *rules* and *guidance* in *MIFIDPRU* [4.8] and [4.9].⁵

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* must use the following for the purposes of the conditions in *MIFIDPRU* 1.2.1R:
- (1) end-of-day values to calculate:
 - (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 calculate its *CMH* under *MIFIDPRU* 1.2.1R(4).
- 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:

⁵ *Editor's note*: These references will be confirmed following feedback on the proposals in CP21/7.

- (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) If a *firm* uses the derogation in (1), it must:
- (a) notify the *FCA* by submitting the form in *MIFIDPRU 1 Annex 1R*⁶ via the *online notification and application system*; 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).
- (4) If a *firm* ceases to apply the derogation in (1), it must notify the *FCA* by submitting the form in *MIFIDPRU 1 Annex 1R* via the *online notification and application system*.
- 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 the *firm's* calculation of its *K-factor requirement* under *MIFIDPRU 4*.
- 1.2.6 R (1) Subject to (2), 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) The *firm* must use provisional accounts where its accounts have not been finalised and approved after *6 months* from the end of the last financial year.
- 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 is an error in record-keeping or in the reconciliation of accounts that incorrectly indicates that the *firm* has breached the zero threshold in *MIFIDPRU 1.2.1R(4)*; and

⁶ *Editor's note*: The format of all notification forms in this instrument will be confirmed following feedback on the proposals in CP21/7.

- (b) the error is resolved before the end of the *business day* to which it relates.
 - (2) If a *firm* uses an end-of-day value under (1), it must notify the *FCA* immediately of:
 - (a) the error;
 - (b) the reasons that the error occurred; and
 - (c) how the error has been corrected.
 - (3) The notification in (2) must be submitted via the *online notification and application system* using the form in *MIFIDPRU 1 Annex 2R*.
- 1.2.8 G (1) *MIFIDPRU 1.2.7R* applies where a *firm* has incorrectly recorded an amount of *client money* as *CMH* and identifies the mistake before the end of the same *business day*. 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.
- (2) *MIFIDPRU 1.2.7R* does not apply where a *firm* mistakenly accepts an amount that satisfies 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 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 it has *permission to deal on own account*.
- 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 the *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 arises in respect of gross revenues generated within the *group*.
- (4) When calculating the contribution of the following to the combined position of the *group*, the *firm* must:
- (a) for a *collective portfolio management investment firm*, 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) for a *third country investment firm*:
 - (i) 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; and
 - (ii) apply the definitions of *AUM* and *COH* as if the references to “*MiFID business*” in those definitions included the *investment services and/or activities* in (i).
- 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 the *rule* is to prevent a *MIFIDPRU investment firm* from dividing its business between 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*.

- (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 for classification 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.

Measure	Measurement of relevant values	Threshold to be classified as an SNI MIFIDPRU investment firm	Application of threshold on an individual basis or combined basis of investment firms within a group (see MIFIDPRU 1.2.8R)	
<i>AUM</i>	End-of-day	Less than £1.2 billion	Combined	See Note 1
<i>COH</i> (cash trades)	End-of-day	Less than £100 million per day	Combined	See Note 1
<i>COH</i> (derivatives)	End-of-day	Less than £1 billion per day	Combined	See Note 1
<i>ASA</i>	End-of-day	Zero	Individual	
<i>CMH</i>	Intra-day	Zero	Individual	See Note 2
<i>DTF</i>	<i>Firm</i> must not have <i>permission to deal on own account</i> , so these measures must always be zero		Individual	
<i>NPR</i>			Individual	
<i>CMG</i>			Individual	
<i>TCD</i>			Individual	

On- and off-balance sheet total	End of last financial year for which accounts finalised by <i>management body</i>	Less than £100 million	Combined	See Note 3
Total annual gross revenue from <i>investment services and/or activities</i>	End of last financial year for which accounts finalised by <i>management body</i>	Less than £30 million, based on an average of annual figures for the two-year period immediately preceding the current financial year	Combined	See Notes 3 and 4
Notes				
Note 1:	Under <i>MIFIDPRU</i> 1.2.4R, the <i>firm</i> can choose to calculate the relevant values for these measures by applying the applicable methodologies in <i>MIFIDPRU</i> 4 to the most recent 12 <i>months</i> without excluding the three most recent monthly values.			
Note 2:	Under <i>MIFIDPRU</i> 1.2.7R, the <i>firm</i> may use the end-of-day value if there has been an error in record keeping or in reconciliation of accounts that incorrectly indicates the <i>firm</i> has breached the zero threshold for <i>CMH</i> , provided that the error is corrected before the end of the <i>business day</i> to which it relates.			
Note 3:	Under <i>MIFIDPRU</i> 1.2.6R, the <i>firm</i> must use provisional accounts where the relevant accounts have not been finalised and approved after 6 <i>months</i> from the end of the last financial year.			
Note 4:	Under <i>MIFIDPRU</i> 1.2.10R, the <i>firm</i> may exclude any double counting that arises in respect of gross revenues generated within the <i>group</i> .			

Non-SNI MIFIDPRU investment firms that subsequently satisfy the conditions to be an SNI MIFIDPRU investment firm

- 1.2.13 R (1) This *rule* applies to a *non-SNI MIFIDPRU investment firm* that 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 if:
- (a) the *firm* satisfies the relevant conditions for a continuous period of at least *6 months* (or any longer period that has elapsed before the *firm* submits the notification in (b)); and
- (b) the *firm* notifies the *FCA* that it satisfies the conditions in (a).
- (3) The notification in (2)(b) must be submitted via the *online notification and application system* using the form in *MIFIDPRU 1 Annex 3R*.

Ceasing to meet the conditions to be an SNI MIFIDPRU investment firm

- 1.2.14 R Where a *MIFIDPRU investment firm* no longer satisfies all the conditions set out in *MIFIDPRU 1.2.1R*, it ceases to be an *SNI MIFIDPRU investment firm* with immediate effect, except where *MIFIDPRU 1.2.15R* applies.
- 1.2.15 R (1) Where a *MIFIDPRU investment firm* exceeds one or more of the thresholds in (2), but continues to satisfy all other conditions in *MIFIDPRU 1.2.1R*, it ceases to be an *SNI MIFIDPRU investment firm* *3 months* after the date on which it first exceeded the relevant threshold.
- (2) The relevant thresholds 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)*.
- 1.2.16 R (1) If a *MIFIDPRU investment firm* ceases to satisfy one of the conditions in *MIFIDPRU 1.2.1R*, it must promptly notify the *FCA*.
- (2) The notification in (1) must be submitted via the *online notification and application system* using the form in *MIFIDPRU 1 Annex 4R*.

- 1.2.17 G Where a *firm* ceases to satisfy one of the conditions in *MIFIDPRU* 1.2.15R, but subsequently satisfies that condition within the three-month period referred to in that *rule*, the *firm* will still be reclassified as a *non-SNI MIFIDPRU investment firm* 3 months after the date on which it first ceased to satisfy that condition. The *firm* will only be reclassified as an *SNI MIFIDPRU investment firm* if it satisfies 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: deliberately left blank, to be populated following feedback on CP21/7.]
- (2) If a *non-SNI MIFIDPRU investment firm* satisfies the conditions in *MIFIDPRU* 1.2.1R to be classified as an *SNI MIFIDPRU investment firm*, the provisions in (1) will cease to apply only:
- (a) 6 months after the date on which the *firm* first satisfied those conditions (or after any longer period that has elapsed before the *firm* submits the notification in (b)(ii)); and
- (b) provided that the *firm*:
- (i) continued to satisfy the conditions throughout the period in (a); and
- (ii) has notified the *FCA* under *MIFIDPRU* 1.2.13R(3)(b).
- (3) If an *SNI MIFIDPRU investment firm* no longer satisfies the conditions in *MIFIDPRU* 1.2.1R to be classified as an *SNI MIFIDPRU investment firm*, it must:
- (a) notify the *FCA* immediately in accordance with *MIFIDPRU* 1.2.16R of the date on which it ceased to satisfy the conditions; and
- (b) comply with the provisions in (1) within 12 months from the date on which the *firm* ceased to satisfy the conditions.
- 1.2.19 G Under the Capital Requirements (Country-by-Country Reporting) Regulations 2013 (SI 2013/3118) as amended, *non-SNI MIFIDPRU investment firms* may be required to disclose information relating to their branches or subsidiaries outside the *UK*. The Regulations also set out how the country-by-country reporting obligations apply when a *MIFIDPRU investment firm* is reclassified as an *SNI MIFIDPRU investment firm* or a *non-SNI MIFIDPRU investment firm*.

1.3 Actions for damages

- 1.3.1 R A contravention of any *rule* 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).

Notification under MIFIDPRU 1.2.4R in respect of the use of the alternative approach to measure AUM and/or COH for the purpose of determining if a firm can be classified as an SNI investment firm

- 1
Annex
1R [Editor's note: The form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Notification under MIFIDPRU 1.2.7R(2) of the use of an end-of-day value for CMH as a result of a qualifying error

- 1
Annex
2R [Editor's note: The form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Notification under MIFIDPRU 1.2.13R(2)(b) that a non-SNI investment firm qualifies to be reclassified as an SNI investment firm

- 1
Annex
3R [Editor's note: The form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Notification under MIFIDPRU 1.2.16R that a firm no longer qualifies to be classified as an SNI investment firm

- 1
Annex
4R [Editor's note: The form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

2 Level of application of requirements

2.1 Application and purpose

Application

- 2.1.1 R *MIFIDPRU* 2 applies to:
- (1) a *MIFIDPRU investment firm*;
 - (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 G This chapter contains:

- (1) a *rule* in *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 in which 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 cover:
 - (a) the definition of an *investment firm group*;
 - (b) the *undertakings* that are included within an *investment firm group*; and
 - (c) when and 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*;
- (4) *rules and guidance* in *MIFIDPRU 2.5* which cover the following:
 - (a) when requirements in this sourcebook apply 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 an *investment firm group* must apply obligations in this sourcebook on a *consolidated basis*;
- (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:
 - (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.

2.3 Exemptions

- 2.3.1 R A *MIFIDPRU investment firm* will be exempt from *MIFIDPRU [8]*⁷ (Disclosure by investment firms) on an individual basis if:
 - (1) the *firm* has applied to the *FCA* in accordance with *MIFIDPRU 2.3.3R*;
 - (2) the application in (1) demonstrates to the satisfaction of the *FCA* that:
 - (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) 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 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

⁷ *Editor's note:* The FCA intends to consult on the public disclosure requirements for investment firms in MIFIDPRU 8 in a future consultation paper.

- (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.
- 2.3.2 R A *MIFIDPRU investment firm* will be exempt from *MIFIDPRU* [6]⁸ (Liquidity) on an individual basis where:
- (1) the *firm* has applied to the *FCA* in accordance with *MIFIDPRU* 2.3.3R;
 - (2) the application in (1) demonstrates to the satisfaction of the *FCA* that:
 - (a) the *firm*:
 - (i) is supervised on a *consolidated basis* in accordance with Chapter 2 of Title II of Part One of the *UK CRR*; or
 - (ii) is included in an *investment firm group* that is 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*;
 - (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 in (c); and

⁸ *Editor's note*: The reference to the liquidity requirements in *MIFIDPRU* 6 will be confirmed following feedback on the proposals in CP21/7.

- (3) the *PRA* does not object to the exemption if it is the consolidating supervisor of the group.

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 using the *online notification and application system*.

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 definition of an *investment firm group* covers a *parent undertaking* that is incorporated in the *UK* or has its principal place of business in the *UK*, 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* that are not *subsidiaries*, but which form part of the *investment firm group* by one of the relationships listed in *MIFIDPRU* 2.4.6R.

- (3) If the *subsidiaries* of the group include a *UK credit institution*, the group is not an *investment firm group*. However, if a *UK credit institution* is only a *connected undertaking* in relation to an *investment firm group*, the group is still an *investment firm group*. If the *investment firm group* includes a *subsidiary* or a *connected undertaking* that is *credit institution* established in a *third country*, the group is still 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 must 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* or that are *connected undertakings* in which it holds a *participation* in accordance with *MIFIDPRU 2.4.15R*. The *group capital test* does not apply in relation to a *relevant financial undertaking* that is a *connected undertaking* of the *parent undertaking* otherwise than due to a *participation*.
- (3) However, as explained in *MIFIDPRU 2.4.19G*, where an *investment firm group* contains material *connected undertakings* (other than those connected by a *participation*), 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*. In that case, it is likely that the *UK parent entity* of the *investment firm group* will need to apply consolidation under *MIFIDPRU 2.5*.

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) 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) 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 under 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 under 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 to the facts at the time when the relevant relationship is created. This means that a subsequent change in the *own funds requirement* of an entity or *investment firm group* does not change the deemed *parent undertaking*.

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* is 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*, is 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* is 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 the *undertakings* is a *MIFIDPRU investment firm*, the *MIFIDPRU investment firm* is deemed to be the *parent undertaking* of the other *undertaking* when applying the requirements in *MIFIDPRU 2.5*.

2.4.9 G A *MIFIDPRU investment firm* may 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* on the basis of *majority common management* for the purposes of *MIFIDPRU 2.5*.

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 is deemed to be the *parent*

undertaking of the *relevant financial undertaking* when applying *MIFIDPRU 2.5*.

- 2.4.11 G (1) To assess whether A exercises significant influence over a *relevant financial undertaking*, the *FCA* considers that the equivalent accounting position, as it would be assessed under the guidance in International Accounting Standard 28 (as amended in 2011) under IFRS or Financial Reporting Standard 102 (March 2018) under UK GAAP, will be relevant. In particular, a *firm* should consider whether A has the power to participate in the financial and operating policy decisions of the *relevant financial undertaking*, even though A does not have control or joint control of those policies. The indicators in (2) may be evidence of significant influence but are not conclusive. A *firm* should consider all relevant facts and circumstances.
- (2) When applying *MIFIDPRU 2.4.10R(1)(a)*, the following circumstances may be indicators that A exercises significant influence over the *relevant financial undertaking*:
- (a) A appoints or has the ability to appoint a representative in the *management body* of the *relevant financial undertaking*, either in the executive or in the supervisory function;
 - (b) A participates in the policy-making processes of the *relevant financial undertaking*, including participation in decisions about dividends and other distributions;
 - (c) the existence of material transactions between the two *undertakings*;
 - (d) the interchange of managerial personnel between the two *undertakings*;
 - (e) the provision of essential technical information or critical services from one entity to the other;
 - (f) A enjoys additional rights in the *relevant financial undertaking*, under a contract or a provision in the articles of association or other constitutional documents of the *relevant financial undertaking*, that could affect the management or the decision-making of the *relevant financial undertaking*; and
 - (g) 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*.

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* is 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* is 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* is 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 is deemed to be the *parent undertaking* of the other *undertaking* when applying the requirements in *MIFIDPRU 2.5*.

- 2.4.13 G When applying *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. Whether two or more *undertakings* are placed under single management for the purposes of *MIFIDPRU 2.4.12R* depends on whether in practice there is effective coordination of the financial and operating policies of the relevant *undertakings*. A *firm* should consider all relevant facts and circumstances.

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 is deemed to be the *parent undertaking* of the *relevant financial undertaking* when applying the requirements in *MIFIDPRU 2.5* or the *group capital test* in *MIFIDPRU 2.6*.

- 2.4.16 G (1) An *undertaking* (“A”) holds a *participation* in a *relevant financial undertaking* where A has direct or indirect ownership of 20% or more of the voting rights in, or capital of, a *relevant financial 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 *MIFIDPRU 2.6* applies, and *MIFIDPRU 2.5* does not apply, to an *investment firm group* 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 application in (1) demonstrates to the satisfaction of the *FCA* 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 require supervision on a *consolidated basis*.

2.4.18 R An application submitted under *MIFIDPRU 2.4.17R(1)*:

- (1) must be made using the form in *MIFIDPRU 2 Annex 2R*, and should be submitted using the *online notification and application system*;

- (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 of 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 any relationship that 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 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 each of the following is a fair reflection of the consideration paid by the *parent undertaking*:

- (i) a *subsidiary*, whether that *subsidiary* forms part of

the *investment firm group* or not; and

- (ii) an entity that is a *connected undertaking* due to a *participation* in accordance with *MIFIDPRU 2.4.15R*.
- (f) calculations that 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*:
 - (i) would comply with the systems requirement in *MIFIDPRU 2.6.9R*; or
 - (ii) would comply with the systems requirement in *MIFIDPRU 2.5.8R* if the *FCA* did not grant permission to apply the *group capital test*.
- (3) must be submitted by a *UK parent entity* or a *MIFIDPRU investment firm* that has the necessary authority to make the application on behalf of all *undertakings* within the *investment firm group* that 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 that are *connected undertakings* (other than *connected undertakings* due to a *participation* in accordance with *MIFIDPRU 2.4.15R*), that are material (either individually or in aggregate), it is unlikely that the *investment firm group* will be sufficiently simple to be able to apply the *group capital test*. This is because the relationship between the relevant member of the *investment firm group* and the *connected undertaking* is likely to be more complex and because the *group capital test* can only apply to holdings in instruments issued by, or claims on, an entity. Therefore, prudential consolidation under *MIFIDPRU 2.5* is likely to be more appropriate 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.

Provisions of <i>MIFIDPRU 2.5</i>	Summary of content
<i>MIFIDPRU 2.5.4G</i>	The interaction between prudential consolidation under <i>MIFIDPRU 2.5</i> and prudential consolidation under the <i>UK CRR</i>
<i>MIFIDPRU 2.5.5G</i>	The meaning of the <i>consolidated situation</i>
<i>MIFIDPRU 2.5.6G</i>	The treatment of <i>tied agents</i> included within the <i>consolidated situation</i>
<i>MIFIDPRU 2.5.7R to 2.5.12G</i>	The main obligations in relation to prudential consolidation under <i>MIFIDPRU 2.5</i>
<i>MIFIDPRU 2.5.13R to 2.5.16G</i>	The default position requiring full consolidation and the availability of alternative methods of consolidation
<i>MIFIDPRU 2.5.17R and 2.5.18G</i>	Proportional consolidation
<i>MIFIDPRU 2.5.19R and 2.5.20G</i>	Exemption from consolidated liquidity requirements
<i>MIFIDPRU 2.5.21R and 2.5.22G</i>	Determining whether a <i>UK parent entity</i> should be treated as an <i>SNI MIFIDPRU investment firm</i> on a <i>consolidated basis</i>

<i>MIFIDPRU 2.5.23G</i>	Determining consolidated <i>own funds</i>
<i>MIFIDPRU 2.5.24G to 2.5.46R</i>	Determining the consolidated <i>own funds requirement</i>
<i>MIFIDPRU 2.5.47R and 2.5.48G</i>	Consolidated liquidity requirements
<i>MIFIDPRU [2.5.49]</i>	Consolidated disclosure requirements
<i>MIFIDPRU 2.5.50G</i>	Consolidated reporting requirements
<i>MIFIDPRU [2.5.51]</i>	Consolidated governance and remuneration requirements
<i>MIFIDPRU [2.5.52]</i>	Application of the <i>ICARA process</i> on a <i>consolidated basis</i>

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* (except where the *credit institution* is a *connected undertaking*). Where a *group* includes a *UK credit institution*, prudential consolidation applies in accordance with 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 this case, the *MIFIDPRU investment firm* would trigger prudential consolidation under this section and the *designated investment firm* would trigger consolidation under the *UK CRR*. Therefore, certain group structures may be subject to consolidation under both *MIFIDPRU* and the *UK CRR*, with the same entities included within the scope of consolidation of each. In this situation, the relevant *group* must comply with both sets of consolidated requirements, which are aimed at addressing different types of risks.

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 requirements in *MIFIDPRU* under *MIFIDPRU 2.5.7R* and *MIFIDPRU 2.5.11R* to a *UK parent entity*, as if it and the *relevant financial undertakings* in its *investment firm*

group, form a single *MIFIDPRU investment firm*.

- (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*” include *undertakings* established outside the *UK* that would satisfy those definitions if they were established in the *UK*.

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 applies whether the *tied agent* carries out *investment services and/or activities* or incurs relevant expenses on behalf of another entity within the *consolidated situation* or on behalf of a third party.
- (2) The *guidance* in (1) relates to a *tied agent* that is included within the *consolidated situation*. There are separate requirements in:
- (a) *MIFIDPRU* [4.5.6R], 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* [4.7.2R], *MIFIDPRU* [4.8.3R], *MIFIDPRU* [4.9.2R] or *MIFIDPRU* [4.10.2R]⁹, 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*. Where *MIFIDPRU* 4 applies on a *consolidated basis*, those requirements will also be relevant to any activities carried on by *tied agents* on behalf of a *third country investment firm* included within the *consolidated situation*.

⁹ *Editor’s note*: The references to provisions in *MIFIDPRU* 4.5 to 4.10 will be confirmed following feedback to CP21/7.

- (3) Where the requirements in (2)(a) or (2)(b) apply in relation to a *MIFIDPRU investment firm* or a *third country investment firm* that is included within the *consolidated situation*, the relevant amounts that are added to the individual requirements of that *MIFIDPRU investment firm* or *third country 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 or carry on *investment services and/or activities* on behalf of a *MIFIDPRU investment firm* or *third country investment firm* (“B”) where B is also included in the *consolidated situation*.

In this case, the contribution of A to the consolidated *fixed overheads requirement* and consolidated *K-factor requirement* may be adjusted to prevent double-counting of any amounts 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 R A *UK parent entity* must comply with the following 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)]¹⁰; and
 - (5) *MIFIDPRU 9* (Reporting).
- 2.5.8 R 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 firm* in the same *investment firm group* must establish the following:
- (1) a proper organisational structure; and

¹⁰ *Editor’s note*: The FCA will consult on the content of *MIFIDPRU 8* in a subsequent consultation.

- (2) appropriate internal control mechanisms.
- 2.5.9 R A *UK parent entity* to which *MIFIDPRU 2.5.7R* applies and any *MIFIDPRU investment firm* in the same *investment firm group* must each ensure that any of their *subsidiaries* that are not subject to *MIFIDPRU* implement the necessary arrangements, processes and mechanisms to ensure that the *UK parent entity* complies with the consolidated requirements under *MIFIDPRU 2.5.7R*.
- 2.5.10 R (1) When applying *MIFIDPRU 3* on a *consolidated basis*, the requirements in Title II of Part Two of the *UK CRR* shall also apply.
- (2) When applying the provisions of article 84(1), article 85(1) and article 87(1) of the *UK CRR* under (1):
- (a) where 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* apply; and
- (b) the references to article 92(1) of the *UK CRR* must be read as if they were references to the *own funds requirement* under *MIFIDPRU*.
- 2.5.11 R A *UK parent entity* must comply with [*MIFIDPRU 6 (Liquidity)*]¹¹ on the basis of its *consolidated situation*.
- 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* 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:

¹¹ *Editor's note*: The reference to the liquidity requirements in *MIFIDPRU 6* will be confirmed following feedback on the proposals in CP21/7.

