Financial Conduct Authority

Policy Statement PS14/12

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

August 2014

Contents

In this Policy Statement we report on the main issues arising from Consultation Paper 12/33 (*A new capital regime for Self-Invested Personal Pension (SIPP) operators*) and publish the final rules.

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Abbreviations used in this paper

AUA	Assets under Administration
CBA	Cost benefit analysis
CP	Consultation paper
CS	Capital surcharge
FCA	Financial Conduct Authority
FOS	Financial Ombudsmen Service
FSA	Financial Services Authority
FSCS	Financial Services Compensation Scheme
FSMA	Financial Services and Markets Act
ICR	Initial capital requirement
IPRU (INV)	Interim Prudential sourcebook for Investment Business
NS&I	National Savings and Investments
OEIC	Open-ended investment company
pa	Per annum
PII	Professional Indemnity Insurance
PS	Policy statement
SIPP	Self-invested personal pension
UCIS	Unregulated collective investment scheme
UT	Unit trust
WACC	Weighted average cost of capital

1. Overview

Introduction

1.1 In November 2012 the Financial Services Authority (FSA) consulted on a new regulatory capital framework for Self-Invested Personal Pension (SIPP) operators. We have reflected on the feedback received, and have made some amendments to the rules on which the FSA consulted.

1.2 This paper outlines the final rules and provides an account, in general terms, of the representations made on our consultation and our response to them.

1.3 The rules will come in to force on 1 September 2016.

Who does this policy affect?

1.4 This Policy Statement will be of particular interest to:

- firms holding or considering applying for establishing/operating/winding up a personal pension scheme permission and subject to the Interim Prudential sourcebook for Investment Business [IPRU(INV)] in the Financial Conduct Authority (FCA) Handbook
- financial advisers
- trade bodies representing members who operate personal pension schemes

Is this of interest to consumers?

1.5 This policy may interest consumers who own or are considering buying a personal pension administered by a SIPP operator. SIPPs are generally personal pensions where the consumer has a wider breadth of choice around the investment options than a normal personal pension. Our prudential rules do not differentiate by the product, but rather the type of provider. However, the vast majority of firms affected by these rules market themselves as SIPP operators.

1.6 This policy does not affect pensions operated by firms such as insurance companies who offer wider services.

1.7 In particular, consumers may take interest in the longer-term objective of this policy, to address the risk of them having to fund the administration of a SIPP operator from their pension assets. We expect this policy to work towards a more stable and secure personal pensions industry.

Context

1.8 There are approximately £2tn of pension assets under management in the UK pensions industry. Around £100bn of these assets are administered through SIPPs.[1]

1.9 SIPP operators came into the scope of regulation in 2007 as part of the Government's approach to promoting pension saving. We have experience of a number of SIPP operators who have sought to close to new business and run off or transfer their book of pension schemes. However, it has been apparent that some operators do not hold sufficient capital to do so in an orderly manner, especially when they administer schemes that allow clients to invest in less easily realisable asset classes that can be difficult to transfer to another provider.

1.10 The FCA, and previously the FSA, have experience of SIPP operators leaving the market for different reasons. When they have failed and entered into administration it has proven extremely costly to transfer the SIPP book to another provider, especially when they contain non-standard asset classes (see CP12/33 for our definitions of standard asset classes). There is therefore a significant risk that consumers can end up funding an administration out of their own pension assets.

1.11 In response to the problem identified, the FSA consulted on a new capital framework in November 2012. Since then we have considered the feedback and established a SIPP operator thematic project. We have also worked with firms to resolve issues that pose risks to our consumer protection and market integrity objectives. This has helped to inform our final rules.

1.12 Providing an improved capital framework advances our objectives in various ways. In doing so, we prescribe a minimum level of capital that we expect an industry participant to have invested in its business. This makes it more likely that firms can afford to exit the market without being funded from consumers' pension pots. The risk that an operator may not have sufficient resources is not immediately apparent to consumers when they set up a SIPP plan, nor is the ongoing risk that the operator may fail in the future, at a time when the consumer has less time to rebuild their pension assets. This undermines market confidence and can cause significant consumer harm.

1.13 At the current level of capital requirement there is a real risk that when a SIPP operator exits the market it cannot afford to continue to administer its pension schemes, find another administrator for the pension book, or fund the closure, even when fee income is still coming in. This is particularly so where the firm administers non-standard assets, which add significant complexity from the perspective of a firm who considers acquiring the pension book. This can lead to pension schemes being left without a functioning administrator, creating uncertainty and possibly a significant tax charge for the consumer.