- (a) the *relevant financial undertaking* is a *connected undertaking* that forms part of the *investment firm group* due to a *participation* in accordance with *MIFIDPRU 2.4.15R*; and
- (b) the conditions for proportional consolidation under *MIFIDPRU 2.5.17R* are satisfied.
- 2.5.14 G A *UK parent entity* that is subject to *MIFIDPRU 2.5.13R(1)* may apply to the *FCA* under section 138A of the *Act* to modify the application of *MIFIDPRU 2.5.13R(1)* to require an alternative method of consolidation.
- 2.5.15 G When the *FCA* considers an application described in *MIFIDPRU 2.5.14G*, it 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) through 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*.

- 2.5.16 G The *FCA* would generally expect that the alternative method of consolidation proposed in an application 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* due to 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 a legally binding and enforceable contract between A and all participating undertakings which:
 - (i) limits the liability of each party to the percentage of its 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) states that any change in the share of capital of

a shareholder or member is subject to the explicit consent of all the shareholders or members;

- (iv) states that if B is recapitalised, A will inform the *FCA* in a timely manner about the progress of the recapitalisation process and that each shareholder or member is 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 satisfactory;
- (f) the *UK parent entity* has notified the *FCA* in advance that it intends to apply proportional consolidation in relation to B; and
- (g) the notification in (f) has been made using the form in *MIFIDPRU 2 Annex 3R* and submitted using the *online notification and application system*.

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* is 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) demonstrates 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*.

2.5.20 R A *UK parent entity* must make an application under *MIFIDPRU 2.5.19R(1)* by completing the form in *MIFIDPRU 2 Annex 4R* and submitting it using the *online notification and application system*.

Application of conditions for classification 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* should be treated as an *SNI MIFIDPRU investment firm* when applying the 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* carried on by the *collective portfolio management investment firm*.

- 2.5.22 G (1) *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) This is separate from the application of only certain metrics (*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) If any of the thresholds in *MIFIDPRU 1.2.1R* are exceeded on a *consolidated basis*, 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*. However, if none of the 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) Where *MIFIDPRU 3* applies on a *consolidated basis*, the total consolidated *own funds requirement* of an *investment firm group* must 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* 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. Under section 165(6) and (7) of the *Act*, the *FCA* may require a *UK parent entity* to provide independent verification of the calculation of its consolidated *own funds*.

Prudential consolidation in practice: capital requirements

General

- 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) Where *MIFIDPRU* 4 applies on a *consolidated basis*, the consolidated *own funds requirement* 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) the consolidated *K-factor requirement* if the *UK parent entity* is treated as a *non-SNI MIFIDPRU investment firm* in accordance with *MIFIDPRU* 2.5.21R.

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*.
- (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;
 - (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* that is fully consolidated within the *consolidated situation*; and
 - (iii) the relevant proportion of the individual fixed overheads of each *relevant financial undertaking* that is subject to proportional consolidation on a *consolidated basis*.

- (3) Where these 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 avoid double-counting of these 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 use its powers under section 55L or section 143K 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

- 2.5.27 R (1) This *rule* applies for the purposes of a *UK parent entity*'s calculation of the consolidated *permanent minimum capital requirement* when *MIFIDPRU 4* applies on a *consolidated basis*.
- (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* that would satisfy the 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) is the individual requirement that would apply if that entity were established in the *UK*.

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*, so 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* depend on the *investment services and/or activities* (or equivalent activities in the case of a *third country* entity) carried on by relevant entities within the *investment firm group*. The consolidated *K-factor requirement* should be calculated in accordance with *MIFIDPRU 4*, 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 *tiered agents* that are included within the *consolidated situation*.

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* 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* that is fully consolidated within the *consolidated situation*; and

- (b) the relevant proportion of the relevant individual *K-factor metrics* of each *MIFIDPRU investment firm* that is subject to proportional consolidation on a *consolidated basis*.
- (3) For the purposes of (2):
 - (a) references to a *MIFIDPRU investment firm* include a *third country* entity within the *investment firm group* that would fall satisfy that definition if it were established in the *UK*; and
 - (b) the relevant individual *K-factor metric* of any *third country* entity in (a) is 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 avoid double-counting of the 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 *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 whether, 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*, X holds:
 - (i) any *money* that was received from its *clients*; or
 - (ii) any assets belonging to its *clients*;
 - (b) subject to (3), applying the calculation *rules* in *MIFIDPRU* [4.8] or [4.9] to the amounts in (a) by treating:
 - (i) the amounts identified in (a)(i) as *CMH*;

- (ii) the amounts identified in (a)(ii) as ASA;
 - (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.
 - (3) when applying the calculation *rules* in *MIFIDPRU* [4.8], an arrangement operated by X in relation to client money is a *segregated account* only if (ignoring *MIFIDPRU* [4.8.9E], which does not apply for these purposes) it meets the requirements in *MIFIDPRU* [4.8.8R].¹²
- 2.5.31 R 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 the 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 requirements 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 R A *UK parent entity* must apply the relevant provisions for the calculation of the *K-NPR requirement* in *MIFIDPRU* 4 to a position or

¹² *Editor's note:* The references to the rules relating to K-CMH will be confirmed following feedback on the proposals in CP21/7.

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*.
- (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 demonstrates to the satisfaction of the *FCA* that the conditions in article 325b of the *UK CRR* are met.
- (4) An entity that applies for a permission under (3) must complete the form in *MIFIDPRU 2 Annex 5R* and submit it using the *online notification and application system*.
- 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 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 those positions give rise to foreign exchange risk or commodity risk. These positions must be included within the calculation of the *consolidated K-NPR requirement*.
- 2.5.37 R When applying *MIFIDPRU* 4 on a *consolidated basis*, a *UK parent entity* may calculate a *consolidated K-CMG requirement* 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 that *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 demonstrates to the satisfaction of the *FCA* that A satisfies 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 apply to the *rules* relating to the calculation of the *K-CMG requirement* in *MIFIDPRU* 4.13:
- (a) a reference to the “*MIFIDPRU investment firm*” or “*firm*” is a reference 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*;
 - (iii) a *MIFIDPRU investment firm*;
 - (iv) a *third country investment firm*;
 - (v) a *UK credit institution*; or
 - (vi) a *credit institution* established in a *third country*.
 - (c) the reference in *MIFIDPRU* 4.13.12R to *MIFIDPRU* 4.13.9R is 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 demonstrates to the satisfaction of the *FCA* that B satisfies 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 apply to the *rules* relating to the calculation of the *K-CMG requirement* in *MIFIDPRU 4.13*:
- (a) a reference to the “*MIFIDPRU investment firm*” or “*firm*” is a reference to B;
 - (b) the requirement in *MIFIDPRU 4.13.9R(2)(c)* does not apply, but:
 - (i) the application in (1)(a) must demonstrate that the *clearing member* is subject to appropriate prudential regulation and supervision in the jurisdiction in which it operates; and
 - (ii) the *clearing member* may be B itself, provided that the application demonstrates that B satisfies the conditions in (i);
 - (c) a reference to the “*clearing member*” is a reference to the *clearing member* in (b);
 - (d) the reference to *MIFIDPRU 4.13.9R* in *MIFIDPRU 4.13.12R* is a reference to *MIFIDPRU 4.13.9R* as modified by this *rule*; and
 - (e) the obligation in *MIFIDPRU 4.13.13R(1)(b)* to integrate understanding of the margin model into the *ICARA process* applies in relation to the *UK parent entity*, but only if the *FCA* has directed under *MIFIDPRU [7]*¹³ that the relevant *investment firm group* must operate the *ICARA process* on a *consolidated basis*.

2.5.42 R (1) A *UK parent entity* or a *MIFIDPRU investment firm* within the same *investment firm group* that wishes to apply for a *K-CMG*

¹³ *Editor's note*: The references to *MIFIDPRU 7* will be confirmed following feedback on the proposals in CP21/7.

permission in relation to one or more *portfolios* included in the *consolidated situation* of its *investment firm group* must complete the application form in *MIFIDPRU 2 Annex 6R* or *MIFIDPRU Annex 7R* and submit it using the *online notification and application system*.

- (2) A single application under (1) may be made in respect of multiple portfolios of multiple entities referenced in *MIFIDPRU 2.5.40R* or *2.5.41R*, provided that the application demonstrates to the *FCA* how the relevant conditions in *MIFIDPRU 4.13.9R* (as modified by *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) A *UK parent entity* or *MIFIDPRU investment firm* that 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) When calculating the *K-TCD requirement* on a *consolidated basis*, transactions between counterparties included in the *consolidated situation* are disregarded. This applies 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*, 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*” refer 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*; and
 - (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*, the provisions in *MIFIDPRU* 5 apply, subject to the following:
- (1) the *exposure value* with regard to an individual *client* or *group of connected clients* must 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* are the consolidated *own funds* of the *investment firm group*, as explained in the *guidance* in *MIFIDPRU* 2.5.23G.

Prudential consolidation in practice: liquidity

- 2.5.47 R When applying *MIFIDPRU 6* on a *consolidated basis*, 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) Under *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 (through the consolidated *fixed overheads requirement*), any *liquid assets* held by a *third country* entity do not count towards the *liquid assets* held by the *investment firm group* for the purposes of that *rule*.
- (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* is 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 [x] [*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* must 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*: This will be populated following feedback on the proposals in CP21/7.]

Prudential consolidation in practice: ICARA requirements

- 2.5.52 [x] [*Editor's note*: This will be populated following feedback on the proposals in CP21/7.]

2.6 The group capital test

- 2.6.1 R This section applies to an *investment firm group* that has been granted permission by the *FCA* to apply the *group capital test* under *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 *MIFIDPRU 3.3.6R(8)*, Article 56(d), and Article 66(d) of the *UK CRR*;
 - (2) the terms '*investment firm*', '*financial institution*', '*ancillary services undertaking*', '*tied agent*' and '*relevant financial undertaking*' include *undertakings* established in *third countries* that would satisfy the definitions of those terms if they were established in the *UK*.
- 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 those investments.
- 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 *GCT parent undertakings* in the *investment firm group* must hold own funds instruments sufficient to cover the sum of the following:

- (1) the sum of the full book value of their holdings, subordinated claims and instruments referred to in *MIFIDPRU* 3.3.6R(8), article 56(d), and article 66(d) of the *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*.
- 2.6.6 G
- (1) Each *GCT parent undertaking* in the *investment firm group* must satisfy the *group capital test*. The *group capital test* can therefore apply at each level within the group structure. This mitigates the risk of leverage or capital gearing being introduced at levels underneath the *UK parent entity*.
 - (2) The requirement in *MIFIDPRU* 2.6.5R only applies to *GCT parent undertakings*. However, *MIFIDPRU* 2.6.7R imposes obligations on *GCT parent undertakings* in relation to their *subsidiaries* that are:
 - (a) *parent undertakings* established in a *third country*; or
 - (b) *parent undertakings* incorporated in, or with their principal place of business in, the *UK* that are not *GCT parent undertakings*.
 - (3) This prevents leverage and capital gearing being introduced into the *investment firm group* through:
 - (a) *intermediate parent undertakings* established in a *third country*; or
 - (b) *intermediate parent undertakings* in the *UK* to which the *group capital test* does not directly apply.
- 2.6.7 R
- (1) This *rule* applies where:
 - (a) an *investment firm group* has been granted permission to apply the *group capital test* under *MIFIDPRU* 2.4.17R; and
 - (b) a *parent undertaking* in that *investment firm group* is a *relevant financial undertaking* and either:
 - (i) is established in a *third country*; or
 - (ii) is incorporated in, or has its principal place of business in, the *UK* and is not a *GCT parent undertaking*.
 - (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 the sum of the amounts in *MIFIDPRU 2.6.5R(1)* and (2) as they would apply to that *undertaking*; or
- (b) hold own funds instruments sufficient to cover the sum of the amounts in *MIFIDPRU 2.6.5R(1)* and (2) that:
 - (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* is shown through the example below of a hypothetical *investment firm group* that contains the following *undertakings*:
- (a) a *UK parent entity* (“A”);
 - (b) an intermediate *investment holding company* (“B”), that is incorporated in the *UK* and is a direct *subsidiary* of A;
 - (c) an *undertaking* established in a *third country* (“C”) that would be an *investment holding company* if it were established in the *UK* and that is a direct *subsidiary* of B;
 - (d) an *undertaking* established in a *third country* (“D”) that would be a *MIFIDPRU investment firm* if it were established in the *UK* and that is a direct *subsidiary* of C;
 - (e) a *MIFIDPRU investment firm* (“E”) that is a direct *subsidiary* of D;
 - (f) a *tied agent* (“F”) that is established in the *UK* and that is a direct *subsidiary* of B;
 - (g) an *undertaking* established in a *third country* (“G”) that would be a *financial institution* if it were established in the *UK* and that is a direct *subsidiary* of C;
 - (h) an intermediate holding company (“H”) that is incorporated in the *UK* and is a direct *subsidiary* of A; and
 - (i) an *authorised payment institution* (“I”) that is incorporated in the *UK* and is a direct *subsidiary* of H.
- (2) The *group capital test*:

- (a) applies directly to A and B because they are both *GCT parent undertakings*;
 - (b) applies only indirectly to C and D, through the obligations imposed on the *responsible UK parent*, because C and D are *parent undertakings* established in a *third country*;
 - (c) applies only indirectly to H, through the obligations imposed on A in its capacity as the *responsible UK parent*, because H is not a *GCT parent undertaking*; and
 - (d) does not apply to E, F, G or I because they are not *parent undertakings*.
- (3) In this example, B is a *responsible UK parent* because:
- (a) B has two *subsidiaries* (a direct *subsidiary*, C, and an indirect *subsidiary*, D) that are both *parent undertakings* established in a *third country* and that would be *relevant financial undertakings* if they were established in the *UK*; and
 - (b) B does not have a *subsidiary* in the *UK* that 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 relation to C and D. This is because A has a *subsidiary*, B, that is a *parent undertaking* of C and D and that 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* in relation to C and D. 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 that 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 in, and contingent liabilities in favour of, 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 in, and contingent liabilities in favour of, E.
- (9) A is, however, a *responsible UK parent* in relation to H. This is because A is a *GCT parent undertaking* that is the *parent undertaking* of H. H is a *relevant financial undertaking* (being a holding company, and therefore a *financial institution*) and a *parent undertaking*. H is not a *GCT parent undertaking* because H is not an *authorised person* and does not have a *MIFIDPRU investment firm* as a *subsidiary*. There is also no intermediate *GCT parent undertaking* between A and H.
- (10) In a similar way to B above, A therefore has a choice under *MIFIDPRU 2.6.7R(2)* of whether to:
- (a) ensure that H complies with the requirements of the *group capital test* as if it applied directly to H; or
 - (b) hold own funds instruments that are sufficient to cover the sum of the requirements of the *group capital test* that apply to A and would apply to H.
- (11) If A chooses the approach in (10)(a), A must:

- (a) hold sufficient own funds instruments to cover the sum of A's holdings in, and contingent liabilities in favour of, B and H; and
 - (b) ensure that H holds sufficient own funds instruments to cover the sum of H's holdings in, and contingent liabilities in favour of, I.
- (12) If A chooses the approach in (10)(b), A must hold sufficient own funds instruments to cover the sum of:
- (a) A's holdings in, and contingent liabilities in favour of, B and H; and
 - (b) H's holdings in, and contingent liabilities in favour of, I.
- 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*.

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 *GCT parent undertakings* in the *investment firm group* must comply with the reporting requirements in (2).
- (2) Each *GCT parent undertaking* in (1) must:
- (a) report in accordance with *MIFIDPRU 9* how that *GCT parent undertaking* meets the *group capital test*; and
 - (b) if the *GCT parent undertaking* is a *responsible UK parent*, also report in accordance with *MIFIDPRU 9* how:
 - (i) the *undertaking* in *MIFIDPRU 2.6.7R(1)(b)* holds the required amount of own funds instruments referenced in *MIFIDPRU 2.6.7R(2)(a)*; or
 - (ii) the *GCT parent undertaking* holds at least the amount of own funds instruments to cover the amount applicable to the *undertaking* in *MIFIDPRU 2.6.7R(1)(b)*, as referenced in *MIFIDPRU 2.6.7R(2)(b)*.
- 2.6.11 R An *investment firm group* may designate one *parent undertaking* in the *UK* to submit reports to the *FCA* under *MIFIDPRU 2.6.10R* on behalf of the *GCT parent undertakings* in the *investment firm group*.

Inclusion of holding companies in supervision of compliance with the group capital test

- 2.6.12 G *UK investment holding companies and UK mixed financial holding companies* are included in the *FCA's* supervision of compliance with the *group capital test* where they are *GCT parent undertakings*.

2.7 Investment holding companies, mixed financial holding companies and mixed-activity holding companies

Qualifications of directors

- 2.7.1 G Under section 143R 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.

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 information that is relevant for the *FCA's* supervision of the *MIFIDPRU investment firm*.
- (2) Under section 167 of the *Act*, 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) also apply to a *mixed-activity holding company*.
- 2.7.3 R (1) 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.
- (2) The processes and mechanisms in (1) must include sound reporting and accounting procedures to identify, measure, monitor and control transactions between the *firm*, the *UK mixed-activity holding company* and its *subsidiaries*.

Sanctions

- 2.7.4 G Under section 143W of the *Act*, the *FCA* may impose disciplinary measures on the following, where they are not *authorised persons*, to end or mitigate breaches of a requirement under the *MIFIDPRU sourcebook* or sections 143K, 143R or 143S(6) of the *Act*:

- (1) a *UK investment holding company*;
- (2) a *UK mixed financial holding company*;
- (3) a *UK mixed-activity holding company*; or
- (4) a member of the *management body* of the entities in (1) to (3).

Application under MIFIDPRU 2.3.3R for an exemption from application of specific requirements on an individual basis

**2 Annex
1R** [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Application under MIFIDPRU 2.4.17R for permission to apply the group capital test

**2 Annex
2R** [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Notification under MIFIDPRU 2.5.17R of intended use of proportional consolidation in respect of a relevant financial undertaking

**2 Annex
3R** [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Application under MIFIDPRU 2.5.19R for an exemption from liquidity requirements on a consolidated basis

**2 Annex
4R** [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Application under MIFIDPRU 2.5.34R(2) for permission to use offsetting positions when calculating K-NPR on a consolidated basis

**2 Annex
5R** [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Application under MIFIDPRU 2.5.40R for permission to include portfolio of a designated investment firm in consolidated K-CMG

**2 Annex
6R** [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Application under MIFIDPRU 2.5.41R for permission to include portfolio of a third country entity in consolidated K-CMG

**2 Annex
7R** [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](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 in the *UK CRR* applies;
 - (2) where this chapter applies to a *parent undertaking* that is not a *firm*, 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)*, a reference in this chapter to a “*firm*” is a reference to the hypothetical single *MIFIDPRU investment firm* created under the *consolidated situation*.

Purpose

- 3.1.4 G This chapter contains requirements for the calculation of a *MIFIDPRU investment firm’s own funds*. 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*.

3.2.2 R A *firm* must, at all times, have *own funds* that satisfy all 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 common equity tier 1 capital* and *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.

3.2.3 R A *firm's initial capital* must be made up of *own funds*.

3.2.4 G For the purposes of this chapter, the categorisation and the valuation of assets and off-balance sheet items should be carried out in accordance with the applicable accounting framework, unless 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.

Prior permission to include interim profits or year-end profits in common equity tier 1 capital

- 3.3.2 R 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 in accordance with article 26(2) of the *UK CRR*, a *firm* must complete the form in MIFIDPRU 3 Annex 1R and submit it to the *FCA* using the *online notification and application system*.

Prior permission and notification of issuances of common equity tier 1 capital

- 3.3.3 R (1) To apply for permission to classify an issuance of capital instruments as *common equity tier 1 capital* in accordance with

article 26(3) of the *UK CRR*, a *firm* must complete the form in *MIFIDPRU 3 Annex 2R* and submit it to the *FCA* using the *online notification and application system*.

- (2) To notify the *FCA* in accordance with article 26(3) subparagraph two of the *UK CRR* about subsequent issuances of capital instruments for which it has already received the permission in (1), a *firm* must complete the form in *MIFIDPRU 3 Annex 3R* and submit it to the *FCA* using the *online notification and application system*.
- 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, 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 if:
- (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* at least 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* replaces article 36 of the *UK CRR*; and
- (2) any reference to article 36 of the *UK CRR* or any part of that article in the following is a reference to *MIFIDPRU 3.3.6R* (or the equivalent part of it):
- (a) another provision of the *UK CRR* that is incorporated by reference into *MIFIDPRU*; or

- (b) any technical standard that applies to a *MIFIDPRU investment firm* under a provision of the *UK CRR* to which (a) applies.

- 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) the value of any defined benefit pension fund assets on the balance sheet of the *firm* after deducting the amount of any associated deferred tax liability where that liability would be extinguished if the assets became impaired or were derecognised under the applicable accounting framework;
 - (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) 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) 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 under 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.

- 3.3.7 R (1) For the purposes of *MIFIDPRU* 3.3.6R and *MIFIDPRU* 3.3.15R, holdings in a *fund* are to be treated as holdings in a *non-financial sector entity*.
- (2) The requirement in (1) does not affect the meaning of the terms “*financial sector entity*” or “*non-financial sector entity*” when used in any other context in the *Handbook*.

Deferred tax assets that rely on future profitability

- 3.3.8 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).

Defined benefit pension fund assets on the firm’s balance sheet

- 3.3.9 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).

Holdings of common equity tier 1 instruments of financial sector entities

- 3.3.10 R (1) This *rule* applies to a *firm*’s holdings of capital instruments that are not held in its *trading book*.
- (2) Subject to *MIFIDPRU* 3.3.14R, 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).
- 3.3.11 R The following provisions do not apply 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*.
- 3.3.12 R Subject to *MIFIDPRU* 3.3.14R, 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).

- 3.3.13 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.

Holdings of common equity tier 1 instruments issued by a financial sector entity within an investment firm group

- 3.3.14 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 if 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 *investment firm group* is subject to prudential consolidation under *MIFIDPRU* 2.5; and
- (4) the risk evaluation, measurement and control procedures of a *parent undertaking* included within the *consolidated situation* of the *UK parent entity* of the *investment firm group* include the *financial sector entity*.

Qualifying holdings outside the financial sector

- 3.3.15 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 must not be included:
- (a) shares in *non-financial sector entities* where any of the following conditions is met:
 - (i) the shares are held temporarily during a financial assistance operation referred to in article 79 of the *UK CRR*;

- (ii) the holding of the shares is an underwriting position held for five *business days* or fewer; or
 - (iii) the 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*).

Common equity tier 1 instruments of partnerships

- 3.3.16 R A *partner's* account in relation to a *firm* that is a *partnership* satisfies the conditions in article 28(1)(e) (perpetual) and article 28(1)(f) (reduction or repayment) of the *UK CRR* if:
- (1) capital contributed by *partners* is paid into the account; and
 - (2) under the terms of the partnership agreement an amount representing capital may be withdrawn from the account by a *partner* (“A”) only if:
 - (a) A ceases to be a *partner* and an equal amount is transferred to another *partner's* account by A’s former *partners* or any *person* replacing A as their *partner*;
 - (b) any reduction in the capital credited to A’s account is immediately offset by additional contributions of at least an equal aggregate amount to other *partner* accounts by one or more of A’s *partners* (including any *person* becoming a *partner* of A at the time that the additional contribution is made);
 - (c) the *partnership* is wound up or dissolved; or
 - (d) the *firm* ceases to be *authorised* or no longer has a *Part 4A permission*.

Common equity tier 1 instruments of limited liability partnerships

- 3.3.17 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* if:
- (1) capital contributed by the members is paid into the account; and
 - (2) under the terms of the *limited liability partnership* agreement, an amount representing capital may be withdrawn from the account by a *partner* (“B”) only if:

- (a) B ceases to be a member and an equal amount is transferred to another member account by B's former fellow members or any *person* replacing B as a member;
- (b) any reduction in the capital credited to B's account is immediately offset by additional contributions of at least an equal aggregate amount to other member accounts by one or more of B's fellow members (including any person becoming a fellow member of B at the time that the additional contribution is made);
- (c) the *limited liability partnership* is wound up or dissolved; or
- (d) the *firm* ceases 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.

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 in the terms of an *additional tier 1 instrument* one or more trigger events for the purposes of article 52(1)(n) of the *UK CRR*.
- (2) The trigger events specified under (1) must 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* applies 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 when a trigger event occurs.

- 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 if the *firm's common equity tier capital* falls below a specified level. This level must be set at no lower than 64% of the *firm's own funds requirement*. The *firm* may set the relevant trigger at a higher level (such as 70% of its *own funds requirement*) if it wishes. The *firm* may also 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 that 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 where *MIFIDPRU* 3.4.7R applies.

- 3.4.6 R The following provisions do not apply 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*.

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* if 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*.

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.

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 that 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 where *MIFIDPRU* 3.5.4R applies.

- 3.5.3 R The following provisions do not apply 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*.

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* if 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*.

3.6 General requirements for own funds instruments

- 3.6.1 R (1) A *firm* must comply with 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.

Reduction of own funds instruments

- 3.6.2 R To apply for permission for the purposes of articles 77 and 78 of the *UK CRR* to do any of the following, a *firm* must complete the form in *MIFIDPRU 3 Annex 4R* and submit it to the *FCA* using the *online notification and application system*:
- (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;
- 3.6.3 R Permission under *MIFIDPRU 3.6.2R* is deemed to have been granted if the following conditions are met:
- (1) either of the conditions in *MIFIDPRU 3.6.4R* apply;
- (2) at least 20 *business days* before the *day* on which the reduction, repurchase, call or redemption is proposed to occur, 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 either condition in (1) is satisfied;
- (3) the notification in (2) is made using the form in *MIFIDPRU 3 Annex 5R* and submitted using the *online notification and application system*; and
- (4) the *FCA* has not notified the *firm* of any objection 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) before 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 on 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:
 - (a) there is a change in the regulatory classification of the instruments that is 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.

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* that satisfy 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*.

3.7.3 G As explained in *MIFIDPRU 2.6.6G*, the *group capital test* effectively applies to each intermediate *parent undertaking*, as well as to the ultimate *parent undertaking* of the *investment firm group*.

Application under MIFIDPRU 3.3.2R - permission to include interim or year-end profits as CET1

3 Annex 1R [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Application under MIFIDPRU 3.3.3R(1) - permission to classify capital instruments as CET1

3 Annex 2R [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Notification under MIFIDPRU 3.3.3R(2) - issuance of additional capital instruments that have already been approved as CET1 instruments

3 Annex 3R [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Application under MIFIDPRU 3.6.2R - permission to reduce own funds instruments when neither condition in MIFIDPRU 3.6.4R applies

3 Annex 4R [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Notification under MIFIDPRU 3.6.3R - intended reduction in own funds instruments where a condition in MIFIDPRU 3.6.4R applies

3 Annex 5R [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

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 to a *UK parent entity* under *MIFIDPRU 4.1.1R(2)*, it applies with the following modifications:
- (1) *MIFIDPRU 4.2.1R* (Initial capital requirement) does not apply; and
 - (2) any reference to a “*firm*” or “*MIFIDPRU investment firm*” in this chapter is 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*.
- 4.2.2 G
- (1) The initial capital requirement in *MIFIDPRU 4.2.1R* applies only at the point at which the *FCA* first grants *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*.
- 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*.

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*.
- 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) *matched principal trading* in the course of operating the *OTF*; or

- (b) *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 the activities on the basis of 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* is £750,000.
- 4.4.3 R (1) Where a *MIFIDPRU investment firm* satisfies the conditions in (2), its *permanent minimum capital requirement* is £150,000.
- (2) The relevant conditions are:
- (a) the *firm* has *permission* for 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* or client assets in the course of *MiFID business*; and
- (b) the *firm* does not have *permission* for 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.
- 4.4.4 R (1) Where a *MIFIDPRU investment firm* satisfies the conditions in (2), its *permanent minimum capital requirement* is £75,000.
- (2) The relevant conditions are:

- (a) 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*.

4.5 Fixed overheads requirement

[*Editor's note*: The provisions in this section will be populated following feedback on CP21/7.]

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*.

4.7 K-AUM requirement

[*Editor's note*: The provisions in this section will be populated following feedback on CP21/7.]

4.8 K-CMH requirement

[*Editor's note:* The provisions in this section will be populated following feedback on CP21/7.]

4.9 K-ASA requirement

[*Editor's note:* The provisions in this section will be populated following feedback on CP21/7.]

4.10 K-COH requirement

[*Editor's note:* The provisions in this section will be populated following feedback on CP21/7.]

4.11 Trading book and dealing on own account: general provisions

- 4.11.1 G 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.
- 4.11.2 G (1) 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* 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 UK version of the remaining CRR 2 amendments to the UK CRR take effect*], 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” is a reference to “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).
- 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 A *MIFIDPRU investment firm* that *deals on own account* is 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) carry out *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 the positions give rise to foreign exchange risk or commodity risk.
- 4.11.8 R (1) This *rule* applies where a *firm* has deliberately taken a position to hedge against the adverse impact of a foreign exchange rate on:
- (a) the *firm's own funds requirement*; or
 - (b) an item which the *firm* has deducted from its *own funds*.
- (2) A *firm* may exclude a position in (1) from its net open currency positions for the purpose of article 352 of the *UK CRR* (as applied by *MIFIDPRU 4.12.2R*) if the *firm* has prior permission from the *FCA*.
- (3) To obtain the permission in (2), a *firm* must:
- (a) complete the application form in *MIFIDPRU 4 Annex 1R* and submit it to the *FCA* using the *online notification and application system*;
 - (b) in the application, demonstrate to the satisfaction of the *FCA* that the position is:
 - (i) used for one of the hedging purposes in (1)(a) or (1)(b); and
 - (ii) of a non-trading or structural nature.
- (4) This *rule* replaces article 352(2) *UK CRR* where that article would otherwise apply under *MIFIDPRU 4.12.2R*.

4.11.9 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 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 UK version of the remaining 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 reference in Title IV of Part Three of the *UK CRR* to:

(i) article 363 of the *UK CRR* (permission to use internal models) refers to *MIFIDPRU* 4.12.4R to *MIFIDPRU* 4.12.7R; and

(ii) permissions granted under article 363 of the *UK CRR* refers to equivalent permissions granted under *MIFIDPRU* 4.12.4R to *MIFIDPRU* 4.12.7R.

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 is specified in the *UK CRR*, it must consider whether:
- (a) the position is sufficiently similar to a position for which a treatment is 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 requirements 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 requirements 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* of positions under this rule in its *trading book* policy statement.

Permission to use internal models

- 4.12.4 R (1) A *firm* must obtain prior permission from 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 in (1), a *firm* must:

- (a) complete the application form in *MIFIDPRU* 4 Annex 2R and submit it to the *FCA* using the *online notification and application system*; and
 - (b) in the application, demonstrate to the satisfaction of the *FCA* that:
 - (i) the *firm* meets the 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; and
 - (ii) the internal model 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* for 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* that has a permission under *MIFIDPRU* 4.12.4R for an internal model must obtain approval from the *FCA* before it:
- (a) implements a material change to the use of the model; or
 - (b) makes 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 *MIFIDPRU* 4 Annex 3R and submit it to the *FCA* using the *online notification and application system*; 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 as part of the application in (a).
- 4.12.7 R (1) A *firm* that has a permission under *MIFIDPRU* 4.12.4R for an internal model must notify the *FCA* before it:
- (a) implements a change to the use of the model that is not a material change; or

(b) extends the use of the model in a manner that is not material.

(2) A *firm* must notify the *FCA* by completing the form in *MIFIDPRU 4 Annex 4R* and submitting it using the *online notification and application system*.

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* must:

- (1) identify any material risks (or group of risks are material in aggregate) that are not captured by those models;
- (2) hold *own funds* to cover those risk(s) in addition to the *own funds* required to comply with the *K-NPR requirement*, calculated in accordance with Part Three, Title IV, Chapter 5 of the *UK CRR*; and
- (3) hold additional *own funds* for value-at-risk (VaR) and stressed value-at-risk (sVaR) models that apply to the *firm*.

4.12.9 G (1) The methodology for identifying the risks in *MIFIDPRU 4.12.8R* and calculating additional *own funds* for VaR and sVaR 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 sVaR 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, but the *FCA* may request more frequent analysis. 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

permission for the relevant internal model, but are not adequately captured by the relevant internal model.

- (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 sVaR metric for each risk factor within scope of the framework. The stressed period for the RNIV framework should be consistent with that used for sVaR. No offsetting or diversification may be recognised across risk factors included in the RNIV framework. The multipliers used for VaR and sVaR should be applied to generate a *K-NPR requirement*.
 - (b) If it is not appropriate to calculate a VaR and sVaR 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 (1) A *MIFIDPRU investment firm* may use its own estimates for delta for the purposes of the standardised approach for options under article 329, article 352(1) or article 358 of the *UK CRR* if:
- (a) the option is:
 - (i) an over-the-counter option; or
 - (ii) is traded on an exchange, but delta for the option is not available from that exchange;
 - (b) the *firm* adequately reflects non-delta risks in the *K-NPR requirement* in accordance with the *Non-Delta Risk of Options RTS*;
 - (c) the model the *firm* uses meets the minimum standards set out in *MIFIDPRU* 4.12.12G to *MIFIDPRU* 4.12.18G (Minimum standards for own estimates of delta) for each type of option for which it calculates delta;

- (d) the *firm* notifies the *FCA* that the requirements in (a) to (c) have been met before the *firm* begins to use its own estimates for the relevant delta; and
 - (e) the notification in (d) is made using the form in *MIFIDPRU* 4 Annex 5R and submitted using the *online notification and application system*.
- (2) The value of delta is 1 where:
- (a) a *MIFIDPRU investment firm* is not permitted to use its own estimates for delta in accordance with (1); and
 - (b) if the option is traded on an exchange, delta is not available from that exchange.
- 4.12.11 G If a *MIFIDPRU investment firm* has notified the *FCA* under *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* does not comply with the risk mitigation plan within the mandated timeframe, the *FCA* may take further supervisory measures. This may include variation of a *firm's Part 4A permission* so that the *firm* is no longer allowed to trade the relevant option types.

Minimum standards for own estimates of delta

- 4.12.12 G The sophistication of a pricing model 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 if there are 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 delta is 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 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) sets out 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. A *firm* that wishes to use sensitivity models to calculate interest rate risk on derivative instruments in accordance with article 331(1) of the *UK CRR* should refer to *MIFIDPRU* 4.12.66R.

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 to calculate addends. If a *firm* believes that an overshooting should not count for that purpose, it should seek a variation of its VaR model permission from the *FCA* in accordance with *MIFIDPRU* 4.12.4R to exclude the overshooting.
- (2) An 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 a *firm*’s 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 if 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

- 4.12.28 G Other futures, forwards, and swaps for which a treatment is not specified in article 328 of the *UK CRR* (Interest rate futures and forwards) should be treated as positions in zero specific risk securities, each of which:
 - (1) has a zero coupon;

- (2) has a maturity equal to that of the relevant contract; and
- (3) is long or short, as set out in the table in *MIFIDPRU* 4.12.29G.

4.12.29 G This table belongs to *MIFIDPRU* 4.12.28G.

Instrument	Notional positions		
Foreign currency forward or future	A long position denominated in the currency purchased	and	A short position denominated in the currency sold
Gold forward or future	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
Equity forward or future	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

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 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 in *MIFIDPRU* 4.12.30G are set out in the table in *MIFIDPRU* 4.12.32G.
- 4.12.32 G This table belongs to *MIFIDPRU* 4.13.31G.

	Paying leg	Receiving leg
Receiving fixed and paying floating	The maturity equals the start date of the swap	The maturity equals the end date of the swap
Paying fixed and receiving floating	The maturity equals the end date of the swap	The maturity equals the start date of the swap

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 is a short position 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 the price prevailing at contract expiry, 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, a notional position should be derived for each of the reference dates used in the averaging period to calculate the average price, which:
 - (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 to use an internal model.

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 generally sets out the broad classes of position within each risk category in its scope. It may also specify how individual products within one of the classes may be brought into or taken out of the scope of the VaR model permission. The broad classes of permission are:
- (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, the *firm* may use proxies or any other reasonable value-at-risk measurement if the model 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 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, which takes account of the illiquidity of the risk factor or position.
- 4.12.44 G A *firm* is expected to update data sets to maintain standards of reliability in accordance with the frequency set out in its VaR model permission, or more frequently if necessary due to volatility in market prices or rates. 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 A *firm* should demonstrate its ability to comply with the requirements for a VaR model permission. In general, a *firm* should have a back-testing programme in place and should provide 3 *months* of back-testing history.
- 4.12.47 G A *firm* should 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. Therefore, where the *firm* experiences an overshooting and already has 4 or more overshootings during the previous 250 *business days*, changes to the multiplication factor resulting 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 a *firm's* processes and documentation relating to the derivation of profit and loss used for back-testing when assessing a VaR model permission application under *MIFIDPRU* 4.12.4R. 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 Under *MIFIDPRU* 4.12.6R, a *firm* must provide the *FCA* with details of any significant planned changes to the VaR model before those changes are implemented. This must include detailed information about the nature of the change, including an estimate of the impact on VaR numbers and the incremental risk charge. 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 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 Under article 365 of the *UK CRR* (VaR and sVaR calculation), a *firm* that uses an internal model for calculating its *K-NPR requirement* must calculate, at least weekly, a sVaR of their current portfolio. The *FCA* would expect a sVaR internal model to contain the features in *MIFIDPRU* 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 A *firm* should calculate the sVaR measure to be greater than or equal to the average of the second and third 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 A *firm* should ensure that the sVaR period chosen is equivalent to the period that would maximise VaR, given the *firm’s* portfolio. 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 reasons 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 uses 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 reasons for the selection of key major risk factors used to find the period of significant financial stress;
- (3) a summary of ongoing internal monitoring of stressed period selection for the 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), including a review of the ladders/matrices or spot/vol-matrices, ensuring that they are extended to include wider shocks to risk factors that occur in stress scenarios; and
- (7) minutes of risk committee meetings or other evidence of governance and senior management oversight of sVaR methodology.

4.12.62 G Under article 372 of the *UK CRR* (Requirement to have an internal IRC model), a *firm* that uses an internal model for calculating own funds requirements for specific risk of traded debt instruments must 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 into account actual close-out periods during periods of illiquidity.

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 use the entire

history of spreads regardless of migration. Point-in-time estimates are not acceptable, unless the *firm* can demonstrate that they are as conservative as 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 Internal Ratings Based (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 its quarterly reporting to the *FCA*. A *firm* should note that for trading portfolios that contain long and short positions, downturn estimates will not be a conservative choice in all cases.

Permission to use sensitivity models to calculate interest rate risk on derivative instruments

- 4.12.66 R (1) A *firm* must obtain prior permission from the *FCA* to use a sensitivity model in accordance with article 331(1) of the *UK CRR* to calculate the interest rate risk for positions in:
- (a) derivative instruments under articles 328 to 330 of the *UK CRR*; or
 - (b) any bond which is amortised over its residual life, rather than via one final payment of principal.
- (2) To obtain the permission in (1), a *firm* must:
- (a) where the permission relates to one or more of the derivative instruments in (1)(a), mark to market the instruments and manage the interest rate risk on the instruments on a discounted cash flow basis;
 - (b) complete the form in *MIFIDPRU 4 Annex 6R* and submit it using the *online notification and application system*; and
 - (c) in its application under (b), demonstrate to the satisfaction of the *FCA* that:
 - (i) the model generates positions that have the same sensitivity to interest rate changes as the underlying cash flows; and
 - (ii) the sensitivity in (i) is assessed with reference to independent movements in sample rates across the yield curve, with at least one

sensitivity point in each of the maturity bands set out in Table 2 in article 339 of the *UK CRR*.

- (3) Where a *firm* has been granted permission to apply a sensitivity model under this *rule*, any relevant positions must be included in the *firm's* calculation of its general risk of debt instruments for its *K-NPR requirement*.

4.13 K-CMG requirement

- 4.13.1 R (1) Subject to (2), the *K-CMG requirement* applies to a *MIFIDPRU investment firm* for *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 G *MIFIDPRU 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 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 these 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 In an application for a *K-CMG permission*, a *firm* must identify each *portfolio* for which it wishes to calculate a *K-CMG requirement*.
- 4.13.4 G *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 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 calculated using the following formula:

$$K\text{-CMG requirement} = TM * 1.3$$

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.

- 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 satisfy 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 commercial negotiations that may result in the *clearing member* or *authorised central counterparty* accepting a lower amount of margin than the model requires.

- 4.13.8 G The calculation in *MIFIDPRU 4.13.5R* means that for each trading day during the calculation period, the *firm* must calculate the total

combined margin 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* for a *portfolio*, a *firm* must:
- (1) complete the application form in *MIFIDPRU* 4 Annex 7R and submit it using the *online notification and application system*;
 - (2) in the application, demonstrate to the satisfaction of the *FCA* that:
 - (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) a *MIFIDPRU investment firm* (which may be the *firm* itself, where it is self-clearing);
 - (ii) a *UK credit institution*;
 - (iii) a *designated investment firm*;
 - (iv) a *third country investment firm*; or
 - (v) a *credit institution* established in a *third country*;
 - (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) where the *clearing member* in (b) (where applicable, including the *firm* itself) is a *MIFIDPRU investment firm* or a *third country investment firm*, the *authorised central counterparty* in (b); or

- (ii) in any other case, the relevant *clearing member* in (b);
 - (f) the reasons for the *firm's* choice of calculating a *K-CMG requirement* for the *portfolio* have been clearly documented and 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.
- 4.13.10 R (1) A *firm* that has been granted a *K-CMG permission* for a *portfolio* must notify the *FCA* immediately if it becomes aware that any of the conditions in *MIFIDPRU* 4.13.9R are no longer met in relation to the *portfolio*.
- (2) The notification in (1) must be made using the form in *MIFIDPRU* 4 Annex 8R and submitted via the *online notification and application system*.
- 4.13.11 G The *FCA* may revoke a *K-CMG permission* for a *portfolio* where one or more of the conditions in *MIFIDPRU* 4.13.9R is no longer met in relation to that *portfolio*. The *FCA* may 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* if:
- (1) the indirect clearing arrangement satisfies all of the conditions in *MIFIDPRU* 4.13.9R and both the *clearing member* and the *client* of the *clearing member* that is providing clearing services to the *firm* are entities that are listed in *MIFIDPRU* 4.13.9R(2)(c); and
 - (2) the *FCA* is satisfied that the relevant arrangement does not result in undue risks.
- 4.13.13 R (1) A *firm* that is relying on a *K-CMG permission* must ensure that:
- (a) the individuals in 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

¹⁴ *Editor's note*: The reference to *MIFIDPRU* 7 will be confirmed following feedback on CP21/7.

operation of the margin model referred to in *MIFIDPRU* 4.13.9R(2)(e); and

- (b) the *firm* integrates this understanding of the 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)* for 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* is responsible 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) includes:

- (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.

- 4.13.14 R (1) 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) An 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*.
- 4.13.15 G (1) *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). The 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. If 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* is determined by the underlying (unadjusted) model.
- 4.13.16 G 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 a downwards adjustment. A *firm* is not required to apply a downwards adjustment to a more conservative model.

4.13.17 G The *FCA* will consider whether the *firm*'s reasons for choosing a *K-CMG requirement* under *MIFIDPRU* 4.13.9R(2)(f) have 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.

4.13.18 G (1) For the purposes of *MIFIDPRU* 4.13.9R(2)(g), the fact that a *K-CMG permission* for a *portfolio* may result in a *K-CMG requirement* that is lower than the equivalent *K-NPR requirement* for that *portfolio* does not automatically 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*. 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 that type of *portfolio*. A *firm* that is applying for a *K-CMG permission* should provide a clear explanation of how the conditions in *MIFIDPRU* 4.13.9R(2) are satisfied for the *portfolio*. 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 a *K-CMG permission* for 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) does not 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 *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*, 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;
 - (b) specify the date on which the *K-CMG permission* should cease to apply to the *firm*; and
 - (c) be made using the form in *MIFIDPRU* 4 Annex 9R and submitted using the *online notification and application system*.
- 4.13.21 G Where a *firm* has submitted a notification in *MIFIDPRU* 4.13.20R(2), the *FCA* will not normally grant another *K-CMG permission* for 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* is 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 the 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 carried out by a *firm* that has the necessary *permissions to deal on own account*.
- 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 specified in *MIFIDPRU 4.14.3R(7)*. This applies even if the *firm's* involvement in the transaction does not constitute *dealing on own account* and the transaction may not be recorded in its *trading book*.
- (2) 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 if it is 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 the contracts are distinguished and segregated, at the level of both the *clearing member* and the *central counterparty*, from the position and assets of 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 the 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

(7) credits and loans referred to in the activity in point 2 of paragraph 1 of Part 3A of Schedule 2 to the *Regulated Activities Order*, if the *firm* is:

(a) executing the trade in the name of the *client*; or

(b) receiving and transmitting the order without executing it.