1.14 For more information on the background to this policy, we refer readers to CP12/33. We also bring attention to our recently published letter to the Chief Executive Officers of SIPP operators. In particular, this highlights failings to carry out appropriate due diligence and to comply with prudential rules.

1.15 We regulate a variety of activities in the pensions market. We will release a publication later this year outlining our broader strategy to regulating the sections of the pensions market that fall under our remit.

1 Whilst the total SIPP market administers approximately £100bn of pension assets, this does not reflect the pension assets administered by firms subject to the rules in this paper. This is because some firms administering SIPPs may be caught by other prudential rules, such as the Capital Requirements Directive or insurance solvency rules.

Summary of feedback and our response

1.16 We received 57 responses to the CP. One response was from a trade body on behalf of a number of interested parties. The majority of these also submitted individual responses, and we received additional responses from stakeholders who did not contribute to the trade body response. These represented not only the affected firms, but also consultancies and consumers.

1.17 We are continuing to use the framework that we consulted on, which we believe provides the best protection for consumers. However, in light of feedback received, we have made some changes. Some of these will be relevant to all operators, for example changes to the standard asset list, where we have listened to concerns raised by the industry. We have also made some further changes to smooth the impact of the policy on smaller firms, consistent with our competition objective.

1.18 In Chapter 2 we provide a breakdown of the feedback received, along with our response.

Next steps

What do you need to do next?

1.19 Firms who are affected by these changes should consider the implications for their business.

1.20 Some firms may need to raise additional capital to comply with the rules. Firms in this position should start planning for this to ensure that they have sufficient resources in place by the implementation date.

1.21 If firms are considering exiting the market, they should contact the FCA.

1.22 What will we do?

1.23 The rule changes outlined in this PS take effect on 1 September 2016.

1.24 In light of feedback, we have made some changes to the framework we consulted on, which will mean a sizeable reduction in the total capital requirement for a significant number of firms. We will monitor the framework as it becomes embedded, and consider how it improves prudential standards in the market. Market participants should note that if we feel that prudential standards continue to be weak even after the implementation of this updated framework, we may revisit the policy and increase requirements further.

2.
Consultation feedback

2.1 In this chapter we summarise the feedback to the proposed rule changes in CP12/33 and provide our response to that feedback. It should be read alongside CP12/33.

2.2 Our consultation proposed that assets under administration (AUA) should be the primary metric for calculating capital requirements, as this better reflects the scale of a firm's business than the existing expenditure-based approach. In addition, we proposed a Capital Surcharge (CS) for firms who administer non-standard asset types.

2.3 Overall, the industry challenged why we are making these changes, and requested further assessment of the market failure. However, through our supervisory work, it is clear that many operators do not hold sufficient capital to exit the market, if necessary, in an orderly manner, and this can cause significant harm to consumers.

2.4 A significant number of respondents suggested a more risk-sensitive approach, with some offering examples of how this could be achieved. However, others argued that our approach was overly complex. We are conscious of the need to balance risk sensitivity with an approach that is not overly burdensome on firms to calculate, given the high proportion of smaller firms in this industry. The proposed approach is relatively simple in that if the operator knows what assets it administers and their value, it can calculate its total capital requirement by using the formula.

2.5 We did not ask a specific question on the Initial Capital Requirement (ICR), but received helpful feedback, which we have used to make the following changes.

2.6 As the proposed relationship between AUA and the ICR is not linear, the costs on smaller firms are proportionally higher. To illustrate, under our original proposals the initial capital requirement for a firm with £100m AUA would be 0.2% of AUA, while the requirement for a firm with £500m AUA would be 0.09% of AUA.

2.7 Many respondents argued that this is disproportionate, and the unbalanced impact on the return on equity for smaller operators (where they do not already meet the new requirement out of existing capital resources, and do not pass through any increased costs to consumers) would put a number of well-run operators out of business. We note that the impact on return on equity could be substantial for smaller operators.