4.14.4 R A derivative contract that is directly or indirectly cleared through an *authorised central counterparty* is deemed to meet the conditions in *MIFIDPRU* 4.14.3R(1)(a).

4.14.5 R The *K-TCD requirement* does not apply to transactions with the following 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*.

- 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) 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) To apply for *FCA* consent under (1), a *firm* must complete the form in *MIFIDPRU 4 Annex 10R* and submit it using the *online notification and application system*.

Calculation of TCD own funds requirement

- 4.14.7 R The *TCD own funds requirement* for each transaction or *netting set* must be calculated using the following formula:

$$TCD\ own\ funds\ requirement = \alpha * EV * RF * CVA$$

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*

Exposure value

- 4.14.8 R The exposure value must be calculated using the following formula:

$$\text{Exposure value} = \text{Max} (0; RC + PFE - C)$$

where:

- (1) RC = the replacement cost calculated in accordance with *MIFIDPRU 4.14.9R* (which may be a positive value, thereby increasing the exposure value, or a negative value, thereby decreasing the exposure value)
- (2) 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 *MIFIDPRU 4.14.25R* (which may be a positive value, thereby decreasing the exposure value, or a negative value, thereby increasing the exposure value)

Replacement cost

- 4.14.9 R
- (1) A *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 *CMV*;
 - (b) for *long settlement transactions*, the replacement cost is the settlement amount of cash to be paid or to be received by the *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 *firm* being treated as a positive amount and cash borrowed by the *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 *CMV* of the security lent by the *firm*, increased by the corresponding volatility adjustment in *MIFIDPRU* 4.14.25R; and
- (e) for *margin lending transactions* and the credits and loans referred to in *MIFIDPRU* 4.14.3R(7), the replacement cost is the book value of the asset in accordance with the applicable accounting framework.

Potential future exposure

- 4.14.10 R (1) A *firm* is required to calculate potential future exposure (PFE) only for derivative contracts.
- (2) A *firm* must calculate the potential future exposure for derivative contracts in a *netting set* using one of the following approaches:
- (a) the hedging approach in *MIFIDPRU* 4.14.14R; or
 - (b) the derivative netting ratio approach in *MIFIDPRU* 4.14.18R.
- 4.14.11 R 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* for the purposes of *MIFIDPRU* 4.14.10R.
- 4.14.12 R A *firm* must apply its chosen approach under *MIFIDPRU* 4.14.10R:
- (1) continuously for at least 24 *months*; and
 - (2) consistently across all its *netting sets*.

Potential future exposure: hedging approach

- 4.14.13 G (1) If a derivative contract has a negative replacement cost, a *firm* should still calculate a 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 contracts other than written options for the purposes of calculating PFE in accordance with *MIFIDPRU* 4.14.14R and *MIFIDPRU* 4.14.16R.
- (3) If a written option is subject to netting for the purposes of calculating PFE, a *firm* may cap the PFE in relation to that option 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, with long positions to be treated as positive amounts and short positions to be treated as negative amounts.
- (2) Subject to (3), a *firm* must assign derivative contracts to separate asset classes as follows:
- (a) except as specified in (b) to (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 if:

- (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. The 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) For derivative contracts relating to foreign exchange, a *firm* may net contracts relating to a currency pair (for example, USD/EUR) against contracts relating to the inverse pair (i.e. in this example, EUR/USD) by treating one pair as a long position and the inverse pair as a short position.
- (5) For interest rate derivative contracts that have multiple legs, the *firm* should add together the notional amounts of the positive (receive) and negative (pay) legs, after adjusting for the duration and the supervisory delta in accordance with the calculation of the effective notional amount in *MIFIDPRU* 4.14.20R. The net amount should then be included in the calculation of PFE.

- 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 absolute value of 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 contracts other than written options 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* using the following formula:

$$\text{PFE}_{\text{net}} = \frac{\text{RC}_{\text{net}}}{\text{RC}_{\text{gross}}} \cdot \text{PFE}_{\text{gross}}$$

where:

- (1) PFE_{net} = the net potential future exposure for the *netting set*;
- (2) $\text{PFE}_{\text{gross}}$ = the sum of the potential future exposure of all derivative contracts included in the *netting set*, calculated by multiplying the absolute value of 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 is zero; and
- (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 PFCnet (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 is calculated as follows:

$$\text{Effective notional amount} = N * D * SD$$

where:

- (a) N = the notional amount, determined in accordance with (2);
 - (b) D = the duration, calculated in accordance with (3); and
 - (c) SD = the supervisory delta, calculated in accordance with (5).
- (2) The notional amount, unless clearly stated and fixed until maturity, is 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 of 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:

$$\text{Duration} = (1 - \exp(-0.05 * \text{time to maturity})) / 0.05$$

- (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 contract 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;
 - (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; and
 - (iii) the notification in (ii) is made using the form in *MIFIDPRU* 4 Annex 5R and submitted using the *online notification and application system*;
 - (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 is 1 or -1; and

- (c) in each case, the supervisory delta must reflect the relationship between the contract and the underlying, whereby a contract that increases exposure (by increasing RC) as the underlying increases shall have a positive supervisory delta, and a contract that decreases exposure (by decreasing RC) as the underlying increases shall have a negative supervisory delta.

- 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), the standards apply with the following modifications:
- (a) a reference to the “standardised approach” is a reference to the *rules* in this section relating to the calculation of the *K-TCD requirement*; and
- (b) a reference to the *K-NPR requirement* is a reference 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 for small changes in the market value of the underlying.

- 4.14.22 R The supervisory factor for each asset class is set out in the following table:

Asset class	Supervisory factor
Interest rate	0.5%
Foreign exchange	4%
Credit	1%
Equity single name	32%
Equity index	20%
Commodity and emission allowance	18%
Other	32%

- 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.
- 4.14.25 R (1) A *firm* must apply the volatility adjustments in (2) to all transactions referred to in *MIFIDPRU* 4.14.3R.

- (2) Collateral for bilateral and cleared transactions shall be subject to volatility adjustments in accordance with the following table:

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

- 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 *MIFIDPRU* 4.14.25R applies. 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 has been applied is therefore 94.

Netting

4.14.28 R For the purposes of calculating its *K-TCD requirement*, 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) the transactions are covered by a 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:
 - (i) default;
 - (ii) bankruptcy;
 - (iii) liquidation; or
 - (iv) similar circumstances;
 - (b) in the event of default of a counterparty, the netting contract does not contain any clause that 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 *firm* has obtained an independent, written and reasoned legal opinion that, in the event of a legal challenge to the netting agreement, the *firm's* claims and obligations would be equivalent to those referred to in (a) 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

4.14.29 R The risk factor for a counterparty is set out in the following table:

Counterparty type	Risk factor
Central governments, central banks and public sector entities	1.6%
<i>Credit institutions and investment firms</i>	1.6%
Other counterparties	8%

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; and
- (e) credits and loans referred to in *MIFIDPRU* 4.14.3R(7).

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.
- 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).
- (3) Where a *firm* engages in either activity in (2), it must include those transactions in the calculation of its *DTF*.
- (4) 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* includes 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*.
- 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.
- 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 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:
- $$\text{Duration} = \text{time to maturity (in years)} / 10$$
- 4.15.8 G When calculating *DTF* for the purposes of *MIFIDPRU* 4.15.4R, a *firm* must:
- (1) include transactions executed by a *firm* in its own name either for itself or on behalf of a *client*; and
- (2) exclude transactions executed by the *firm* for the purpose of providing *portfolio management* services on behalf of investment funds.

- 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 the 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 applying for *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*.

Application under MIFIDPRU 4.11.8R – permission to exclude hedges from Article 352 of the UK CRR

- 4 Annex 1R** [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Application under MIFIDPRU 4.12.4R – internal market risk models

- 4 Annex 2R** [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Application under MIFIDPRU 4.12.6R – material change or extension to internal market risk models

- 4 Annex 3R** [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Notification under MIFIDPRU 4.12.7R – non-material change or extension to use of an internal model

- 4 Annex 4R** [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Notification under MIFIDPRU 4.12.10R and 4.14.20R – use of own delta estimates for standardised approach for options (K-NPR)

- 4 Annex 5R** [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Application under MIFIDPRU 4.12.66R to use sensitivity models to calculate interest rate risk on derivative instruments

4 Annex 6R [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Application under MIFIDPRU 4.13.9R – permission for K-CMG

4 Annex 7R [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Notification under MIFIDPRU 4.13.10R – K-CMG conditions no longer satisfied

4 Annex 8R [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Notification under MIFIDPRU 4.13.20R – cancellation of K-CMG permission

4 Annex 9R [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Application under MIFIDPRU 4.14.6R – permission to exclude transactions with some counterparties from K-TCD

4 Annex 10R [*Editor's note*: the form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

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 reference to a “*firm*” or “*MIFIDPRU investment firm*” in this chapter is a reference 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 that may give rise to concentration risk.*
- 5.1.6 G *MIFIDPRU 5.2 is therefore relevant to both 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 that are recorded in the trading book.*
- 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 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 is dealing on own account* and must comply with the requirements in *MIFIDPRU 5.3 to 5.10* to the extent relevant to the transactions it undertakes.

Purpose

- 5.1.10 G 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). MIFIDPRU 5.3 sets out an overview of these requirements.*
 - (3) *Rules and guidance on when a commodity and emission allowance dealer is exempt from the requirements of this chapter (MIFIDPRU 5.11).*

Interpretation

- 5.1.11 G In this chapter, references to *client* include any counterparty of the *firm*.

- 5.1.12 R 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 R 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, whether in the *United Kingdom* or a *third country*, may be treated in the same way as central governments under *MIFIDPRU 5.1.13R* 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*. A *firm* may have regard to this list when applying the test in *MIFIDPRU 5.1.14R* to regional governments and local authorities in the *United Kingdom*.
- 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.

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
 - (4) for a counterparty that is connected to the *firm* itself, whether the exposure arises from a transaction entered into on an arm’s length basis.
- 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* using sound administrative and accounting procedures and robust internal control mechanisms.
- 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 includes 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:
- (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 that 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*).
- (2) *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*.
- (3) *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*.
- (4) *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*.
- (5) *MIFIDPRU* 5.7 explains how to calculate the *K-CON requirement*.
- (6) *MIFIDPRU* 5.8 contains *rules* designed to prevent *firms* from avoiding the *K-CON requirement*.
- (7) *MIFIDPRU* 5.9 contains the 'hard' concentration risk limits, and associated provisions.
- (8) *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.

- 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.
- 5.4.3 R The *EV* 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.
- 5.4.4 R When calculating *EVs*, a *firm* must take all reasonable steps to identify underlying assets in relevant transactions and the counterparty of the underlying exposures.

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 *EVs* 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*.
- 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*.

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* using the following formula:

$$EVE = EV - L$$

where:

L = the *concentration risk soft limit* specified in *MIFIDPRU 5.5.1R*.

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*.
- 5.6.3 R A *firm* must make the notification referred to in *MIFIDPRU 5.6.2R* by completing the form in *MIFIDPRU 5 Annex 1R* and submitting it using the *online notification and application system*.

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 requirement* for each *client* or *group of connected clients* for which the *EV* exceeds the *concentration risk soft limit*.
- 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 own funds requirement for the excess (*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:

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

- (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 using 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* for 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*.

- 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 1;
 - (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 1; and
 - (e) the *CON own funds requirement* is the sum of the amounts calculated in accordance with (d).

- (3)

Table 1

Column 1: <i>EVE</i> as a percentage of own funds	Column 2: Factors
For the amount up to and including 40%	200%
For the amount over 40% up to and including 60%	300%
For the amount over 60% up to and including 80%	400%
For the amount over 80% up to and including 100%	500%
For the amount over 100% up to and including 250%	600%
For the amount over 250%	900%

- 5.7.5 G (1) K-CON is an additional *K-factor* own funds requirement for *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 determine 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 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 shows 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 that 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 $OFR = 262 \times 8\% = 20.96$

- (3) To calculate the *OFRE*:

$$OFRE = OFR/EV * EVE = 20.96/262 \times 12 = 0.96$$
- (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 shows 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 that 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*:

$$OFRE = OFR/EV * EVE = 62.4/780 \times 530 = 42.4$$

- (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 2, multiplying each part of the *OFRE* by the applicable factor, and then adding the resulting amounts together:

Application of Table 2			
K-CON factor tranche as per Table 1	EVE split by tranche	OFRE allocated across K-CON tranche by EVE split	CON own funds requirement (OFRE × factor in Table 1)
Up to 40%	400	$400/530 \times 42.4 = 32$	$32 \times 200\% = 64$
40%-60%	130	$130/530 \times 42.4 = 10.4$	$10.4 \times 300\% = 31.2$
Total:	530	42.4	95.2

- (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.
- 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 (Form and method of notification).

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*.
- 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.
- 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 using the *online notification and application system*.

5.10 Exclusions

- 5.10.1 R 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) regional governments and *local authorities* of the *UK* or a *third country* which pose no difference in risk compared to a central government covered by (a); 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*.

5.11 Exemption for commodity and emission allowance dealers

- 5.11.1 R 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*.
- 5.11.2 R (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) If there is 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 using the *online notification and application system*.

Notification under MIFIDPRU 5.6.3R and 5.9.3R that limits for concentration risk have been exceeded

5 Annex 1R [*Editor's note*: The forms can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

Notification under MIFIDPRU 5.11.2R of use of exemption for commodity and emission allowance dealers

5 Annex 2R [*Editor's note*: The form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](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 *GCT 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) listed in (2) apply to reports submitted under this chapter as if the 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 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 under 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 show the position on the relevant reporting reference date 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.

9.2.2 R The following table belongs to *MIFIDPRU* 9.2.1R:

(A) <i>Data item</i>	(B) <i>Data item description</i>	(C) Reporting frequency	(D) Reporting reference dates	(E) Submission deadline
MIF001	Capital	Quarterly	Last <i>business day</i> in: (1) March; (2) June; (3) September; (4) December	20 <i>business days</i> after the reporting reference date
MIF002	Liquidity	Quarterly	Last <i>business day</i> in:	20 <i>business days</i> after the

			(1) March; (2) June; (3) September; (4) December	reporting reference date
MIF003	Metrics monitoring	Quarterly	Last <i>business day</i> in: (1) March; (2) June; (3) September; (4) December	20 <i>business days</i> after the reporting reference date
MIF004	Non-K-CON concentration risk reporting	Quarterly	Last <i>business day</i> in: (1) March; (2) June; (3) September; (4) December	20 <i>business days</i> after the reporting reference date
MIF005	K-CON concentration risk reporting	Quarterly	(1) The <i>firm's accounting reference date</i> ; (2) The <i>firm's accounting reference date</i> plus 3 <i>months</i> ; (3) The <i>firm's accounting reference date</i> plus 6 <i>months</i> ; (4) The <i>firm's accounting reference date</i> plus 9 <i>months</i> ;	20 <i>business days</i> after the reporting reference date

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 show the position on 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*.

9.2.4 R The following table belongs to *MIFIDPRU 9.2.3R*:

(A) <i>Data item</i>	(B) <i>Data item description</i>	(C) Reporting frequency	(D) Reporting reference dates	(E) Submission deadline
MIF001	Capital	Quarterly	Last <i>business day</i> in: (1) March; (2) June; (3) September; (4) December	20 <i>business days</i> after the reporting reference date
MIF002 (Note 1)	Liquidity	Quarterly	Last <i>business day</i> in: (1) March; (2) June; (3) September; (4) December	20 <i>business days</i> after the reporting reference date
MIF003	Metrics monitoring	Quarterly	Last <i>business day</i> in: (1) March; (2) June; (3) September; (4) December	20 <i>business days</i> after the reporting reference date

Note 1	If, exceptionally, the <i>FCA</i> has exempted an <i>SNI MIFIDPRU investment firm</i> from the liquidity requirements in <i>MIFIDPRU</i> [6] ¹⁵ , the <i>firm</i> is not required to submit MIF002.
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- 9.2.5 R Where a *firm* is required to submit any of the *data items* MIF001 to MIF005 under *MIFIDPRU* 9.2.1R or 9.2.3R, it must submit the *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*, the *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 *data items* under *MIFIDPRU* 9.2.6R, A remains responsible for the timely submission and 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) submit *data items* in accordance with *MIFIDPRU* 9.2.1R on the basis of its *consolidated situation* if it is treated as a *non-SNI MIFIDPRU investment firm* under *MIFIDPRU* 2.5.21R; or
 - (b) submit *data items* in accordance with *MIFIDPRU* 9.2.3R on the basis of its *consolidated situation* if it is treated as an *SNI MIFIDPRU investment firm* under *MIFIDPRU* 2.5.21R.
- (2) For the purposes of (1), *MIFIDPRU* 9.2 applies with the following modifications:
- (a) a reference to a “*firm*” is a reference to the hypothetical single *MIFIDPRU investment firm* created under the *consolidated situation*; and

¹⁵ *Editor’s note*: The references to *MIFIDPRU* 6 will be confirmed following feedback on the proposals in CP21/7.

- (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* sets out guidance on how to apply the requirements in *MIFIDPRU* on the basis of the *consolidated situation* of a *UK parent entity*. The 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 *GCT 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 show the position on 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*:

(A) <i>Data item</i>	(B) <i>Data item description</i>	(C) Reporting frequency	(D) Reporting reference dates	(E) Submission deadline
MIF006	Group capital test reporting	Quarterly	Last <i>business day</i> in: (1) March; (2) June; (3) September; (4) December	20 <i>business days</i> after the reporting reference date

9.4.3 R (1) This *rule* applies where:

- (a) a *GCT 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*.
- (2) Where this *rule* applies, the *responsible UK parent* must submit an additional *data item* under *MIFIDPRU 9.4.1R* that shows the position of the *subsidiary* in (1)(b).
- 9.4.4 R Where a *GCT 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 Under *MIFIDPRU 2.6.11R*, a *GCT parent undertaking* may designate a single *parent undertaking* in the *UK* to submit *data items* to the *FCA* on behalf of all *GCT parent undertakings* within the same *investment firm group*. However, each *GCT parent undertaking* remains responsible for ensuring the timely submission and accuracy of any *data items* submitted on its behalf.

Data items for MIFIDPRU 9

- 9 Annex 1R** 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]

Data items for MIFIDPRU 9 Annex 1R**MIF001 – Own funds**

		A
		Yes/No
Basis of completion		
1	Is this report on behalf of a consolidation group?	<input type="text"/>
		FRN
2	If yes, please list the firm reference numbers (FRN) of all FCA regulated entities in the consolidated situation and the group reference number, if applicable.	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Own funds held		
3	CET1 own funds held (net of deductions - see MIFIDPRU 3.3)	<input type="text"/>
4	AT1 own funds held (net of deductions - see MIFIDPRU 3.4)	<input type="text"/>
5	T2 own funds held (net of deductions - see MIFIDPRU 3.5)	<input type="text"/>
Fixed overheads requirement		
6	Total annual eligible expenditure	<input type="text"/>
7	Indicate if varied due to material change in business model.	<input type="text"/>
Permanent minimum requirement		
8	Permanent minimum requirement	<input type="text"/>
K-factors requirement – non-SNI firms only		
9	Total K-factor requirement	<input type="text"/>
10	K-AUM	<input type="text"/>
11	K-CMH (segregated)	<input type="text"/>
12	K-CMH (non-segregated)	<input type="text"/>
13	K-ASA	<input type="text"/>
14	K-COH (cash trades)	<input type="text"/>
15	K-COH (derivative trades)	<input type="text"/>
16	K-DTF (cash trades)	<input type="text"/>
17	[Not used]	<input type="text"/>

- 18 K-DTF (derivatives)
- 19 [Not used]
- 20 K-NPR
- 21 K-CMG
- 22 K-TCD
- 23 K-CON

- Transitional requirement**
- 24 Transitional own funds requirement (if used)
- 25 Please indicate which transitional provisions are being
relied upon

- Own funds threshold requirement/wind-down trigger**
- 26 Own funds threshold requirement
- 27 Own funds wind-down trigger

MIF003 – Monitoring metrics

	A Yes/No
1	Is this report on behalf of a consolidation group? <input type="text"/>
	FRN
2	If yes, please list the firm reference numbers (FRN) of all FCA regulated entities in the consolidated situation and the group reference number, if applicable. <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
	Metrics
3	AUM <input type="text"/>
4	AUM at T <input type="text"/>
5	AUM at T - 1 month <input type="text"/>
6	AUM at T - 2 months <input type="text"/>
7	CMH (segregated) <input type="text"/>
8	CMH (segregated) at T <input type="text"/>
9	CMH (segregated) at T - 1 month <input type="text"/>
10	CMH (segregated) at T - 2 months <input type="text"/>
11	CMH (non-segregated) <input type="text"/>
12	CMH (non-segregated) at T <input type="text"/>
13	CMH (non-segregated) at T - 1 month <input type="text"/>
14	CMH (non-segregated) at T - 2 months <input type="text"/>
15	ASA <input type="text"/>
16	ASA at T <input type="text"/>
17	ASA at T - 1 month <input type="text"/>
18	ASA at T - 2 months <input type="text"/>
19	COH (cash) <input type="text"/>
20	COH (derivatives) <input type="text"/>
21	On- and off-balance sheet total <input type="text"/>

22 Annual gross revenue from MiFID services and activities

23 Permission to deal on own account

Yes/No

MIF004 – Non-K-CON concentration

		A Yes/No
1	Basis of completion Is this report on behalf of a consolidation group?	<input type="text"/>
		FRN
2	If yes, please list the firm reference numbers (FRN) of all FCA regulated entities in the consolidated situation and the group reference number, if applicable.	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

All positions or exposures (not including intragroup exposures)