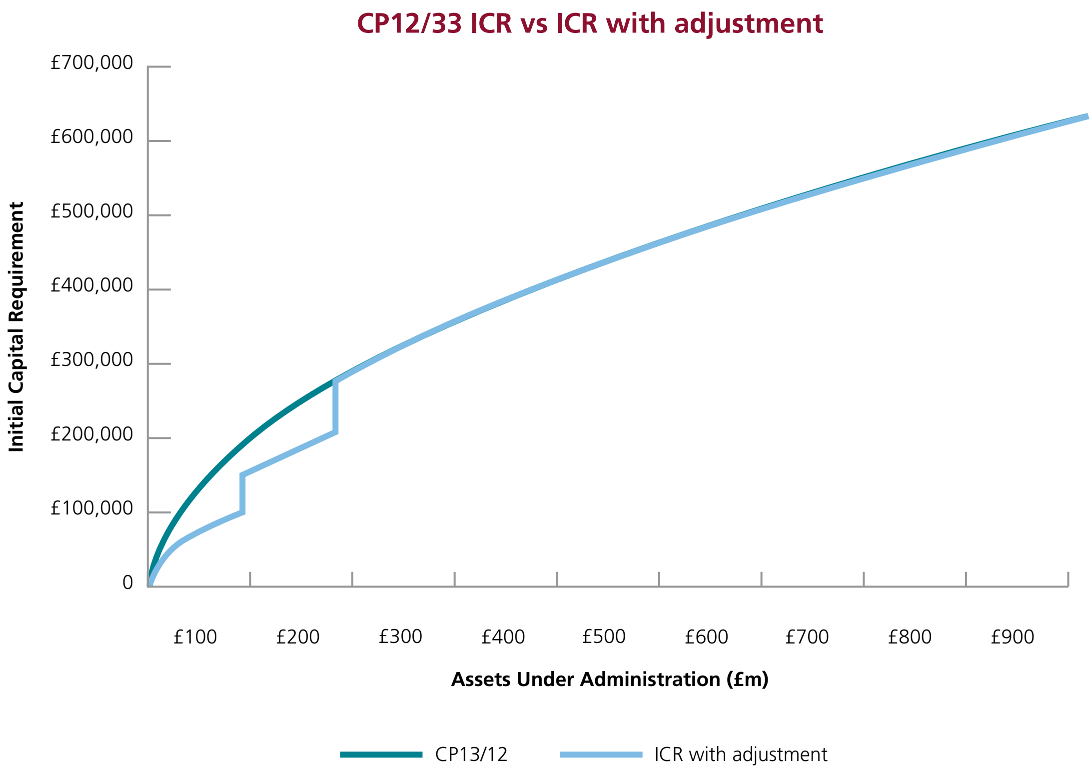
2.8 Accordingly, we have softened this discrepancy to smooth the relative impact on smaller firms. To do this, we have amended the constant used in the ICR from 20 to the following:

Table 1

AUA	ICR constant to be applied
<£100m	10
£100-£200m	15
>£200m	20

2.9 The impact of this change is shown in graph 1:

Graph 1



2.10 We now summarise the feedback to the questions we posed in CP12/33.

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

2.11 While a number of respondents offered support for the use of AUA as a metric for calculating a capital requirement, the majority were more critical, with some rejecting it as an irrelevant factor. A number of respondents queried the need to move away from the current expenditure-based approach.

2.12 Many respondents noted that the value of AUA can be subject to significant fluctuations, so linking AUA to the capital requirement could lead to unpredictable capital requirements. For example, if an operator administered a large proportion of geographically concentrated equity funds, and the relevant equity market was experiencing sharp growth, the firm's capital requirement would increase quite rapidly, and the operator may struggle to plan for this.

2.13 One respondent offered an example where an operator has a large quantity of non-standard assets that it struggles to transfer, and the value of the assets is decreased by suspected fraud and regulatory intervention. This would lead to a reduction in the operator's capital requirement at the point where it is increasingly likely that the operator may have to go into administration. The respondent argued that this outcome is contrary to the policy intention.

2.14 Respondents also questioned whether AUA sufficiently captures the distinction between operators administering larger plans compared to operators administering smaller plans. Some respondents suggested that the number of plans administered by the operator would be a more appropriate metric than AUA.

2.15 Queries were also raised around valuations. Some argued that values can be subjective, so AUA can be difficult to verify. It was also suggested that linking the capital requirement to AUA could create a conflict of interest between the operator and the consumer, with the former wanting lower AUA, and the latter wanting their pension pots to be valued higher.

Our response

We recognise the difficulty of finding a perfect metric to calculate the capital requirement for SIPP operators in a way that is not overly complex. In particular, we note that, depending on the legal structure of an operator, the average plan size could be significant. Indeed, there are a large number of variables that would affect the costs associated with a firm going into administration. We have modelled various approaches to reflect such variables, but we feel that these add complexity with limited gain. We emphasise that our approach uses AUA as a proxy for the cost of a more orderly closure of the business, rather than a method that would introduce additional complexity.

We do not feel that a more credible option emerged from the feedback or our further modelling, nor do we feel that it is sustainable or desirable to maintain an expenditure-based approach for this industry. We acknowledge that fixed costs will differ from firm to firm. However, there are currently firms administering a similar level of pension assets, with one firm reporting a capital requirement ten times smaller than a comparable firm. We do not believe that such variations in firms' business models and expenditure warrant this substantial discrepancy. The costs of wind down are unlikely to vary to such a degree, and the wider benefits of investing capital in a business apply. In addition, what appears to be an efficiently run firm with low expenditure and a resultantly low capital requirement, may in reality not be investing sufficient resources in its business, and building up associated conduct and prudential risks and future liabilities.

We acknowledge that asset valuations can involve an element of subjectivity when there is no readily available market price. We would be concerned, however, if operators were to take different valuations for the purpose of capital requirements and valuations for scheme members, and would question this practice. We have added clarification of our expectations around the valuation of such assets in IPRU (INV) Table 5.2.3(4)(a). Unless there is reason to believe that there has been a significant change since the most recent valuation, it should be used. For assets such as commercial property, a relevant commercial property index could be used.

We accept that monitoring AUA on a daily basis may be burdensome, particularly for smaller operators. Therefore, we have also amended the rule to require firms to calculate AUA as the average of the value of the personal pension schemes administered by the firm at the most recent four quarter end dates. As AUA is used as a proxy for the scale of the operator's business, we do not feel that this reduced accuracy materially alters the risk sensitivity of the calculation, but we expect it to reduce the compliance burden on firms.

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

2.16 A few respondents disagreed with this question, although the majority agreed.

2.17 Some respondents highlighted that the nature of a firm's exit from the market would be relevant to the costs involved in transferring the pension assets to another operator. For example, if the exit was due to firm failure, parties interested in acquiring the pension schemes may wish to carry out additional due diligence and there may be a reduction in fee income.

2.18 However, other respondents argued that fee income would normally continue while a firm is in administration.

2.19 Some respondents argued that the legal structure of the firm is relevant, and non-standard assets would not increase the costs of pension schemes being transferred if they were held under a master trust. For example, one respondent argued that our approach assumes that all assets would need to be transferred or realised when an operator goes in to administration, which they contested was not correct.

2.20 Some respondents also broke down their response by different types of non-standard asset. For example, many argued that an asset such as UK commercial property would incur lower costs than other assets that were not on our proposed standard asset list.

Our response

Our experience of SIPP operators that have exited the SIPP market has shown that where non-standard asset types are held within schemes the costs involved in transferring these schemes to another provider can be significantly higher than for schemes containing only standard asset types. We did not receive feedback that persuaded us otherwise.

While the legal structure of the firm can play a part, a pension scheme needs to have an administrator. Whether pension scheme(s) are transferred to another provider on an individual basis, or transferred in specie[2] to another trustee company, if there are non-standard assets this is highly likely to increase costs, which may be passed on to the consumer. There may need to be additional due diligence on these assets, or the operator may need to continue administering

2 By this we mean to transfer the asset(s) in its present form, rather than realising it.

them when scheme members are transferring their standard pension assets, potentially reducing fee income. To provide better protection for consumers, it is important that operators have sufficient capital to absorb the potentially increased costs that would arise in this scenario, which could persist for a number of years.

We have made a technical amendment to the CS, which is discussed in our response to question 4.

We have also amended the standard assets list, as explained in our response to question 6.

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

2.21 The majority of respondents supported increasing the fixed minimum capital requirement from £5,000 to £20,000. Indeed, many respondents suggested a higher figure, up to £250,000, although mostly within the range of £40,000-£100,000.

2.22 A few respondents rejected the concept of a fixed minimum capital requirement.

2.23 Some respondents suggested that the minimum capital requirement is not relevant to most operators, as few would be subject to it in reality.

Our response

We note that few operators would be subject to this fixed minimum capital requirement. It is a backstop. It ensures that all firms who carry out the activity of establishing, operating and winding up a personal pension scheme, however small, have sufficient capital invested in their business.

We intend to implement this policy change as consulted on, and increase the fixed minimum capital requirement to £20,000.

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

2.24 The majority of respondents offered support for the concept of the CS, albeit challenging the methodology.

2.25 Some respondents noted that a firm's capital requirement would increase if it acquired the pension book of another operator, and questioned whether an acquiring firm would be able to afford this.

2.26 A number of respondents questioned whether the level of the CS is appropriate.

2.27 Some respondents also questioned whether it is appropriate to link the CS to AUA, through the ICR.

2.28 A number of respondents also challenged the CS on the basis of assets that do not appear on the standard assets list. We address this issue in our response to the feedback to question 6.