		A	B
		LEI No	Value of exposures/ positions with that counterparty
3	Counterparty 1	<input type="text"/>	<input type="text"/>
4	Counterparty 2	<input type="text"/>	<input type="text"/>
5	Counterparty 3	<input type="text"/>	<input type="text"/>
6	Counterparty 4	<input type="text"/>	<input type="text"/>
7	Counterparty 5	<input type="text"/>	<input type="text"/>

Intragroup exposures only

		A	B
		LEI No	Value of exposures/ positions with that counterparty
8	Counterparty 1	<input type="text"/>	<input type="text"/>
9	Counterparty 2	<input type="text"/>	<input type="text"/>
10	Counterparty 3	<input type="text"/>	<input type="text"/>
11	Counterparty 4	<input type="text"/>	<input type="text"/>
12	Counterparty 5	<input type="text"/>	<input type="text"/>

Location of client money

		A	B	C
		LEI No	% of client money held at that institution	MMF (Yes/No)
13	Entity 1	<input type="text"/>	<input type="text"/>	<input type="text"/>
14	Entity 2	<input type="text"/>	<input type="text"/>	<input type="text"/>
15	Entity 3	<input type="text"/>	<input type="text"/>	<input type="text"/>
16	Entity 4	<input type="text"/>	<input type="text"/>	<input type="text"/>

17	Entity 5			
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Location of client securities

	A	B
	LEI No	% of client securities held at that institution
18	Entity 1	
19	Entity 2	
20	Entity 3	
21	Entity 4	
22	Entity 5	

Location of firm's own cash

	A	B	C
	LEI No	% of firm's own cash/MMF holdings at that institution	MMF (Yes/No)
23	Entity 1		
24	Entity 2		
25	Entity 3		
26	Entity 4		
27	Entity 5		

Earnings

	A	B	C
	LEI No or code	% of total revenue earned from that client	Income type
28	Client 1		
29	Client 2		
30	Client 3		
31	Client 4		
32	Client 5		

MIF005 – K-CON Concentration risk reporting where the 'soft' limit has been exceeded

Basis of completion

1 Is this report on behalf of a consolidation group? A
Yes/No

2 If yes, please list the firm reference numbers (FRN) of all FCA regulated entities in the consolidated situation. FRN

	A	B	C	D	E
		Applicable Amount:			
	LEI	Exposure Value	Exposure Value Excess	Own Funds Requirement for the Excess	£150m/100% limit for MIFIDPRU-eligible institutions used (Yes/No)
3 Counterparty or group of connected counterparties to whom the exposure relates					

MIF006 – GCT reporting

	A	B
Holding company identifier		
1	Holding company name	
2	Holding company firm reference number (FRN)	
Subsidiary company identifier		
		Indirect sub (Yes/No)
3a	Subsidiary company FRN/LEI	<input type="text"/>
3b	Subsidiary company FRN/LEI	<input type="text"/>
3...	Subsidiary company FRN/LEI	<input type="text"/>
CAPITAL of holding company		
4	CET1 own funds held	
5	AT1 own funds held	
6	T2 own funds held	
Book value and type of investments in subsidiary 3a		
7a1	CET1 investment	
7a2	AT1 investment	
7a3	T2 investment	
7a4	Contingent liabilities	
Book value and type of investments in subsidiary 3b		
7b1	CET1 investment	
7b2	AT1 investment	
7b3	T2 investment	
7b4	Contingent liabilities	
Book value and type of investments in subsidiary 3...		
7...1	CET1 investment	
7...2	AT1 investment	
7...3	T2 investment	
7...4	Contingent liabilities	

Guidance notes on data items in MIFIDPRU 9 Annex 1R

9 Annex 2G 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]

Guidance notes for MIFIDPRU 9 Annex 2G

MIF001 – Adequate financial resources (Own funds)

Introduction

This data item provides the FCA with information on the solvency of an FCA investment firm. It is intended to reflect the underlying adequate financial resources requirements contained in MIFIDPRU and allows monitoring against the requirements set out there, and also against those individual requirements placed on firms. We have provided references to the underlying rules to assist completion of this data item.

This data item applies to all FCA investment firms. In the text below we have identified where particular data elements do not apply to all firms.

Consolidated reports

This form applies to both individual FCA investment firms and to consolidation groups. If completed on behalf of a consolidation group, it should be completed on the basis of the consolidated situation and references to an FCA investment firm should be taken to refer to the situation that would result if the consolidation group were treated as a single large FCA investment firm. Firms should refer to MIFIDPRU 2.5 for further information on how MIFIDPRU applies on a consolidated basis.

Currency

All figures should be reported in Sterling. Figures should be reported in 000s.

Defined Terms

The descriptions indicated in these notes are designed simply to repeat, summarise or amplify the relevant statutory or other definitions and terminology, including, where appropriate, the FCA investment firm's accounting framework, without departing from their full meaning or effect.

The terms used in this guidance note have the same meaning as the terms used in MIFIDPRU. Defined terms are not italicised in this note.

Data elements

These are referred to by row first, then column.

Basis of completion

1A – Basis of completion

Is the MIF001 report on behalf of a consolidation group? Enter 'Yes' in this cell if the report is being completed by a prudential consolidation group.

2A – Details of other firms within the group

If the answer to cell 1A is yes, please list the firm reference numbers (FRN) of all FCA regulated entities in the consolidated situation, and the group reference number, if applicable.

Own funds held

This section applies to all FCA investment firms.

FCA investment firms are required to hold own funds in excess of their own funds threshold requirement. Own funds held to meet the own funds threshold requirement must be made up of Common Equity Tier 1 (CET1), Additional Tier 1 (AT1) and Tier 2 (T2) capital.

3A – Common Equity Tier 1 capital

FCA investment firms should enter the amount of CET1 capital they hold for their own funds. CET1 capital should be calculated in accordance with Article 50 of the UK CRR as applied and modified by Section 3.3 of MIFIDPRU – Common equity tier 1 capital. This cell must always be completed with a positive number.

4A – Additional Tier 1 capital

FCA investment firms should enter the amount of AT1 capital they hold for their own funds. AT1 capital should be calculated in accordance with Article 61 of the UK CRR as applied and modified by Section 3.4 of MIFIDPRU – Additional tier 1 capital.

FCA investment firms are not required to hold/issue AT1 capital. If no AT1 has been issued or is held, enter a zero in this cell.

5A – Tier 2 capital

FCA investment firms should enter the amount of T2 capital they hold for their own funds. T2 capital should be calculated in accordance with Article 71 of the UK CRR as applied and modified by Section 3.5 of MIFIDPRU – Tier 2 capital.

FCA investment firms are not required to hold/issue T2 capital. If no T2 has been issued or is held, enter a zero in this cell.

6A – total annual fixed overheads

The fixed overheads requirement is one quarter of the FCA investment firm's previous financial year's annual relevant expenditure after the distribution of profits. The annual relevant expenditure should be calculated in accordance with MIFIDPRU 4.5. The number

entered should be the total annual relevant expenditure, not the fixed overheads requirement.

If there has been a material increase to the FCA investment firm's relevant expenditure during the year (as specified in MIFIDPRU 4.5), the revised projected relevant expenditure should be included here.

If there has been a material decrease in the FCA investment firm's relevant expenditure during the year (as specified in MIFIDPRU 4.5), the revised projected relevant expenditure should only be included here if the firm has obtained permission from the FCA to substitute a reduced fixed overheads requirement based on that relevant expenditure.

7A – variation in fixed overheads

FCA investment firms should select 'Yes' if its FOR has changed due to a material change in its business model (as defined in MIFIDPRU 4.5). If this is the case, the number entered into cell A6 should be the equivalent annual relevant expenditure for the FCA investment firm's amended FOR.

8A – Permanent minimum requirement (PMR)

If completed on an individual basis, FCA investment firms should enter one of the following numbers:

- 75 if the firm has a PMR of £75,000
- 150 if the firm has a PMR of £150,000
- 750 if the firm has a PMR of £750,000

Where a transitional provision allows an FCA investment firm to substitute an alternative PMR, this figure should reflect its standard requirement (and not the alternative lower figure under the transitional provision).

If completed on a consolidated basis, FCA investment firms should enter the consolidated PMR, calculated in accordance with MIFIDPRU 2.5.27R.

K-factor requirements

This section does not apply to SNI firms and these firms should leave it blank. Where a non-SNI firm does not have permission to carry out the relevant activity, the cell should be left blank.

In this section, non-SNI firms should provide the relevant K-factor requirement. Values should be provided in thousands, rather than units.

For example, if the firm has calculated its average AUM to be £1 million, its K-AUM requirement is £200. The number to be entered in cell 10A is 0.2.

9A – Total K-factor requirement

FCA investment firms should enter the total amount of their K-factor requirement. This figure should be the sum of cells 10A to 23A.

10A – K-AUM

FCA investment firms should input their K-AUM requirement calculated in accordance with MIFIDPRU 4.7.

11A –K-CMH (segregated)

FCA investment firms should enter their K-CMH requirement for segregated accounts, calculated in accordance with MIFIDPRU 4.8.

A segregated account is defined in in the Handbook Glossary.

12A –K-CMH (non-segregated)

FCA investment firms should enter their K-CMH requirement for non-segregated accounts, calculated in accordance with MIFIDPRU 4.8.

A non-segregated account is an account that does not satisfy the conditions to be a segregated account.

13A – K-ASA

FCA investment firms should enter their K-ASA requirement calculated in accordance with MIFIDPRU 4.9.

Client orders handled**14A – K-COH (cash trades)**

FCA investment firms should enter their K-COH requirement for cash trades calculated in accordance with MIFIDPRU 4.10.

15A – K-COH (derivative trades)

FCA investment firms should enter their K-COH requirement for derivatives trades calculated in accordance with MIFIDPRU 4.10.

Daily Trading Flow**16A – K-DTF (cash trades)**

FCA investment firms should enter the value of their K-DTF requirement for cash trades calculated in accordance with MIFIDPRU 4.15.

17A – this cell has been deliberately left blank**18A – K-DTF (derivative trades)**

FCA investment firms should enter the value of their K-DTF requirement for derivative trades calculated in accordance with MIFIDPRU 4.15.

19A – this cell has been deliberately left blank**20A – K-NPR (K-factor requirement)**

FCA investment firms should enter the capital requirement calculated for net position risk in accordance with MIFIDPRU 4.12.

21A – K-CMG

FCA investment firms should enter the total capital requirement calculated for K-CMG in accordance with MIFIDPRU 4.13. The value given shall be the sum of the individual K-CMG requirements for each portfolio for which the firm has obtained a K-CMG permission from the FCA.

22A – K-TCD

FCA investment firms should enter their total capital requirement calculated for K-TCD in accordance with MIFIDPRU 4.14.

23A – K-CON

FCA investment firms should enter their total own funds requirement calculated for K-CON in accordance with MIFIDPRU 5.7.

Transitional requirements

This section applies to all FCA investment firms if they are relying on transitional provisions to limit their own funds requirement. Firms that are not relying on transitional provisions should leave these fields blank.

24A – Transitional requirement

FCA investment firms should enter the current amount of any transitional own funds requirement.

Note, that where an FCA investment firm changes its permissions during this period in a manner that would result in an increase in its permanent minimum requirement under MIFIDPRU, it will no longer be able to take advantage of any transitional provisions that limit its permanent minimum own funds requirement. Before the FCA will grant any change in permission, it will assess whether the investment firm is able to meet the full permanent minimum own funds requirement and any other additional requirements that may apply as a result of the change.

25A – Basis of transitional

FCA investment firms should identify by reference to the relevant provision in MIFIDPRU the transitional provision or provisions they are relying on for their own funds requirement entered in cell 24A.

Own funds threshold requirement/wind-down trigger

This section applies to all FCA investment firms.

26A – Own funds threshold requirement

An FCA investment firm should enter the higher of:

- its own assessment of its own funds threshold requirement as determined through the ICARA process (MIFIDPRU 7.6) or
- the amount specified by the FCA to be its own funds threshold requirement

It is possible that both the FCA investment firm and the FCA have determined that no additional own funds are required to that set by the MIFIDPRU 4 requirements. In this case, the FCA investment firm should enter the higher of its PMR, its FOR and its KFR (where this applies).

27A – Own funds wind-down trigger

An FCA investment firm should enter its Fixed Overhead Requirement unless the FCA has specified an alternative own funds wind-down trigger.

MIF003 – Monitoring metrics

Introduction

This data item provides the FCA with information on the size and complexity of an FCA investment firm. The data item is intended to reflect the SNI thresholds in MIFIDPRU and allows monitoring against those thresholds. It also allows the FCA to see any trends in the FCA investment firm's data. We have provided references to the underlying rules to assist in its completion.

This data item applies to all FCA investment firms. In the text below we have identified where particular data elements do not apply to all firms.

This data item should be completed on the basis of an FCA investment firm's MiFID business activities. If an FCA investment firm cannot determine the split between its MiFID activities and any other business activities it undertakes, it should count everything as being a MiFID activity for these purposes.

Consolidated reports

This form applies to both individual FCA investment firms and to consolidation groups. If completed on behalf of a consolidation group, it should be completed on the basis of the consolidated situation and references to an FCA investment firm should be taken to refer to the situation that would result if the consolidation group were treated as a single large FCA investment firm. Firms should refer to MIFIDPRU 2.5 for further information on how MIFIDPRU applies on a consolidated basis.

Currency

All figures should be reported in Sterling. Figures should be reported in 000s.

Defined Terms

The descriptions indicated in these notes are designed simply to repeat, summarise or amplify the relevant statutory or other definitions and terminology, including, where appropriate, the FCA investment firm's accounting framework, without departing from their full meaning or effect.

The terms used in this guidance note have the same meaning as the terms used in MIFIDPRU. Defined terms are not italicised in this note.

Data elements

These are referred to by row first, then column.

Basis of completion

1A – Basis of completion

Is the MIF003 report on behalf of a consolidation group? Enter 'Yes' in this cell if the report is being completed by a prudential consolidation group.

2A – details of other firms within the group

If the answer to cell 1A is yes, enter the firm reference numbers (FRN) of all the FCA regulated entities in the consolidated situation, and the group reference number, where applicable.

Metrics

FCA investment firms should only submit information for the activities they undertake at the time at which the report is submitted. Where the FCA investment firm does not undertake an activity, it should leave the field blank. Unless specified, we are not asking for the K-factor requirement but the value of the underlying activity that is used to calculate the K-factor requirement.

3A – AUM

Enter the average AUM as calculated in accordance with MIFIDPRU 4.7. This will be the value used to calculate K-AUM.

The next three fields ask for the AUM at a point in time, rather than an average over a specific time period. FCA investment firms should use the value of AUM as at the last business day of each calendar month.

Where an FCA investment firm cannot determine the split of AUM for MiFID and non-MiFID activities, it must report its total AUM here.

4A – AUM at T

Enter the assets under management on the reporting date.

5A – AUM at T-1 month

Enter the total assets under management on the last working day of the month before the reporting date.

6A – AUM at T-2 months

Enter the total assets under management on the last working day of the second month before the reporting date.

7A – CMH (segregated)

Enter the average CMH held in segregated accounts as calculated in accordance with MIFIDPRU 4.8. This is the amount of MiFID client money (as defined in the Handbook Glossary) that the firm holds in segregated accounts. This will be the value used to calculate K-CMH (segregated).

A segregated account is defined in in the Handbook Glossary.

The next three fields ask for the CMH (segregated) at a point in time, rather than an average over a specific time period. FCA investment firms should use the value of CMH on the last business day of each calendar month. Over time this will provide us with a time series of the actual CMH of the FCA investment firm.

Where an FCA investment firm cannot determine the split of CMH (segregated) for MiFID and non-MiFID activities, it must report its total CMH (segregated) here.

8A – CMH (segregated) at T

Enter the amount of MiFID client money in segregated accounts on the reporting date.

9A – CMH (segregated) at T – 1 month

Enter the amount of MiFID client money in segregated accounts on the last working day of the month before the reporting date.

10A – CMH (segregated) at T – 2 months

Enter the amount of MiFID client money in segregated accounts on the last working day of the second month before the reporting date.

11A – CMH (non-segregated)

Enter the average CMH held in non-segregated accounts as calculated in accordance with MIFIDPRU 4.8. This is the amount of MiFID client money (as defined in the Handbook Glossary) that the firm holds in non-segregated accounts. This will be the value used to calculate K-CMH (non-segregated).

A non-segregated account is an account that does not satisfy the conditions to be a segregated account.

The next three fields ask for the CMH (non-segregated) at a point in time, rather than an average over a specific time period. FCA investment firms should use the value of CMH on the last business day of each calendar month. Over time this will provide us with a time series of the actual CMH of the FCA investment firm.

Where an FCA investment firm cannot determine the split of CMH (non-segregated) for MiFID and non-MiFID activities, it must report its total CMH (non-segregated) here.

12A – CMH (non-segregated) at T

Enter the amount of MiFID client money in non-segregated accounts on the reporting date.

13A – CMH (non-segregated) at T – 1 month

Enter the amount of MiFID client money in non-segregated accounts on the last working day of the month before the reporting date.

14A – CMH (non-segregated) at T – 2 months

Enter the amount of MiFID client money in non-segregated accounts on the last working day of the second month before the reporting date.

15A – ASA

Enter the average ASA, calculated in accordance with MIFIDPRU 4.9. ASA is the amount of client assets safeguarded and administered by the firm, where such assets are held in connection with MiFID business. This includes where such assets have been deposited by the firm into accounts opened with third parties.

The next three fields ask for the ASA at a point in time, rather than an average over a specific time period. FCA investment firms should use the value of ASA on the last business day of each calendar month. Over time this will provide us with a time series of the actual ASA of the FCA investment firm.

Where an FCA investment firm cannot determine the split of ASA for MiFID and non-MiFID activities, it must report its total ASA here.

16A – ASA at T

Enter the total amount of assets safeguarded and administered in connection with the FCA investment firm's MiFID business on the reporting date.

17A – ASA at T – 1 month

Enter the total amount of assets safeguarded and administered in connection with MiFID business on the last working day of the month before the reporting date.

18A – ASA at T – 2 months

Enter the total amount of assets safeguarded and administered in connection with MiFID business on the last working day of the second month before the reporting date.

The next 2 fields ask for average COH, both cash and derivatives, that the firm will then use to calculate its K-COH requirement. The K-COH requirement should not be input here.

19A – COH (cash)

Enter the average COH for cash trades, calculated in accordance with MIFIDPRU 4.10 on the reporting date.

20A – COH (derivatives)

Enter the average COH for derivatives trades, calculated in accordance with MIFIDPRU 4.10 on the reporting date.

21A – On- and off-balance sheet total

Enter the sum of the on- and off-balance sheet assets using figures from the last financial year for which accounts have been finalised and approved by the management body.

Where the accounts have not been finalised and approved after 6 months from the end of the previous financial year, provisional figures may be used.

22A – Annual gross revenue from MiFID services and activities

Enter the sum of the annual gross revenues from MiFID services and activities using figures from the last financial year for which accounts have been finalised and approved by the management body.

Where the accounts have not been finalised and approved after 6 months from the end of the previous financial year, provisional figures may be used.

Where an FCA investment firm cannot determine the split of revenue between MiFID and non-MiFID activities, it must report its total revenue here (i.e. effectively, it should assume that all revenue results from MiFID services and activities).

23A – Permission to deal on own account

Indicate if the FCA investment firm has permission to deal on own account.

If the report is being completed on behalf of a consolidation group, enter a 'Yes' in this cell where any FCA regulated entity within the group has permission to deal on own account for MiFID business.

MIF004 – Non-K-CON Concentration risk monitoring

Introduction

This data item provides the FCA with information on where the FCA investment firm may have various types of concentration risk. We have provided references to the underlying rules to assist in its completion.

This data item only applies to a non-SNI FCA investment firm. We have specified where particular data items do not apply to all non-SNIs. Firms should only complete the sections where they undertake the activity. Where a section does not apply to a particular firm, it should enter 'N/A' into the first field in that section. For example, a firm that does not hold client money will put 'N/A' in cell 13A.

Information provided in the section on earnings (Rows 28 to 31) can be taken from quarters based on their most recent accounting reference date.

Consolidated reports

This form applies to both individual FCA investment firms and to consolidation groups. If completed on behalf of a consolidation group, it should be completed on the basis of the consolidated situation and references to an FCA investment firm should be taken to refer to the situation that would result if the consolidation group were treated as a single large FCA investment firm. Firms should refer to MIFIDPRU 2.5 for further information on how MIFIDPRU applies on a consolidated basis.

Currency, figures and percentages

Unless specified as a percentage, all figures should be reporting in Sterling. Figures should be reported in 000s. Percentages should be rounded to the nearest whole number.

Defined Terms

The descriptions indicated in these notes are designed simply to repeat, summarise or amplify the relevant statutory or other definitions and terminology, including, where appropriate, the FCA investment firm's accounting framework, without departing from their full meaning or effect.

The terms used in this guidance have the same meaning as the terms used in MIFIDPRU. Defined terms are not italicised in this note.

Data elements

These are referred to by row first, then column.

In this report, we are asking for the location of the FCA investment firm's client money and client securities, where these relate to its MiFID investment business, and the FCA investment firm's own cash. By location we mean the entities the investment firm uses for these purposes. We are also asking for information about the source of an FCA investment firm's earnings.

This is a broader concept than would generally be considered a concentration risk and that previously used in the CRR for large exposures. However, the potential risk from these areas is something that we require investment firms to monitor.

Basis of completion

1A – Basis of completion

Is the MIF004 report on behalf of a consolidation group? Enter 'Yes' in this cell if the report is being completed by a prudential consolidation group.

2A – details of other firms within the group

If the answer to cell 1A is yes, enter the firm reference numbers (FRN) of all the FCA regulated entities in the consolidated situation, and the group reference number, where applicable.

All positions or exposures (not including intragroup exposures)

This section only applies to FCA investment firms who deal on own account. These firms should report the total value of all exposures or positions to a counterparty, including exposures in and outside of its trading book, such as bilateral loans.

Firms should include positions or exposures to central governments, public sector entities, or other exposures that are excluded from K-CON under MIFIDPRU 5.10.1R, except that they should not include intragroup exposures. Intragroup exposures are captured in a separate data item.

Row 3 will indicate where the largest exposure/position with a counterparty is, followed by rows 3 to 7 in decreasing amounts. If a firm has less than 5 exposures, it should leave subsequent rows blank.

Where firms have exposures to multiple counterparties who constitute a single group of connected clients under MIFIDPRU 5 (Concentration risk), they should report separately on each counterparty for the purposes of this data item. However, firms are reminded that MIFIDPRU 5.2 requires them to account for groups of connected clients when monitoring and controlling concentration risk.