Our response

As discussed in our response to question 2, our experience has shown that SIPP operators who administer non-standard asset types can incur significantly higher costs when they go in to administration. Accordingly, we propose to maintain the CS as a key part of the framework.

There appeared to be some confusion around our intention behind proposing a CS. To clarify, this concept is purely to address the additional costs involved in ensuring that pension assets are held by a stable pension administrator when the existing operator exits the market, be this achieved through in specie transfer, individual pension scheme transfer, realisation of assets, or another mechanism. We are not suggesting that non-standard asset types are never appropriate for retail consumers[3], or attempting to instate a permitted investments list. We are also not attempting to reshape any markets in these asset types. The CS concept is entirely based on ensuring the prudential soundness of the SIPP operator, in the same way that more complex prudential regimes apply risk weights to certain asset types, to protect pension scheme members from the risks arising from the failure of an operator.

We also agree that where an operator acquires the pension book of another operator it would lead to an increase in the capital requirement for the acquiring operator. As the latter would be administering a significantly higher level of business, we believe that this is desirable. Were this to be a genuine obstacle to an acquisition, we would expect an operator to approach the FCA to agree an appropriate course of action. As highlighted by other respondents, there would be a stream of fee income from the acquisition, which would allow the acquiring operator to build up additional capital over time. More broadly, we would not expect a regulated firm to become highly leveraged when making an acquisition, and would expect any necessary capitalisation to be reflected in the purchase price.

We accept that the formula consulted on meant that the CS did not necessarily increase at the same rate as an operator increased its AUA, and was not always progressive. For example, a peculiarity in the formula allowed a hypothetical situation whereby a firm could significantly grow its pension book and not see a corresponding increase in capital requirement. This situation would arise if a firm had a significant proportion of plans containing non-standard asset types, but then grew its book with only standard asset types. This oddity arises because the CS took a percentage of the ICR, which increases at a reducing gradient.

3 Non-standard investments are typically higher risk or speculative propositions, and the entire amount invested is at risk. These investments tend to be illiquid and difficult to value, and there may be little or no recourse to the FOS and FSCS, for example if the arrangement is mis-managed. Some may be outright scams. Most non-standard investments, such as UCIS, unlisted shares and speculative overseas property schemes, are unlikely to be suitable for those retail investors of ordinary sophistication and means who make up the vast majority of the retail market in the UK. However, more sophisticated investors may consider them to be appropriate investment opportunities.

We have modelled various approaches to address this issue, with the policy intent of ensuring that the CS stays constant when the number of plans containing non-standard assets remains unchanged. The following technical amendment broadly achieves that result.

Capital surcharge = (√percentage of plans containing non-standard assets) x 2.5 [constant] x Initial Capital Requirement

The constant chosen will generally mean a slight reduction in the CS consulted on for smaller firms, and a slightly higher requirement for larger firms. However, taking this scenario in isolation is somewhat hypothetical, as it must be considered alongside all the changes we have made to the framework (in particular, see our treatment of UK commercial property as explained in our response to the feedback received to question 6).

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

2.29 A number of respondents suggested that a plan for wind-down would better protect consumers against the risks associated with a SIPP operator going into administration.

2.30 Some respondents suggested an expenditure-based approach, as discussed in question 1.

2.31 A number of respondents offered variations of our framework. For example, some respondents suggested that turnover could be included in the calculation. We thank respondents for challenging the framework, which has been helpful in developing the policy further, reflected in the changes we have made.

2.32 A requirement for firms to maintain professional indemnity insurance (PII) was also suggested as an alternative or supplement to a capital requirement.

2.33 There was also some suggestion that a more rigorous approach by the FCA when approving individuals who operate in the SIPP industry would reduce the likelihood of disorderly firm failure.

2.34 Increased systems and control requirements were also suggested as an important factor in ensuring the orderly management of a SIPP operator.

Our response

We agree that operators compiling plans to cover their exit from the SIPP market in an orderly manner, should they need to do so, is a prudent risk management tool. We are aware that some operators have already considered exit scenarios and we encourage others to do the same. However, integral to an orderly exit from a market is having the financial resources to meet the associated costs, and to continue operating the business where necessary. This is why we are updating the capital requirement for SIPP operators.

We partly explained our reasoning for moving away from an expenditure-based approach in our response to question 2. This approach has not worked in this industry. Firms with comparable scales of business are also subject to vastly differing capital requirements. The approach disincentives firms from investing in their business, which can lead to peculiarities whereby a firm with low expenditure and hence a low capital requirement incurs significantly higher costs in wind down. This could be due to insufficient investment and risk management, for example through due diligence on the assets being introduced to schemes.