Cells 3A to 7A, inclusive – LEI number

Enter the Legal Entity Identifier (LEI) number of up to 5 counterparties that the FCA investment firm has the largest exposures/positions with. The LEI number must be used if available. If the counterparty does not have an LEI number, the FCA investment firm should use its internal reference number for that counterparty. This internal reference number should be consistent over time and across regulatory returns.

Cells 3B to 7B, inclusive – value of exposures/positions with that counterparty

Enter the total amount of the exposures/positions held with each counterparty, starting with the largest.

Intragroup exposures

This section only applies to FCA investment firms who deal on own account. By intragroup we mean exposures to other entities within the same group. Group for these purposes is as defined in s.421 of the Financial Services and Markets Act 2000 (FSMA). It is not limited to other entities within the FCA investment firm's consolidated situation.

Where this section is being completed on the basis of the consolidated situation, there may still be intragroup exposures from inside the consolidated situation to entities that are part of the same group, as defined in s.421 FSMA, but are outside of the consolidated situation.

FCA investment firms that are completing the form on a consolidated basis should not include intragroup exposures between firms that are part of the consolidated situation.

Firms should report the total value of all exposures or positions to a counterparty, including exposures in and outside of its trading book, such as bilateral loans.

Firms should provide details of the largest 5 intragroup exposures only. These could be to another group FCA investment firm, or to any other entity within the group. This section can be left blank where there are no intragroup exposures.

Row 8 will indicate where the largest exposure/position with a counterparty is, followed by rows 9 to 12 in decreasing amounts. If a firm has less than 5 exposures, it should leave subsequent rows blank.

Cells 8A to 12A, inclusive – LEI number

Enter the LEI number of up to 5 group entities that the FCA investment firm has the largest exposures/positions with. The LEI number must be used if available. If the counterparty does not have an LEI number, the FCA investment firm should use its FRN, if available. If the counterparty has neither an LEI nor an FRN it should use its internal reference number for that counterparty. This internal reference number should be consistent over time and across regulatory returns.

Cells 8B to 12B, inclusive – value of exposures/positions with that counterparty

Enter the total amount of the exposures/positions held with each counterparty, starting with the largest.

Location of client money

This section only applies to FCA investment firms that have permission to hold client money. It only relates to MiFID client money (as defined in the Glossary). If a firm is unable to determine whether an amount of client money is MiFID client money, it must treat it as being MiFID client money for these purposes.

Row 13 will indicate where the largest percentage of the FCA investment firm's MiFID client money is held, followed by rows 14 to 17 in decreasing amounts. If an FCA investment firm uses less than five entities to hold its MiFID client money, it should leave subsequent rows blank. In that case, the sum of percentages should be 100%.

Cells 13A – 17A, inclusive – LEI number

Enter the LEI number of up to five entities where MiFID client money is placed, beginning with the largest percentage. The LEI must be used if available. Where cash has been placed with a money market fund (MMF), the LEI of the MMF itself must be reported. If an LEI is not available, the FRN must be used where available. If the entity does not have an LEI number or an FRN, the FCA investment firm should use its internal reference number for that counterparty. This internal reference number should be consistent over time and across regulatory returns.

Cells 13B – 17B, inclusive – percentage of client money held at that institution

Enter the percentage of MiFID client money held at each institution, starting with the largest. Percentages should be rounded to the nearest whole number.

Cells 13C to 17C, inclusive – MMF (Yes/No)

Specify "Yes" or "No" to indicate if the cash has been placed with a money market fund (MMF) rather than deposited with a credit institution or central bank.

Location of client securities

This section only applies to FCA investment firms that have permission to hold client securities/assets. It relates to client securities/assets held in connection with the FCA investment firm's MiFID business.

Row 18 will indicate where the largest percentage of the FCA investment firm's client securities are held, followed by rows 19 to 22 in decreasing amounts. If an FCA investment firm uses less than five entities to hold its client securities, it should leave subsequent rows blank. In that case, the sum of percentages should be 100%.

Cells 18A to 22A, inclusive – LEI number

Enter the LEI number of up to five institutions where its client securities are held, beginning with the largest percentage. The LEI must be used if available. If not, the FRN must be used if available. If the entity does not have an LEI number or an FRN, the FCA investment firm should use its internal reference number for that counterparty. This internal reference number should be consistent over time and across regulatory returns.

Cells 18B to 22B, inclusive – percentage of client securities held at that institution

Enter the percentage of client securities held at each institution, starting with the largest. Percentages should be rounded to the nearest whole number.

Location of the investment firm's own cash and holdings in MMFs

Row 23 will indicate where the largest percentage of the FCA investment firm's own cash is held, followed by rows 24 to 27 in decreasing amounts. If an FCA investment firm uses less than five entities to hold its own cash, it should leave subsequent rows blank. In that case, the sum of percentages should be 100%.

For these purposes, FCA investment firms should report their holdings in money market funds (MMFs) alongside their holdings in cash (e.g. on deposit at a credit institution).

Cells 23A to 27A, inclusive – LEI number

FCA investment firms should enter the LEI number of up to five institutions where its own cash is held or MMFs it has holdings in, beginning with the largest percentage. The LEI must be used if available. For holdings in a money market fund (MMF), the LEI of the MMF itself must be reported. If an LEI is not available, the FRN must be used. If the entity does not have an LEI number or an FRN, the FCA investment firm should use its internal reference number for that institution. This internal reference number should be consistent over time and across regulatory returns.

Cells 23B to 27B, inclusive – percentage of FCA investment firm's own cash/MMF holdings at that institution

FCA investment firms should enter the percentage of its own cash/MMF holdings at each institution, calculated as a proportion of the value of its total combined cash and MMF holdings, and starting with the largest. Percentages should be rounded to the nearest whole number.

Cells 23C to 27C, inclusive – MMF (Yes/No)

Indicate if the cash has been placed with an MMF rather than e.g. deposited with a credit institution.

Earnings

Information provided in this section can be taken from quarters based on the most recent accounting reference date.

Row 23 will indicate where the largest percentage of the FCA investment firm's earnings are from, followed by rows 24 to 27 in decreasing amounts. If an FCA investment firm's earnings are from less than five sources, it should leave subsequent rows blank. In that case, the sum of percentages should be 100%.

Earnings includes all earnings from regulated or unregulated activities, not just earnings from MiFID business. This should include any earnings from group members, e.g. in exchange for the provision of intragroup services.

Cells 28A to 32A, inclusive – LEI number

FCA investment firms should enter the LEI number of up to five clients from which it generates its earnings, beginning with the largest percentage. The LEI must be used if available. If not, the FRN must be used. If the client does not have an LEI number or an FRN, the FCA investment firm should use its internal reference number for that client. This internal reference number should be consistent over time and across regulatory returns.

A client may be an institution or a natural person. Where the client is a natural person, the FCA investment firm should use its own internal reference number for that client. This internal reference number should be consistent over time and across regulatory returns.

Cells 28B to 32B, inclusive – percentage of total revenue earned from the client

FCA investment firms should enter the percentage of its earnings from each client, starting with the largest. Percentages should be rounded to the nearest whole number.

Cells 28C to 32C, inclusive – type of earning

FCA investment firms should indicate the type of earning that they are reporting. It may include more than one type of income stream. Where this is the case, FCA investment firms should list the main income type for that client. Options include:

- Interest and dividend income from trading book positions
- Interest and dividend income from non-trading book positions
- Fee and commission income
- Provision of intragroup services
- Other sources of income

MIF005 – K-CON – concentration risk reporting where the ‘soft limit’ has been exceeded

Introduction

This data item only applies to non-SNI FCA investment firms who deal on own account. It provides the FCA with information about the FCA investment firm’s balance sheet concentration risk and any additional own funds that the firm is required to hold as a result. We have provided references to the underlying rules to assist in its completion.

Consolidated reports

This form applies to both individual FCA investment firms and to consolidation groups. If completed on behalf of a consolidation group, it should be completed on the basis of the consolidated situation and references to an FCA investment firm should be taken to refer to the situation that would result if the consolidation group were treated as a single large FCA investment firm. Firms should refer to MIFIDPRU 2.5 for further information on how MIFIDPRU applies on a consolidated basis.

Currency and figures

All figures should be reporting in Sterling. Figures should be reported in 000s.

Defined Terms

The descriptions indicated in these notes are designed simply to repeat, summarise or amplify the relevant statutory or other definitions and terminology, including, where appropriate, the FCA investment firm’s accounting framework, without departing from their full meaning or effect.

The terms used in this guidance have the same meaning as the terms used in MIFIDPRU. Defined terms are not italicised in this note.

Groups of connected counterparties

MIFIDPRU 5 (Concentration risk) requires FCA investment firms to treat exposures to a group of connected counterparties (referred to in the rules as a “group of connected clients”) as a concentrated exposure to a single counterparty for the purpose of calculating K-CON. Where an FCA investment firm has a concentrated exposure to a group of connected counterparties, it should report this as a single item, rather than reporting separately on the connected counterparties in the group.

Data elements

These are referred to by row first, then column.

Instructions

This section asks FCA investment firms to provide additional information relating to their trading book exposures that exceed the ‘soft limit’, which is generally 25% of their own funds but may be the lower of £150 million or 100% of own funds if a client is a MIFIDPRU-eligible institution. Trading book exposures above this limit require K-CON to be calculated and additional own funds to be held.

Cell 1A – Basis of completion

Is the MIF005 report on behalf of a consolidation group? Enter ‘Yes’ in this cell if the report is being completed by a prudential consolidation group.

Cell 2A – Details of other firms within the group

If the answer to cell 1A is yes, enter the firm reference numbers (FRN) of all the FCA regulated entities in the consolidated situation, and the group reference number, where applicable.

Cell 3A – LEI number

Enter the LEI number of the counterparty, where the 'soft limit', as outlined in MIFIDPRU 5.5, has been exceeded. If the counterparty does not have an LEI number, the FCA investment firm should use its internal reference number for that counterparty. This internal reference number should be consistent over time and across regulatory returns.

For a group of connected counterparties, the FCA investment firm should use an LEI number for one member of the group, but this number should be used consistently over time and across regulatory returns to refer to the relevant group of connected counterparties. If none of the connected counterparties has an LEI number, the FCA investment firm should use its internal reference number for that group of connected counterparties, or if it does not have one for that group, then its internal reference number for an individual counterparty within that group. This internal reference number should be consistent over time and across regulatory returns.

Cell 3B – Exposure Value

Enter the exposure value for that counterparty/group of connected counterparties as calculated in accordance with MIFIDPRU 5.4.

Cell 3C – Exposure Value Excess

Enter the exposure value excess for that counterparty/group of connected counterparties as calculated in accordance with MIFIDPRU 5.5.

Cell 3D – Own funds requirement for that excess

Enter the own funds requirement for the excess for that counterparty/group of connected counterparties as calculated in accordance with MIFIDPRU 5.7.

Cell 3E - £150m/100% limit for MIFIDPRU-eligible institutions used (Yes/No)

Indicate if the counterparty/group of connected counterparties includes a credit institution or an FCA investment firm, and the £150m/100% limit in MIFIDPRU 5.5.1R is being used, where this is higher than 25% of its own funds.

MIF006 – GCT reporting – instructions for completion

The aim of this data item is to ensure that any parent undertakings that have investments in relevant financial undertakings (as defined in the Glossary) in the same investment firm group are holding appropriate amounts and quality of capital to cover the value of those investments.

The quality of capital held by the parent undertaking should be at least equivalent to the quality of capital that has been invested by the parent undertaking in the relevant financial undertakings forming part of the same investment firm group. The template must be completed by the parent undertaking that has to meet the GCT requirement in MIFIDPRU 2.6.5R.

The exception is a responsible UK parent which, in accordance with MIFIDPRU 2.6.10R(2)(b)(i), is reporting on the position of one of its subsidiaries that is a parent undertaking of another relevant financial undertaking. In that case, the responsible UK parent must submit two MIF006 reports: one containing data relating to that third country undertaking; the other containing data relating to the responsible UK parent itself.

However, if the responsible UK parent has chosen to hold own funds instruments to cover the group capital test requirements in relation to both itself and a subsidiary in accordance with MIFIDPRU 2.6.10R(2)(b)(ii), the responsible UK parent will submit only one MIF006 report. In that case, the responsible UK parent should complete MIF006 by including information relating to its own direct investments in relevant financial undertakings and the relevant investments of its subsidiary.

Currency

All figures should be reporting in Sterling. Figures should be reported in 000s.

Defined Terms

The descriptions indicated in these notes are designed simply to repeat, summarise or amplify the relevant statutory or other definitions and terminology, including, where appropriate, the FCA investment firm's accounting framework, without departing from their full meaning or effect.

The terms used in this guidance have the same meaning as the terms used in MIFIDPRU. Defined terms are not italicised in this note.

Cell 1A

The parent undertaking should enter its name – free text.

Cell 2A

The parent undertaking should enter its FCA firm reference number (FRN). If the parent undertaking does not have an FRN, it may be a third country parent or an unregulated UK parent, and its LEI number should be entered.

Identifying the relevant subsidiaries

The relevant subsidiaries for the purposes of the group capital test are:

- FCA investment firms
- Collective portfolio management investment firms

- Financial institutions (including authorised payment institutions, electronic money issuers and AIFMD and UCITS collective portfolio management firms)
- Ancillary services undertakings
- Tied agents – including appointed representatives that meet the definition of tied agent

Cell 3aA

The FRN of the subsidiary firm 3a. If the subsidiary does not have an FRN, its LEI number should be entered.

Cell 3aB

A parent undertaking may choose to hold own funds instruments to cover the GCT requirements of a subsidiary that is a parent undertaking of another relevant financial undertaking. In this case, it will indicate in this cell that the firm identified in cell 3aA is an indirect subsidiary.

The information in cells 3aA and 3aB should be repeated for all the relevant subsidiaries of the parent undertaking.

Capital of the parent undertaking**Cell 4A – CET1**

The parent undertaking should enter the amount of its own CET1 own funds.

Cell 5A – AT1

The parent undertaking should enter the amount of its own AT1 own funds.

Cell 6A – T2

The parent undertaking should enter the amount of its own T2 own funds.

Book value and type of investments/contingent liabilities in subsidiaries**Cell 7a1A**

The parent undertaking should enter its total CET1 investment in subsidiary 3a.

Cell 7a2A

The parent undertaking should enter its total AT1 investment in subsidiary 3a.

Cell 7a3A

The parent undertaking should enter its total T2 investment in subsidiary 3a.

Cell 7a4A

The parent undertaking should enter its total contingent liabilities to subsidiary 3a.

Note: The parent undertaking must hold CET1 capital against any contingent liabilities it has in respect of subsidiary 3a.

These fields are repeated for all the subsidiaries listed.

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 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 a permission to which it relates, except to the extent that the *FCA* revokes, varies or replaces the 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 is deemed to have been granted for its remaining duration on equivalent terms by the *FCA* under the corresponding provision in column (B) of that table.
- 1.6 R This table belongs to *MIFIDPRU* TP 1.5R.

(A)	(B)
UK CRR permission granted before [<i>Editor's note: insert date that</i>	Deemed basis for permission on or after [<i>Editor's note: insert date</i>

MIFIDPRU sourcebook begins to apply]	that MIFIDPRU sourcebook begins to apply]
Article 26(2) <i>UK CRR</i> : inclusion of interim or year-end profits in <i>common equity tier 1 capital</i> before the <i>firm</i> has taken a formal decision confirming the final profit or loss for the year	<i>MIFIDPRU</i> 3.3.2R
Article 26(3) <i>UK CRR</i> : classification of an issuance of capital instruments as <i>common equity tier 1 capital</i>	<i>MIFIDPRU</i> 3.3.3R

- 1.7 G The effect of *MIFIDPRU* TP 1.5 and *MIFIDPRU* TP 1.6 is that a 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 permission 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 satisfied the conditions to be classified as *additional tier 1 instruments* under 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, by no later than [*Editor's note*: insert date one month after the date that *MIFIDPRU* sourcebook begins to apply], a *MIFIDPRU investment firm* must:

- (a) notify the *FCA* using the form in *MIFIDPRU* TP 1 Annex 1R, submitted via the *online notification and application* system, to confirm whether:
- (i) the relevant instruments satisfy the conditions in *MIFIDPRU* 3.4 to be classified as *additional tier 1 instruments*; or
 - (ii) the relevant instruments do not satisfy the relevant conditions in *MIFIDPRU* 3.4 and the *firm* has therefore ceased to recognise them as part of its *additional tier 1 capital* or has otherwise redeemed or replaced them; or
- (b) apply 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* may have issued instruments that, immediately before [*Editor's note: insert date that MIFIDPRU sourcebook begins to apply*], met the conditions in the *UK CRR* (in the form in which it then stood) to be classified as *additional tier 1 instruments* and 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 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* is defined by reference to different criteria.
- 1.10 G An *additional tier 1 instrument* issued before [*Editor's note: insert date that MIFIDPRU sourcebook begins to apply*] under the *UK CRR* may satisfy 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 for existing *additional tier 1 instruments* issued under the *UK CRR* before [*Editor's*

*note: insert date that MIFIDPRU sourcebook begins to apply], to allow those instruments to be recognised as *additional tier 1 instruments* under *MIFIDPRU*.*

- (2) In the application, the *FCA* would expect a *firm* to 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 grant it on a temporary basis to facilitate the *firm's* orderly transition to the *MIFIDPRU* regime.

Notification under MIFIDPRU TP 1.8R – treatment of instruments formerly classified as AT1 under UK CRR

**TP1
Annex
1R** [*Editor's note:* The form can be found at this address:
[https://www.fca.org.uk/publication/forms/\[xxx\]](https://www.fca.org.uk/publication/forms/[xxx])]

TP 2 Own funds requirements: transitional provisions

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 smooth 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 for 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 alternative requirements for 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” is 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 UK version of the remaining CRR 2 amendments to the UK CRR 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 provisions 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]¹⁶; 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.
- 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. *MIFIDPRU* TP 2.13R to *MIFIDPRU* 2.18R set out the circumstances in which separate transitional arrangements may also apply to the *permanent minimum capital requirement* of a former *IFPRU investment firm* or *BIPRU firm*.
- (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* must still 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* applies the transitional arrangements in *MIFIDPRU* TP 2.7, the alternative requirement under *MIFIDPRU* TP 2.7R(3) reflects how the previous requirements under

¹⁶ *Editor's note*: The references to *MIFIDPRU* 4.5 will be confirmed following feedback on CP21/7.

the *UK CRR* or *GENPRU* would have applied 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* under *MIFIDPRU* 9.

Transitional provisions 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) 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) 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*]:
- (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 provisions 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) for 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* calculated in accordance with *MIFIDPRU* [4.5] from time to time.

Transitional provisions 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) for 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 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.
- (4) This *rule* is subject to *MIFIDPRU* TP 2.19R.

Transitional provisions 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) for 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.
- 2.14 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 125K 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) for 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.

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) for 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 year 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.

Transitional provisions 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) for 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*.
- 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 provisions 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) for 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; or
 - (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 year 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 because of changes to a firm's permissions

- 2.19 R The transitional arrangements in *MIFIDPRU* TP 2.12R to 2.16R cease to apply if there is a change to the *permissions* of the relevant *MIFIDPRU investment firm* on or after [*Editor's note*: insert the date on which MIFIDPRU begins to apply] that increases the *permanent minimum capital requirement* that would apply to the *firm* under *MIFIDPRU* 4.4.

Transitional provisions for own funds requirement: former local firms

- 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) for 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.

Transitional provisions for fixed overheads and K-factor requirements: exempt commodities firms

- 2.21 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) an *exempt IFPRU commodities firm*; or
 - (b) an *exempt BIPRU commodities 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 (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) Subject to (6), 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 have applied 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.
- (6) When determining the amount of the financial resources requirement under *IPRU(INV) 3* for the purposes of (5), a *firm* may determine the delta of an option as follows:
- (a) if an option is traded on an exchange, the *firm* must use the delta provided by that exchange; or
 - (b) if the delta is not available from the exchange, or if the option is an over-the-counter option, the *firm* may use its own estimates of delta where the conditions in *MIFIDPRU 4.12.10R* are met.

- 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. 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. The *firm* should therefore recalculate the alternative requirement under *IPRU(INV)* 3 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* under *MIFIDPRU* 9.

Transitional provisions 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) for 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 = the *K-factor requirement* that would apply to the individual *MIFIDPRU investment firm* under *MIFIDPRU 4*, ignoring any transitional relief under *MIFIDPRU TP 2*.

K = the alternative requirement that applies to the *MIFIDPRU investment firm* under *MIFIDPRU TP 2* in place of the individual *K-factor requirement*. If no alternative requirement applies to the *firm* in place of its individual *K-factor requirement*, the value of K 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
 - (ii) for other *MIFIDPRU investment firms*, the individual *K-factor requirement*.

TP 3 Group capital test: transitional arrangements

Application

- 3.1 R *MIFIDPRU TP 3* applies to:
- (1) a *MIFIDPRU investment firm*;
 - (2) a *UK parent entity*; and

- (3) a *GCT 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 under *MIFIDPRU* 2.4.17R, provided that certain conditions are met.

Temporary application of the group capital test

- 3.3 R (1) This *rule* applies 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* under *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* 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) the date 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, even though the *FCA* has not granted permission to use the *group capital test* under *MIFIDPRU* 2.4.17R.
- 3.4 G Under *MIFIDPRU* 2.4.18R(2)(g), an application submitted under *MIFIDPRU* 2.4.17R must demonstrate 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 explain the timeframe in which the *investment firm group* would expect to comply with the consolidated requirements. If the *FCA* does not grant the application, it will use this

information to determine an appropriate date under *MIFIDPRU* TP 3.3R(2)(b) on which the transitional arrangements will end.

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 of 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* because 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 when 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 provisions 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
 - (f) its *K-CMG requirement*.