PII is usually in place to protect a firm from claims of negligence, but can also cover claims for losses incurred by consumers from poor financial advice. As a matter of sound business management, we encourage SIPP operators to ensure that they have adequate PII in place, appropriate to their business. However, we do not believe that this alone mitigates the costs of a SIPP operator exiting the market, and it is unlikely to mitigate fully the risk of costs being passed on to consumers.

The approved persons regime applies to affected individuals working for a SIPP operator. We take this very seriously when considering applications for all authorised persons, including those employed by SIPP operators. However, we do not think it is practical to assume therefore that there will be no subsequent breaches of conduct or prudential requirements in the SIPP industry. The approved persons regime is one of a number of measures we use to assess whether a firm meets the minimum standards of business to operate.

SIPP operators are subject to systems and control requirements, which they must comply with on an ongoing basis. Where we identify breaches of these requirements, we work with firms to resolve them. Part of this may be ensuring that the firm has sufficient financial resources available to comply with these requirements in a suitable way. We do not see additional systems and control requirements as an appropriate substitute for ensuring that SIPP operators have sufficient capital invested in their business.

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

2.35 We received a number of helpful responses to this question. Common asset types suggested to be added to the list included:

- Gold bullion
- National Savings & Investments products
- Term deposits
- UK commercial property
- Assets held via discretionary fund managers
- Exchange traded funds

2.36 Some respondents made the point that different types of non-standard assets would have different levels of complexity, and would raise differing degrees of complexity in a wind down scenario. Others suggested additional buckets of asset types rather than the strict division between standard and non-standard assets.

Our response

We have added physical gold bullion, National Savings & Investments products, bank account deposits, units in regulated collective investment schemes, and UK commercial property to the standard assets list (see paragraph 3.5 for the full list). We agree that these asset types will generally meet the criteria we outlined for an asset to qualify as a standard asset.

Given the significance to many operators of the addition of UK commercial property, we discuss this separately. Consultation feedback, further informed by our thematic work in the SIPP industry, has led us to agree that normally UK commercial property can be transferred between pension providers at relative ease, provided there is a purchasing party prepared to accept the asset. There will be instances where this is not the case. For example, where the transfer of UK commercial property cannot be registered at the Land Registry, or it would take more than 30 days to transfer the asset. Where a firm identifies such an asset in its schemes it should treat the asset as non-standard.

We do not feel that it is appropriate to introduce additional categories of assets beyond standard and non-standard. While we accept that there will be borderline assets, we feel that adding more categories would increase complexity with limited gain.

We have added units in regulated collective investment schemes to the standard asset list, but have not included assets held by a discretionary fund manager. Were the assets held by a discretionary fund manager as units in a regulated collective investment scheme, then they would be on the standard asset list, and we would expect firms to treat them as such. We accept that operators may not know the exact value of assets held by a discretionary fund manager, and indeed whether they are standard or non-standard, on an ongoing basis. In our response to question 1 we explained that we have also amended the rule to require firms to calculate AUA for the purpose of the capital requirement calculation as the average of the sum of the personal pension schemes administered by the firm at the latest four quarter-end dates. Accordingly, for assets held via a discretionary fund manager, valuations and asset breakdowns only need be undertaken on a quarterly basis. We expect this to reduce the compliance burden on operators. However, operators should be mindful that they may need to value these assets more frequently for other purposes, such as providing scheme members with portfolio valuations.

In addition, as we have added units in regulated collective investment schemes to the standard asset list, we have removed unit trusts (UT) and open-ended investment companies (OEIC), as these are broadly included in the definition of regulated collective investment schemes. Feedback suggested that some firms interpreted UT and OEIC to mean that any unit trust or open-ended investment company would be standard, regardless of whether or not it is authorised, with no consideration of the underlying assets. This approach would be contrary to the policy intention as set out in the CP as it could potentially be used as an avoidance mechanism. Regulated collective investment scheme is a defined term that covers these vehicles where they are established in or passporting into the UK.

We also clarify that 'investment trusts' means 'shares in investment trusts'. For the purposes of ownership through a personal pension scheme, entities such as investment trusts and regulated collective investment schemes are normally vehicles that pool assets owned by pension savers, rather than assets in their own right. Therefore, for the purpose of the standard assets list, it is more appropriate to refer to units or shares in such entities rather than the entities themselves.

We have not added exchange traded funds, as this would normally be covered by regulated collective investment schemes.

To clarify, operators should only treat assets as standard assets if they are on the standard asset list. However, where assets are on the standard asset list, but the operator has reason to believe that they would take more than 30 days to realise, those assets should be treated as non-standard.