- (2) Subject to *MIFIDPRU* TP 4.13R(2)(a), 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) as an exception to 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 *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* must therefore use the standard calculation *rules* in *MIFIDPRU* 4 for 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. A *firm* must begin collecting data on its *K-factor metrics* no later than the date that *MIFIDPRU* begins to apply. Therefore, a *MIFIDPRU investment firm* 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 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 for a specific *K-factor metric*.
- (2) A *firm* may apply different approaches under *MIFIDPRU* TP 4.5R(2) for different *K-factor metrics*.
- 4.8 G *MIFIDPRU* TP 4.7R prevents a *firm* from changing its approach to missing historical data points for 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*.
- 4.9 R If the *FCA* requests it, a *firm* that uses reasonable estimates in accordance with *MIFIDPRU* TP 4.5R(2)(a) must explain how it has determined the relevant estimates.
- 4.10 G If a *firm* does not have a reasonable basis on which to estimate missing historical data points for a *K-factor metric*, it should apply the modified calculation in *MIFIDPRU* TP 4.11R.
- 4.11 R (1) A *firm* that is using the modified calculation for determining a *K-factor metric*, other than for 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:
- (i) zero; or

- (ii) n minus x ; and
 - (d) x is a fixed value, being:
 - (i) 12 for *AUM*;
 - (ii) 6 for *CMH*, *ASA* or *DTF*; and
 - (iii) 3 for *COH*.
 - (2) A *firm* that uses 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 for *AUM*. *MIFIDPRU* has been in force for 6 months. Firm A would calculate its *AUM* as follows:
 - (a) the value of n is 6, being the length of time that *MIFIDPRU* has been in force;
 - (b) 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; and
 - (c) 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 for *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:
 - (a) the value of n is 4, being the length of time that *MIFIDPRU* has been in force;

- (b) the value of y is 1, as n minus x (i.e. 4 minus 3) is greater than zero; and
 - (c) 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 for *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 provisions 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 *MIFIDPRU* TP 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) to calculate 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) to calculate 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) a reference to a “*K-factor metric*” is a reference to that *K-factor metric* as it applies on a *consolidated basis*;
 - (2) a reference to the “*K-AUM requirement*”, “*K-COH requirement*”, “*K-ASA requirement*”, “*K-CMH requirement*”, “*K-DTF requirement*” or “*K-CMG requirement*” is a reference to those requirements as they apply on a *consolidated basis*;

- (3) a reference to *MIFIDPRU* 4 is a reference to that chapter as it applies on a *consolidated basis* in accordance with *MIFIDPRU* 2.5; and
- (4) a reference to a “*firm*” is a reference to the *UK parent entity*.
- 4.15 G (1) Under *MIFIDPRU* 2.5, a *third country* entity that would be a *MIFIDPRU investment firm* if it 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, under *MIFIDPRU* 2.5.9R, a *UK parent entity* must ensure 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 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:
- (a) for a *MIFIDPRU investment firm*, data on the *K-factor metrics* that the *firm* would be required to collect to calculate its individual *K-factor requirement* if *MIFIDPRU* applied in full; and
- (b) for a *UK parent entity*, data on the *K-factor metrics* that the *investment firm group* would be required to collect to calculate its *K-factor requirement* on a *consolidated basis* if *MIFIDPRU* applied in full.
- 5.5 G *MIFIDPRU* TP 5.4R only requires a *firm* or *parent undertaking* to collect data on *K-factor metrics* that are relevant to the *investment services/and or activities* that it carries on (or in the case of a *parent undertaking*, that relevant entities within its *investment firm group* carry on).

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

...

- 16.1.3 R Application of different sections of SUP 16 (excluding SUP 16.13, SUP 16.15, SUP 16.16, SUP 16.17, SUP 16.22 and SUP 16.26)

(1) Section(s)	(2) Categories of firm to which section applies	(3) Applicable rules and guidance
...		
SUP 16.18	<i>A full-scope UK AIFM and a small authorised UK AIFM</i>	SUP 16.8.3R
SUP 16.20	An IFPRU 730k firm <u>A firm to which MIFIDPRU 4.4.1R applies</u> and a <i>qualifying parent undertaking</i> that is required to send a <i>recovery plan</i> , a <i>group recovery plan</i> or information for a resolution plan to the FCA	Entire Section
...		

...

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.

(1)	(2)
RAG	Firm type
1	<i>UK bank</i>
	<i>Dormant account operator</i>
	<i>A non-UK bank</i>
2.2	The <i>Society</i>
3	<i>IFPRU investment firms</i> <i>MIFIDPRU investment firms</i>

	<i>BIPRU firms</i>
	<i>Exempt CAD firms</i> subject to <i>IPRU (INV)</i> Chapter 13
	All other <i>firms</i> subject to the following chapters in <i>IPRU(INV)</i> :
	(1) Chapter 3
	(2) Chapter 5
	(3) Chapter 9
4	<i>IFPRU investment firms</i> <u><i>MIFIDPRU investment firms</i></u>
	<i>BIPRU firms</i>
	<i>Exempt CAD firms</i> subject to <i>IPRU (INV)</i> Chapter 13
	<i>Collective portfolio management firm</i>
	All other <i>firms</i> subject to the following chapters in <i>IPRU(INV)</i> :
	(1) Chapter 3
	(2) Chapter 5
	(3) Chapter 9
	(5)(4) Chapter 12
5	All <i>firms</i>
6	All <i>firms</i> other than <i>firms</i> subject to <i>IPRU (INV)</i> Chapter 13 that are not exempt CAD firms
7	<i>IFPRU investment firms</i> <u><i>MIFIDPRU investment firms</i></u>
	<i>BIPRU firms</i>
	<i>Exempt CAD firms</i> subject to <i>IPRU (INV)</i> Chapter 13
8	All <i>firms</i> other than <i>firms</i> subject to <i>IPRU (INV)</i> Chapter 13 that are not exempt CAD firms

...

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*.

(1)	(2)
RAG	Firm type
1	<i>UK bank</i>
3	<i>IFPRU investment firm</i> <u><i>MIFIDPRU investment firm</i></u>
	<i>BIPRU firm</i>
4	<i>IFPRU investment firm</i> <u><i>MIFIDPRU investment firm</i></u>
	<i>BIPRU firm</i>
7	<i>IFPRU investment firm</i> <u><i>MIFIDPRU investment firm</i></u>
	<i>BIPRU firm</i>

...

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

...

Purpose

- 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~~ rules containing *data items*, frequency and submission periods

		(1)	(2)	(3)	(4)
RAG number	Regulated Activities	Provisions containing:			
		applicable data items	reporting frequency / period	due date	

<p>RAG 1</p>	<ul style="list-style-type: none"> • accepting deposits • <i>meeting of repayment claims</i> • <i>managing dormant account funds (including the investment of such funds)</i> 	<p>RAG 1 firms should complete their prudential reporting requirements as set out in the PRA Rulebook.</p>		
<p>...</p>	<p>...</p>			
<p>RAG 3</p>	<ul style="list-style-type: none"> • 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) 	<p>SUP 16.12.10R SUP 16.12.11R except FSA001 and FSA002 on consolidated basis for FINREP firms</p>	<p>SUP 16.12.10R SUP 16.12.12R</p>	<p>SUP 16.12.10R SUP 16.12.13R</p>
<p>RAG 4</p>	<ul style="list-style-type: none"> • managing investments • establishing, 	<p>SUP 16.12.14R SUP 16.12.15R;</p>	<p>SUP 16.12.14R</p>	<p>SUP 16.12.14R</p>

	<p>operating or winding up a collective investment scheme</p> <ul style="list-style-type: none"> • establishing, operating or winding up a stakeholder pension scheme • establishing, operating or winding up a personal pension scheme • managing an <i>AIF</i> • <i>managing a UK UCITS</i> • <i>operating an electronic system in relation to lending (FCA-authorized persons only)</i> 	<p>except FSA001 and FSA002 on <i>consolidated basis for FINREP firms</i></p>	<p><i>SUP</i> 16.12.16R</p>	<p><i>SUP</i> 16.12.17R</p>
...
<i>RAG 7</i>	<ul style="list-style-type: none"> • retail investment activities • advising on P2P agreements (except when carried on exclusively with or for professional clients) • advising on pensions transfers & opt-outs • arranging (bringing about deals) in retail 	<p><i>SUP</i> 16.12.22AR except FSA001 and FSA002 on <i>consolidated basis for FINREP firms</i></p>	<p><i>SUP</i> 16.12.23AR</p>	<p><i>SUP</i> 16.12.24AR</p>

	investments			
RAG 8	<ul style="list-style-type: none"> making arrangements with a view to transactions in investments operating a multilateral trading facility operating an organised trading facility 	SUP 16.12.25AR or SUP 16.12.25CR for UK designated investment firms except FSA001 and FSA002 on consolidated basis for FINREP firms	SUP 16.12.26R	SUP 16.12.27R
...

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 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.
- The reporting requirements apply even if the UK parent entity or parent undertaking is not 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 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.

	<i>Member's adviser</i>		the <i>Society</i> (note 1)		
Description of <i>data item</i>	Frequency	Submission deadline	Description of <i>data item</i>	Frequency	Submission deadline
...
Balance Sheet					
FSA001 (notes 15, note 20) or	Quarterly or half yearly	(note 14)			
...			
Large Exposures					
FSA008 (Notes note 20, 21)	Quarterly	20 <i>business days</i> (note 19)			
...			
Note 1	The <i>Society</i> must prepare its reports in the format specified in <i>IPRU(INS)</i> Appendix 9.11, unless Note 2 applies.				
...	...				
Note 14	<i>BIPRU firms</i> report half yearly on 30 <i>business days</i> submission. All UK <i>consolidation group</i> reports report half yearly on 45				

	<i>business days</i> submission. All other <i>firms</i> report monthly on 20 <i>business days</i> 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.]

<u>Description of data item</u>	<u>Firms’ prudential category and applicable data items (note 1)</u>				
	<u>MIFIDPRU investment firms</u>	<u>Firms other than MIFIDPRU investment firms</u>			
		<u>IPRU(INV) Chapter 3</u>	<u>IPRU(INV) Chapter 5</u>	<u>IPRU(INV) Chapter 9</u>	<u>IPRU(INV) Chapter 13</u>
<u>Solvency statement</u>	<u>No standard format (note 4)</u>	<u>No standard format (note 6)</u>	<u>No standard format (note 4)</u>		

<u>Balance sheet</u>	<u>FSA029</u> (note 2)	<u>FSA029</u> (note 5)	<u>FSA029</u>	<u>FSA029</u>	<u>Section A</u> <u>RMAR</u>
<u>Income statement</u>	<u>FSA030</u> (note 2)	<u>FSA030</u> (note 5)	<u>FSA030</u>	<u>FSA030</u>	<u>Section B</u> <u>RMAR</u>
<u>Capital adequacy</u>	<u>MIF001</u> (notes 2 and 3)	<u>FSA033</u> (note 5)	<u>FSA034 or</u> <u>FSA035 or</u> <u>FIN071</u> (note 7)	<u>FSA031</u>	<u>Section D1</u> <u>RMAR</u>
<u>Threshold conditions</u>					<u>Section F</u> <u>RMAR</u>
<u>Client money and client assets</u>	<u>FSA039</u>	<u>FSA039</u>	<u>FSA039</u>	<u>FSA039</u>	<u>Section C</u> <u>RMAR</u>
<u>CFTC</u>	<u>FSA040</u> (note 8)	<u>FSA040</u> (note 8)	<u>FSA040</u> (note 8)	<u>FSA040</u> (note 8)	<u>FSA040</u> (note 8)
<u>Liquidity</u>	<u>MIF002</u> (notes 2, 3 and 10)				
<u>Metrics reporting</u>	<u>MIF003</u> (notes 2 and 3)				
<u>Concentration risk (non-K-CON)</u>	<u>MIF004</u> (notes 2, 3 and 11)				
<u>Concentration risk (K-CON)</u>	<u>MIF005</u> (notes 2, 3 and 11)				

<u>Group capital test</u>	<u>MIF006</u> (notes 3 and 12)				
<u>Liquidity Questionnaire</u>	<u>MLA-M (note 9)</u>	<u>MLA-M</u> (note 9)	<u>MLA-M</u> (note 9)	<u>MLA-M</u> (note 9)	<u>MLA-M</u> (note 9)
<u>Note 1</u>	<u>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.</u>				
<u>Note 2</u>	<u>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.</u>				
<u>Note 3</u>	<u>Data items MIF001 – MIF006 must be reported in accordance with the rules in MIFIDPRU 9.</u>				
<u>Note 4</u>	<u>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.</u>				
<u>Note 5</u>	<u>Except if the firm is an adviser (as referred to in IPRU(INV) 3-60(4)R).</u>				
<u>Note 6</u>	<u>Only required in the case of an adviser (as referred to in IPRU(INV) 3-60(4)R) that is a sole trader.</u>				
<u>Note 7</u>	<u>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.</u> <u>FSA035 must be completed by a firm subject to the exemption in IPRU(INV) 5.4.2R.</u>				

<u>Note 8</u>	<u>Only applicable to firms granted a Part 30 exemption order and operating an arrangement to cover forward profits on the London Metals Exchange.</u>
<u>Note 9</u>	<u>Only applicable to RAG 3 firms carrying on home financing or home finance administration connected to regulated mortgage contracts, unless as at 26 April 2014 the firm's Part 4A permission was and remains subject to a restriction preventing it from undertaking new home financing or home finance administration connected to regulated mortgage contracts.</u>
<u>Note 10</u>	<u>Does not apply to an SNI MIFIDPRU investment firm which has been granted an exemption from the liquidity requirements in MIFIDPRU [6].</u>
<u>Note 11</u>	<u>Only applicable to a non-SNI MIFIDPRU investment firm.</u>
<u>Note 12</u>	<u>Only applicable to a parent undertaking to which the group capital test applies.</u>

16.12.11A G ~~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).~~

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

[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.]

<u>Data item</u>	<u>Non-SNI MIFIDPRU investment firm</u>	<u>SNI MIFIDPRU investment firm</u>	<u>Investment firm group</u>	<u>Firm other than a MIFIDPRU investment firm</u>
<u>Solvency statement</u>	<u>Annually</u>	<u>Annually</u>		<u>Annually</u>

<u>FSA029</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>
<u>FSA030</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>
<u>FSA031</u>				<u>Quarterly</u>
<u>FSA033</u>				<u>Quarterly</u>
<u>FSA034</u>				<u>Quarterly</u>
<u>FSA035</u>				<u>Quarterly</u>
<u>FSA039</u>	<u>Half yearly</u>	<u>Half yearly</u>		<u>Half yearly</u>
<u>FSA040</u>	<u>Quarterly</u>	<u>Quarterly</u>		<u>Quarterly</u>
<u>FIN071</u>				<u>Quarterly</u>
<u>MIF001</u>	<u>Quarterly</u> <u>(note 3)</u>	<u>Quarterly</u> <u>(note 3)</u>	<u>Quarterly</u> <u>(note 3)</u>	
<u>MIF002</u>	<u>Quarterly</u> <u>(note 3)</u>	<u>Quarterly</u> <u>(note 3)</u>	<u>Quarterly</u> <u>(note 3)</u>	
<u>MIF003</u>	<u>Quarterly</u> <u>(note 3)</u>	<u>Quarterly</u> <u>(note 3)</u>	<u>Quarterly</u> <u>(note 3)</u>	
<u>MIF004</u>	<u>Quarterly</u>		<u>Quarterly</u>	

	<u>(note 3)</u>		<u>(note 3)</u>	
<u>MIF005</u>	<u>Quarterly</u>		<u>Quarterly</u>	
<u>MIF006</u>	<u>Quarterly</u> <u>(note 3)</u>	<u>Quarterly</u> <u>(note 3)</u>		
<u>Section A</u> <u>RMAR</u>				<u>Half yearly</u> <u>(note 1)</u> <u>Quarterly</u> <u>(note 2)</u>
<u>Section B</u> <u>RMAR</u>				<u>Half yearly</u> <u>(note 1)</u> <u>Quarterly</u> <u>(note 2)</u>
<u>Section C</u> <u>RMAR</u>				<u>Half yearly</u> <u>(note 1)</u> <u>Quarterly</u> <u>(note 2)</u>
<u>Section D1</u> <u>RMAR</u>				<u>Half yearly</u> <u>(note 1)</u> <u>Quarterly</u> <u>(note 2)</u>
<u>Section F</u> <u>RMAR</u>				<u>Half yearly</u>
<u>MLA-M</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>

<u>Note 1</u>	<u>Annual regulated business revenue up to and including £5 million.</u>
<u>Note 2</u>	<u>Annual regulated business revenue over £5 million.</u>
<u>Note 3</u>	<u>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.</u>

- 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.]

<u>Data item</u>	<u>Quarterly</u>	<u>Half yearly</u>	<u>Annual</u>
<u>Solvency statement</u>			<u>3 months</u>
<u>FSA029</u>	<u>20 business days</u> <u>(note 1)</u> <u>30 business days</u> <u>(note 2)</u>		
<u>FSA030</u>	<u>20 business days</u> <u>(note 1)</u> <u>30 business days</u> <u>(note 2)</u>		
<u>FSA031</u>	<u>20 business days</u>		
<u>FSA033</u>	<u>20 business days</u>		
<u>FSA034</u>	<u>20 business days</u>		

<u>FSA035</u>	<u>20 business days</u>		
<u>FSA039</u>		<u>30 business days</u>	
<u>FSA040</u>	<u>15 business days</u>		
<u>FIN071</u>	<u>20 business days</u>		
<u>MIF001</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		
<u>MIF002</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		
<u>MIF003</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		
<u>MIF004</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		
<u>MIF005</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		
<u>MIF006</u>	<u>20 business days</u>		
<u>Section A RMAR</u>	<u>30 business days</u>	<u>30 business days</u>	

<u>Section B RMAR</u>	<u>30 business days</u>	<u>30 business days</u>	
<u>Section C RMAR</u>	<u>30 business days</u>	<u>30 business days</u>	
<u>Section D1 RMAR</u>	<u>30 business days</u>	<u>30 business days</u>	
<u>Section F RMAR</u>		<u>30 business days</u>	
<u>MLA-M</u>	<u>20 business days</u>		
<u>Note 1</u>	<u>For reports relating to the position of an individual firm.</u>		
<u>Note 2</u>	<u>For reports relating to the consolidated situation of an investment firm group.</u>		

Regulated Activity Group 4

...

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.]

<u>Description of data item</u>	<u>Firms’ prudential category and applicable data items (note 1)</u>					
	<u>MIFID PRU investment firms</u>	<u>Firms other than MIFIDPRU investment firms</u>				
		<u>IPRU(I NV) Chapter 3</u>	<u>IPRU(I NV) Chapter 5</u>	<u>IPRU(I NV) Chapter 9</u>	<u>IPRU(I NV) Chapter 11 (collective portfolio)</u>	<u>IPRU(I NV) Chapter 12</u>

					<i>o</i> <u>manage</u> <u>ment</u> <u>firms</u> <u>only</u>)		
<u>Solvency statement</u> (note 2)	<u>No standard format</u>		<u>No standard format</u>		<u>No standard format</u>		
<u>Balance sheet</u>	<u>FSA029</u> (note 3)	<u>FSA029</u>	<u>FSA029</u>	<u>FSA029</u>	<u>FSA029</u>	<u>FSA029</u>	<u>Section A</u> <u>RMAR</u>
<u>Income statement</u>	<u>FSA030</u> (note 3)	<u>FSA030</u>	<u>FSA030</u>	<u>FSA030</u>	<u>FSA030</u>	<u>FSA030</u>	<u>Section B</u> <u>RMAR</u>
<u>Capital adequacy</u>	<u>MIF001</u> (note 3 and 4)	<u>FSA033</u>	<u>FSA034</u> or <u>FSA035</u> or <u>FIN071</u> (note 5)	<u>FSA031</u>	<u>FIN066</u>	<u>FIN069</u>	<u>Section D1</u> <u>RMAR</u>
<u>Threshold conditions</u>							<u>Section F</u> <u>RMAR</u>
<u>Volumes and types of business</u>		<u>FSA038</u>	<u>FSA038</u>	<u>FSA038</u>	<u>FSA038</u>		<u>FSA038</u>
<u>Client money and client assets</u>	<u>FSA039</u>	<u>FSA039</u>	<u>FSA039</u>	<u>FSA039</u>	<u>FSA039</u>	<u>FSA039</u>	<u>Section C</u> <u>RMAR</u>
<u>Liquidity</u>	<u>MIF002</u>						

	(notes 3, 4 and 6)						
<u>Metrics monitoring</u>	<u>MIF003</u> (notes 3 and 4)						
<u>Concentration risk (non-K-CON)</u>	<u>MIF004</u> (notes 3, 4 and 7)						
<u>Concentration risk (K-CON)</u>	<u>MIF005</u> (notes 3, 4 and 7)						
<u>Group capital test</u>	<u>MIF006</u> (notes 4 and 8)						
<u>Information on P2P agreements</u>						<u>FIN070</u>	
<u>Note 1</u>	<i>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 24. Guidance notes for completion of the data items are contained in SUP 16 Annex 25.</i>						
<u>Note 2</u>	<i>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.</i>						
<u>Note 3</u>	<i>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.</i>						

<u>Note 4</u>	<u>Data items MIF001 – MIF006 must be reported in accordance with the rules in MIFIDPRU 9.</u>
<u>Note 5</u>	<u>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.</u> <u>FSA035 must be completed by a firm subject to the exemption in IPRU(INV) 5.4.2R.</u>
<u>Note 6</u>	<u>Does not apply to an SNI MIFIDPRU investment firm which has been granted an exemption from the liquidity requirements in MIFIDPRU [6].</u>
<u>Note 7</u>	<u>Only applicable to a non-SNI MIFIDPRU investment firm.</u>
<u>Note 8</u>	<u>Only applicable to a parent undertaking to which the group capital test applies.</u>

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.]