Q7: Do the timescales set out above appropriately reflect the time needed to access capital in a wind-down scenario?

2.37 This question referred to our proposal to require SIPP operators to hold the proceeds of capital raising, i.e. the assets corresponding to regulatory capital, in assets realisable within a specified time period. We proposed that assets corresponding to the value of the ICR should be held in a form realisable within one year, and assets corresponding to the value of the CS should be held in a form realisable within 30 days.

2.38 Some respondents were supportive of this requirement, while others argued that it was not proportionate.

2.39 A number of respondents also questioned why the proposed timescales are different for capital relating to the ICR and capital relating to the CS. It was suggested that this is counterintuitive, as the likelihood is that it would take longer to transfer non-standard assets, and so the capital is not needed as quickly.

2.40 Other respondents expressed support, noting that this would help ensure that capital can be accessed when a firm is in administration.

Our response

We proposed this rule as a backstop, to ensure that regulatory capital is not held in a form such that it cannot be accessed when it is needed. We accept the comments from respondents who noted that capital would likely be needed sooner than one year from a firm exiting the market. However, to impose a more prescriptive regime could potentially preclude the ability of operators to hold longer term investments in their business. In reality, we would expect to see a range of asset maturities on the balance sheet of a SIPP operator.

We note that non-standard asset types are likely to take longer to transfer, and so understand why some respondents questioned the proposal for assets corresponding to the CS be held in a shorter dated form of assets than the assets corresponding to the ICR. Again, this rule does not claim to foresee the nature of administration or creditor hierarchy of a SIPP operator in administration.

The CS must be held in shorter-dated assets due to the likely increased complexity and costs incurred by a SIPP operator exiting the market with non-standard assets in its schemes. Where an operator only administers standard asset types, it is likely that the operator would have more control over the process of transferring the assets, and so the need for realisable capital may not be as urgent.

In addition, it should be noted that for the vast majority of firms, the ICR will be significantly higher than the CS, and so only a small amount of capital, if any, will be required to be held invested assets realisable within 30 days.

Q8: Would this rule change incur significant costs to your business? If so, please explain/quantify these costs. This question is only applicable to operators.

2.41 This question referred to the rule change discussed in question 7.

2.42 As above, responses were mixed, particularly given that the question was directly addressing the impact of this change on affected firms.

2.43 Some respondents suggested that this rule change would be a barrier to a firm acquiring another firm.

Our response

We thank respondents for their feedback. We propose to enact this rule change, for the reasons discussed in our response to question 7.

It should be noted that intangible assets (such as goodwill arising from the acquisition of another business) are currently required to be deducted in arriving at the liquid capital requirement in IPRU (INV) Chapter 5. Accordingly, we do not believe that this requirement should materially alter the capital impact of a firm acquiring the pension book of another firm.

Q9: Do you agree that not all of the existing components of liquid capital are relevant to SIPP operators and that own funds is a more appropriate form of financial resources?

2.44 Whilst respondents generally agreed that this form of capital is not normally relevant to SIPP operators, there were some specific queries. For example, some asked why adjustments in respect of qualifying property and short-term subordinated loans should not be permitted to be included in regulatory capital. Indeed, some noted that such capital is not loss absorbing, and so may be more likely to be available following a firm's failure.

2.45 Some respondents claimed that this change is unjustified on the grounds of 'fairness' compared to similar sectors.

Our response

Our reasoning for proposing this change was that the returns submitted to us by SIPP operators show that very few operators currently hold Tier 3 capital, and so we sought industry feedback on whether it is appropriate and necessary for them. We did not propose this change to treat SIPP operators more or less harshly than other sectors, but rather to appropriately reflect the types of capital that SIPP operators hold. We were therefore surprised by the strength of the responses we received.

Nonetheless we accept that there are legitimate reasons why a firm may wish to hold Tier 3 capital, and it may be a preference for new entrants. Accordingly, we are not changing the regulatory capital test from Liquid Capital to Own Funds, which is a reversal of our proposal. However, we will remove net trading book profits[4] from the Liquid Capital test for SIPP operators.

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

2.46 Responses were mixed, with some agreeing, and others suggesting alternative periods between six months and five years.

2.47 Some respondents suggested a staged implementation, for example through gradually increasing the constants in the ICR and CS, or a requirement to meet a proportion of the new requirements in year one, and then the remainder in the next year.

Our response

We are mindful that a short transitional period may increase the risk of disorderly exits from the market. However, we are concerned that the current capital framework is not sustainable and leaves consumers exposed to considerable risk. Accordingly, we will apply a two-year transitional period, and these rules come in to force from 1 September 2016.