<u>Data item</u>	<u>Non-SNI MIFIDPRU investment firm</u>	<u>SNI MIFIDPRU investment firm</u>	<u>Investment firm group</u>	<u>Firm other than a MIFIDPRU investment firm</u>
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<u>Solvency statement</u>	<u>Annually</u>	<u>Annually</u>		<u>Annually</u>
<u>FSA029</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>
<u>FSA030</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>
<u>FSA031</u>				<u>Quarterly</u>
<u>FSA033</u>				<u>Quarterly</u>
<u>FSA034</u>				<u>Quarterly</u>
<u>FSA035</u>				<u>Quarterly</u>
<u>FSA039</u>	<u>Half yearly</u>	<u>Half yearly</u>		<u>Half yearly</u>
<u>FIN071</u>				<u>Quarterly</u>
<u>MIF001</u>	<u>Quarterly</u> <u>(note 3)</u>	<u>Quarterly</u> <u>(note 3)</u>	<u>Quarterly</u> <u>(note 3)</u>	
<u>MIF002</u>	<u>Quarterly</u> <u>(note 3)</u>	<u>Quarterly</u> <u>(note 3)</u>	<u>Quarterly</u> <u>(note 3)</u>	
<u>MIF003</u>	<u>Quarterly</u> <u>(note 3)</u>	<u>Quarterly</u> <u>(note 3)</u>	<u>Quarterly</u> <u>(note 3)</u>	
<u>MIF004</u>	<u>Quarterly</u> <u>(note 3)</u>		<u>Quarterly</u> <u>(note 3)</u>	

<u>MIF005</u>	<u>Quarterly</u>		<u>Quarterly</u>	
<u>MIF006</u>	<u>Quarterly</u> <u>(note 3)</u>	<u>Quarterly</u> <u>(note 3)</u>		
<u>Section A</u> <u>RMAR</u>				<u>Half yearly</u> <u>(note 1)</u> <u>Quarterly</u> <u>(note 2)</u>
<u>Section B</u> <u>RMAR</u>				<u>Half yearly</u> <u>(note 1)</u> <u>Quarterly</u> <u>(note 2)</u>
<u>Section C</u> <u>RMAR</u>				<u>Half yearly</u> <u>(note 1)</u> <u>Quarterly</u> <u>(note 2)</u>
<u>Section D1</u> <u>RMAR</u>				<u>Half yearly</u> <u>(note 1)</u> <u>Quarterly</u> <u>(note 2)</u>
<u>Section F</u> <u>RMAR</u>				<u>Half yearly</u> <u>(note 1)</u> <u>Quarterly</u> <u>(note 2)</u>
<u>Note 1</u>	<u>Annual regulated business revenue up to and including £5 million.</u>			

<u>Note 2</u>	<u>Annual regulated business revenue over £5 million.</u>
<u>Note 3</u>	<u>Reporting frequencies and reporting periods for this <i>data item</i> are calculated on a calendar year basis and not by reference to the <i>firm's accounting reference date</i>. The relevant quarters end on the last <i>business day</i> of March, June, September and December.</u>

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.]

<u>Data item</u>	<u>Quarterly</u>	<u>Half yearly</u>	<u>Annual</u>
<u>Solvency statement</u>			<u>3 months</u>
<u>FSA029</u>	<u>20 business days</u> <u>(note 1)</u> <u>30 business days</u> <u>(note 2)</u>		
<u>FSA030</u>	<u>20 business days</u>		
<u>FSA031</u>	<u>20 business days</u>		
<u>FSA033</u>	<u>20 business days</u>		
<u>FSA034</u>	<u>20 business days</u>		
<u>FSA035</u>	<u>20 business days</u>		
<u>FSA039</u>		<u>30 business days</u>	
<u>FIN071</u>	<u>20 business days</u>		

<u>MIF001</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		
<u>MIF002</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		
<u>MIF003</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		
<u>MIF004</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		
<u>MIF005</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		
<u>MIF006</u>	<u>20 business days</u>		
<u>Section A RMAR</u>	<u>30 business days</u>	<u>30 business days</u>	
<u>Section B RMAR</u>	<u>30 business days</u>	<u>30 business days</u>	
<u>Section C RMAR</u>	<u>30 business days</u>	<u>30 business days</u>	
<u>Section D1 RMAR</u>	<u>30 business days</u>	<u>30 business days</u>	
<u>Section F RMAR</u>		<u>30 business days</u>	

<u>MLA-M</u>	<u>20 business days</u>		
<u>Note 1</u>	<u>For reports relating to the position of an individual firm.</u>		
<u>Note 2</u>	<u>For reports relating to the consolidated situation of an investment firm group.</u>		

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Regulated Activity Group 6

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

Description of <i>data item</i>	<i>Firms' prudential category and applicable data items (note 1)</i>			
	<i>IPRU(INV)</i> Chapter 3	<i>IPRU(INV)</i> Chapter 5	<i>IPRU(INV)</i> Chapter 9	<i>IPRU(INV)</i> Chapter 13
Solvency statement (note 6)		No standard format		
Balance sheet	FSA029	FSA029	FSA029	FSA029 or Section A RMAR (note 7)
Income statement	FSA030	FSA030	FSA030	FSA030 or Section B RMAR (note 7)
Capital adequacy	FSA033	FSA034 or FSA035 or FIN071 or FIN072 (note 4)	FSA031	FSA032 or Section D1 RMAR (notes 5 and 7)

Threshold conditions				Section F RMAR (Note 7)
Client money and client assets	FSA039	FSA039	FSA039	Section C RMAR (note 7) or FSA039
Pillar 2 questionnaire		FSA019 (note 8)		
Note 1	When submitting the completed <i>data item</i> required, a <i>firm</i> must use the format of the <i>data item</i> set out in SUP 16 Annex 24. Guidance notes for completion of the data items are contained in SUP 16 Annex 25.			
Note 2	[deleted]			
Note 3	[deleted]			
Note 4	<p>FSA034 must be completed by a <i>firm</i> not subject to the exemption in <i>IPRU(INV)</i> 5.4.2R, unless it is a <i>firm</i> whose permitted business includes <i>establishing, operating or winding up a personal pension scheme</i>, in which case FIN071 must be completed.</p> <p>FSA035 must be completed by a <i>firm</i> subject to the exemption in <i>IPRU(INV)</i> 5.4.2R, unless the <i>firm</i> is the depositary of a <i>UCITS scheme</i> in which case, FIN072 must be completed.</p>			
Note 5	FSA032 must be completed by a <i>firm</i> subject to <i>IPRU(INV)</i> Chapter 13 which is an <i>exempt CAD firm</i>. [deleted]			
Note 6	Only applicable to a firm that is a <i>partnership</i> , when the report must be submitted by each <i>partner</i> .			
Note 7	FSA029, FSA030, FSA032 and FSA039 only apply to a <i>firm</i> subject to <i>IPRU(INV)</i> Chapter 13 which is an <i>exempt CAD firm</i>. Sections A, B, C,			

	D1, and F RMAR only apply to a <i>firm</i> subject to <i>IPRU(INV)</i> Chapter 13 which is not an <i>exempt CAD firm</i>. [deleted]
Note 8	Only applicable to a <i>firm</i> that is the <i>depository</i> of a <i>UCITS scheme</i> .

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Regulated Activity Group 7

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- 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.]

<u>Description of data item</u>	<u>Firms' prudential category and applicable data item (note 1)</u>		
	<u>MIFIDPRU investment firms</u>	<u>Firms subject to IPRU(INV) Chapter 13</u>	<u>Firms that are also in one or more of RAGs 2 to 6 and not subject to IPRU(INV) Chapter 13</u>
<u>Solvency statement</u>	<u>No standard format (note 2)</u>		
<u>Balance sheet</u>	<u>FSA029 (note 3)</u>	<u>Section A RMAR</u>	
<u>Income statement</u>	<u>FSA030 (note 3)</u>	<u>Section B RMAR</u>	

<u>Capital adequacy</u>	<u>MIF001</u> <u>(notes 3 and 6)</u>	<u>Section D1 RMAR</u> <u>(note 9)</u>	
<u>Liquidity</u>	<u>MIF002 (notes 3, 4</u> <u>and 6)</u>		
<u>Metrics monitoring</u>	<u>MIF003</u> <u>(notes 3 and 6)</u>		
<u>Concentration risk</u> <u>(non-K-CON)</u>	<u>MIF004</u> <u>(notes 3, 5 and 6)</u>		
<u>Concentration risk</u> <u>(K-CON)</u>	<u>MIF005</u> <u>(notes 3, 5 and 6)</u>		
<u>Group capital test</u>	<u>MIF006</u> <u>(notes 6 and 8)</u>		
<u>Professional</u> <u>indemnity insurance</u> <u>(note 15)</u>	<u>Section E RMAR</u>	<u>Section E RMAR</u>	<u>Section E RMAR</u>
<u>Threshold conditions</u>		<u>Section F RMAR</u>	
<u>Training and</u> <u>competence</u>	<u>Section G RMAR</u>	<u>Section G RMAR</u>	<u>Section G RMAR</u>
<u>COBS data</u>	<u>Section H RMAR</u>	<u>Section H RMAR</u>	<u>Section H RMAR</u>
<u>Client money and</u> <u>client assets</u>	<u>Section C RMAR</u>	<u>Section C RMAR</u>	
<u>Fees and levies</u>	<u>Section J RMAR</u>	<u>Section J RMAR</u>	

<u>Adviser charges</u>	<u>Section K RMAR (note 7)</u>	<u>Section K RMAR (note 7)</u>	<u>Section K RMAR (note 7)</u>
<u>Note 1</u>	<u>When submitting the completed <i>data item</i> required, a <i>firm</i> (except a <i>MIFIDPRU investment firm</i> in relation to an item reported under <i>MIFIDPRU 9</i>) must use the format of the data item set out in <i>SUP 16 Annex 24R</i>, or <i>SUP 16 Annex 18AR</i> in the case of the <i>RMAR</i>. <i>Guidance notes for completion of the data items</i> are contained in <i>SUP 16 Annex 25</i>, or <i>SUP 16 Annex 18BG</i> in the case of the <i>RMAR</i>.</u>		
<u>Note 2</u>	<u>Only applicable to a <i>firm</i> that is a <i>sole trader</i> or <i>partnership</i>. Where the <i>firm</i> is a <i>partnership</i>, this report must be submitted by each <i>partner</i>.</u>		
<u>Note 3</u>	<u>A <i>UK parent entity</i> of an <i>investment firm group</i> to which consolidation applies under <i>MIFIDPRU 2.5</i> must also submit this report on the basis of the <i>consolidated situation</i>.</u>		
<u>Note 4</u>	<u>Does not apply to an <i>SNI MIFIDPRU investment firm</i> which has been granted an exemption from the liquidity requirements in <i>MIFIDPRU [6]</i>.</u>		
<u>Note 5</u>	<u>Only applicable to a <i>non-SNI MIFIDPRU investment firm</i>.</u>		
<u>Note 6</u>	<u>Data items MIF001 – MIF006 must be reported in accordance with the <i>rules in MIFIDPRU 9</i>.</u>		
<u>Note 7</u>	<u>This item only applies to <i>firms</i> that provide advice on <i>retail investment products</i> and <i>P2P agreements</i>.</u>		
<u>Note 8</u>	<u>Only applicable to a <i>parent undertaking</i> to which the <i>group capital test</i> applies.</u>		

<u>Note 9</u>	<u>Where a firm submits data items for both RAG 7 and RAG 9, the firm must complete Section D1.</u>
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- 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.]

<u>Data item</u>	<u>Frequency</u>				
	<u>Non-SNI MIFIDPRU investment firm</u>	<u>SNI MIFIDPRU investment firm</u>	<u>Investment firm group</u>	<u>Annual regulated business revenue up to and including £5 million</u>	<u>Annual regulated business revenue over £5 million</u>
<u>Solvency statement</u>	<u>Annually</u>	<u>Annually</u>			
<u>FSA029</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>		
<u>FSA030</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>		
<u>MIF001</u>	<u>Quarterly (note 1)</u>	<u>Quarterly (note 1)</u>	<u>Quarterly (note 1)</u>		

<u>MIF002</u>	<u>Quarterly</u> <u>(note 1)</u>	<u>Quarterly</u> <u>(note 1)</u>	<u>Quarterly</u> <u>(note 1)</u>		
<u>MIF003</u>	<u>Quarterly</u> <u>(note 1)</u>	<u>Quarterly</u> <u>(note 1)</u>	<u>Quarterly</u> <u>(note 1)</u>		
<u>MIF004</u>	<u>Quarterly</u> <u>(note 1)</u>		<u>Quarterly</u> <u>(note 1)</u>		
<u>MIF005</u>	<u>Quarterly</u>		<u>Quarterly</u>		
<u>MIF006</u>	<u>Quarterly</u> <u>(note 1)</u>	<u>Quarterly</u> <u>(note 1)</u>			
<u>Section A</u> <u>RMAR</u>				<u>Half yearly</u>	<u>Quarterly</u>
<u>Section B</u> <u>RMAR</u>				<u>Half yearly</u>	<u>Quarterly</u>
<u>Section C</u> <u>RMAR</u>				<u>Half yearly</u>	<u>Quarterly</u>
<u>Section D1</u> <u>RMAR</u>				<u>Half yearly</u>	<u>Quarterly</u>
<u>Section E</u> <u>RMAR</u>	<u>Half yearly</u>	<u>Half yearly</u>	<u>Half yearly</u>	<u>Half yearly</u>	<u>Quarterly</u>
<u>Section F</u> <u>RMAR</u>	<u>Half yearly</u>	<u>Half yearly</u>	<u>Half yearly</u>	<u>Half yearly</u>	<u>Half yearly</u>

<u>Section G RMAR</u>	<u>Half yearly</u>	<u>Half yearly</u>	<u>Half yearly</u>	<u>Half yearly</u>	<u>Half yearly</u>
<u>Section H RMAR</u>	<u>Half yearly</u>	<u>Half yearly</u>	<u>Half yearly</u>	<u>Half yearly</u>	<u>Half yearly</u>
<u>Section J RMAR</u>	<u>Annually</u>	<u>Annually</u>	<u>Annually</u>	<u>Annually</u>	<u>Annually</u>
<u>Section K RMAR</u>	<u>Annually</u>	<u>Annually</u>	<u>Annually</u>	<u>Annually</u>	<u>Annually</u>
<u>Note 1</u>	<u>Reporting frequencies and reporting periods for this <i>data item</i> are calculated on a calendar year basis and not by reference to the <i>firm's accounting reference date</i>. The relevant quarters end on the last <i>business day</i> of March, June, September and December.</u>				

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.]

<u><i>Data item</i></u>	<u>Quarterly</u>	<u>Half yearly</u>	<u>Annual</u>
<u>Solvency statement</u>			<u>3 months</u>
<u>FSA029</u>	<u>20 business days</u> <u>(note 1)</u> <u>30 business days</u> <u>(note 2)</u>		

<u>FSA030</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		
<u>MIF001</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		
<u>MIF002</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		
<u>MIF003</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		
<u>MIF004</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		
<u>MIF005</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		
<u>MIF006</u>	<u>20 business days</u>		
<u>Section A RMAR</u>	<u>30 business days</u>	<u>30 business days</u>	

<u>Section B RMAR</u>	<u>30 business days</u>	<u>30 business days</u>	
<u>Section C RMAR</u>	<u>30 business days</u>	<u>30 business days</u>	
<u>Section D1 RMAR</u>	<u>30 business days</u>	<u>30 business days</u>	
<u>Section E RMAR</u>	<u>30 business days</u>	<u>30 business days</u>	
<u>Section F RMAR</u>		<u>30 business days</u>	
<u>Section G RMAR</u>		<u>30 business days</u>	
<u>Section H RMAR</u>		<u>30 business days</u>	
<u>Section J RMAR</u>			<u>30 business days</u>
<u>Section K RMAR</u>		<u>30 business days</u>	
<u>Note 1</u>	<u>For reports relating to the position of an individual firm.</u>		
<u>Note 2</u>	<u>For reports relating to the consolidated situation of an investment firm group.</u>		

Regulated Activity Group 8

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

[*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.]

<u>Description of data item</u>	<u>Firms' prudential category and applicable data items (note 1)</u>			
	<u>MIFIDPRU investment firms</u>	<u>Firms other than MIFIDPRU investment firms</u>		
		<u>IPRU(INV)</u> <u>Chapter 3</u>	<u>IPRU(INV)</u> <u>Chapter 5</u>	<u>IPRU(INV)</u> <u>Chapter 9</u>

<u>Solvency statement</u> (note 2)	<u>No standard format</u>				
<u>Balance sheet</u>	<u>FSA029</u> (note 3)	<u>FSA029</u>	<u>FSA029</u>	<u>FSA029</u>	<u>Section A RMAR</u>
<u>Income statement</u>	<u>FSA030</u> (note 3)	<u>FSA030</u>	<u>FSA030</u>	<u>FSA030</u>	<u>Section B RMAR</u>
<u>Capital adequacy</u>	<u>MIF001</u> (notes 3 and 5)	<u>FSA033</u>	<u>FSA034 or FSA035 or FIN071</u> (note 4)	<u>FSA031</u>	<u>Section D1 RMAR</u>
<u>Liquidity</u>	<u>MIF002</u> (notes 3 and 5)				
<u>Metrics monitoring</u>	<u>MIF003</u> (notes 3 and 5)				
<u>Concentration risk (non-K-CON)</u>	<u>MIF004</u> (notes 3, 5 and 7)				
<u>Concentration risk (K-CON)</u>	<u>MIF005</u> (notes 3, 5 and 7)				
<u>Group capital test</u>	<u>MIF006</u> (notes 5 and 6)				
<u>Threshold conditions</u>					<u>Section F RMAR</u> (note 17)

<u>Client money and client assets</u>	<u>FSA039</u>	<u>FSA039</u>	<u>FSA039</u>	<u>FSA039</u>	<u>Section C RMAR (note 13) or FSA039</u>
<u>Note 1</u>	<u>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.</u>				
<u>Note 2</u>	<u>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.</u>				
<u>Note 3</u>	<u>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.</u>				
<u>Note 4</u>	<p><u>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.</u></p> <p><u>FSA035 must be completed by a firm subject to the exemption in IPRU(INV) 5.4.2R.</u></p>				
<u>Note 5</u>	<u>Data items MIF001 – MIF006 must be reported in accordance with the rules in MIFIDPRU 9.</u>				
<u>Note 6</u>	<u>Only applicable to a parent undertaking to which the group capital test applies.</u>				
<u>Note 7</u>	<u>Only applicable to a non-SNI MIFIDPRU investment firm.</u>				

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

[*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.]

<u>Data item</u>	<u>Non-SNI MIFIDPRU investment firm</u>	<u>SNI MIFIDPRU investment firm</u>	<u>Investment firm group</u>	<u>Firm other than a MIFIDPRU investment firm</u>
<u>Solvency statement</u>	<u>Annually</u>	<u>Annually</u>		<u>Annually</u>
<u>FSA029</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>
<u>FSA030</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>
<u>FSA031</u>				<u>Quarterly</u>
<u>FSA033</u>				<u>Quarterly</u>
<u>FSA034</u>				<u>Quarterly</u>
<u>FSA035</u>				<u>Quarterly</u>
<u>FSA039</u>	<u>Half yearly</u>	<u>Half yearly</u>		<u>Half yearly</u>
<u>FIN071</u>				<u>Quarterly</u>

<u>MIF001</u>	<u>Quarterly</u> <u>(note 3)</u>	<u>Quarterly</u> <u>(note 3)</u>	<u>Quarterly</u> <u>(note 3)</u>	
<u>MIF002</u>	<u>Quarterly</u> <u>(note 3)</u>	<u>Quarterly</u> <u>(note 3)</u>	<u>Quarterly</u> <u>(note 3)</u>	
<u>MIF003</u>	<u>Quarterly</u> <u>(note 3)</u>	<u>Quarterly</u> <u>(note 3)</u>	<u>Quarterly</u> <u>(note 3)</u>	
<u>MIF004</u>	<u>Quarterly</u> <u>(note 3)</u>		<u>Quarterly</u> <u>(note 3)</u>	
<u>MIF005</u>	<u>Quarterly</u>		<u>Quarterly</u>	
<u>MIF006</u>	<u>Quarterly</u>	<u>Quarterly</u>		
<u>Section A</u> <u>RMAR</u>				<u>Half yearly</u> <u>(note 1)</u> <u>Quarterly</u> <u>(note 2)</u>
<u>Section B</u> <u>RMAR</u>				<u>Half yearly</u> <u>(note 1)</u> <u>Quarterly</u> <u>(note 2)</u>
<u>Section C</u> <u>RMAR</u>				<u>Half yearly</u> <u>(note 1)</u> <u>Quarterly</u> <u>(note 2)</u>

<u>Section D1 RMAR</u>				<u>Half yearly</u> (note 1) <u>Quarterly</u> (note 2)
<u>Section F RMAR</u>				<u>Half yearly</u>
<u>Note 1</u>	<u>Annual regulated business revenue up to and including £5 million.</u>			
<u>Note 2</u>	<u>Annual regulated business revenue over £5 million.</u>			
<u>Note 3</u>	<u>Reporting frequencies and reporting periods for this <i>data item</i> are calculated on a calendar year basis and not by reference to the <i>firm's accounting reference date</i>. The relevant quarters end on the last <i>business day</i> of March, June, September and December.</u>			

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.]

<u><i>Data item</i></u>	<u>Quarterly</u>	<u>Half yearly</u>	<u>Annual</u>
<u>Solvency statement</u>			<u>3 months</u>
<u>FSA029</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		

<u>FSA030</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		
<u>FSA031</u>	<u>20 business days</u>		
<u>FSA033</u>	<u>20 business days</u>		
<u>FSA034</u>	<u>20 business days</u>		
<u>FSA035</u>	<u>20 business days</u>		
<u>FSA039</u>		<u>30 business days</u>	
<u>FIN071</u>	<u>20 business days</u>		
<u>MIF001</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		
<u>MIF002</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		
<u>MIF003</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		
<u>MIF004</u>	<u>20 business days</u> (note 1) <u>30 business days</u> (note 2)		

<u>MIF005</u>	<u>20 business days</u> <u>(note 1)</u> <u>30 business days</u> <u>(note 2)</u>		
<u>MIF006</u>	<u>20 business days</u>		
<u>Section A RMAR</u>	<u>30 business days</u>	<u>30 business days</u>	
<u>Section B RMAR</u>	<u>30 business days</u>	<u>30 business days</u>	
<u>Section C RMAR</u>	<u>30 business days</u>	<u>30 business days</u>	
<u>Section D1 RMAR</u>	<u>30 business days</u>	<u>30 business days</u>	
<u>Section F RMAR</u>	<u>30 business days</u>	<u>30 business days</u>	
<u>Note 1</u>	<u>For reports relating to the position of an individual <i>firm</i>.</u>		
<u>Note 2</u>	<u>For reports relating to the <i>consolidated situation</i> of an <i>investment firm group</i>.</u>		

Regulated Activity Group 9

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- 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.

Description of data item	Data item (note 1)	Frequency		Submission deadline
		Annual regulated business revenue up to and including £5 million	Annual regulated business revenue over £5 million	
...
Professional indemnity insurance (note 2)	Section E RMAR	Half yearly	Quarterly	30 <i>business days</i>
...
Note 1	...			
Note 2	This item only applies to <i>firms</i> that may be subject to an <i>FCA</i> requirement to hold professional indemnity insurance and are not <i>exempt</i> <i>CAD-firms</i> <u><i>MIFIDPRU investment firms</i></u> .			

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