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

2.48 Feedback was mixed. Some suggested that these polices would markedly reduce the level of competition in the SIPP industry, largely due to an expected reduction in the number of smaller firms. Others believed that, while there would be a reduction in numbers of firms (as we explained was possible in our cost benefit analysis (CBA)), there would still be sufficient operators in the market offering a variety of different products to maintain adequate competition.

4 Trading book is a concept that does not apply to SIPP operators, as they do not have the relevant permissions to take proprietary trading positions.

2.49 There was some discussion about the increased clarity around the position of firms operating in the sector, and also what types of assets operators are prepared to accept.

2.50 It was also noted that this policy could lead to an increase in fees, particularly for pension savers who have non-standard asset types in their pension schemes.

Our response

The changes we have made will largely reduce the impact on smaller firms. We have considered any competition impact of the policy in the light of those changes.

We have updated our CBA in Chapter 4. This assesses the competition impact of this policy, considering this feedback.

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

2.51 Many respondents offered helpful information, such as their levels of non-standard assets. We thank respondents for their contributions.

3.
Summary of key changes to the framework consulted on

3.1 This chapter summarises the key changes discussed in the previous chapter in our responses to the feedback, to help readers understand the changes we have made to the proposed framework. It does not include all technical amendments to the rules, which can be seen in the Handbook text in Annex 2, but instead shows the most significant changes.

Changes to the framework

Changes to address fluctuations in AUA

3.2 As discussed previously, some respondents noted that AUA can be volatile, and this could lead to fluctuating capital requirements. To address this, we propose that the capital requirement calculation should be based on the average AUA over the last 4 quarter-ends rather than at a set point in time.

Reduced ICR for smaller firms

3.3 As discussed at the beginning of Chapter 2, to smooth the effect of this policy on smaller firms, we have adjusted the constants in the ICR as follows:

Table 2

AUA	ICR constant to be applied
<£100m	10
£100-£200m	15
>£200m	20

Technical change to the capital surcharge

3.4 For the reasons discussed in question 4, we have changed the capital surcharge as follows:

Capital surcharge = (√percentage of plans containing non-standard assets) x 2.5 x Initial Capital Requirement

Changes to the standard assets list

3.5 For the reasons discussed in question 4, we have made changes to the standard asset list. The final standard asset list is as follows. Additions are in red.

Bank account deposits

Cash

Cash funds

Corporate bonds

Exchange traded commodities

Government & local authority bonds and other fixed interest stocks

Physical gold bullion

Investment notes (structured products)

Shares in Investment trusts

Managed pension funds

National Savings and Investment products

Permanent interest bearing shares (PIBs)

Real estate investment trusts (REITs)

Shares listed on:

- the Alternative Investment Market;
- the London Stock Exchange; or
- a recognised overseas investment exchange.

UK commercial property

Units in Regulated collective investment schemes

We have removed:

- Unit trusts
- Open-ended investment companies

Summary of proposed changes to the formula

3.6 Table 3 summarises the calculation to be used in the updated framework. Changes from the framework consulted on are shown in red.

Table 3

STAGE 1	**ICR = √AUM x K1** Where: ICR = Initial Capital Requirement AUM = Assets Under Management K1 = Constant (originally proposed to be 20 for all firms)	
	AUA	**K1 constant to be applied**
	<£100m	10
	£100-£200m	15
	>£200m	20
STAGE 2	**CS = (√p%) x K2 x ICR** Where: CS = Capital Surcharge p% = percentage of plans containing non-standard asset types K2 = Constant, proposed at ~~5~~ 2.5	
STAGE 3	***Total Capital Requirement = Initial Capital Requirement + Capital Surcharge***	

4.
Update to the Cost Benefit Analysis (CBA)

4.1 In CP12/33, we completed a CBA of the proposed changes as required by the Financial Services and Markets Act (FSMA). We make some technical updates to the CBA in the light of policy changes and feedback discussed in Chapter 2. Accordingly, the following should be read alongside the CBA contained in CP12/33.

Market impact

4.2 In our CBA we estimated that 14% to 18% of SIPP operators may choose to exit the market as a result of this policy. The changes we have made will mean that the impact of this policy will be less burdensome for the majority of firms, so we now expect this to be less than 10%. In addition, a number of operators have already left the market since our original CBA for reasons unrelated to this policy.

Systems costs

4.3 SIPP operators should know what assets they administer. However, we note that operators which administer non-standard assets may need to embed additional systems in order to monitor the number of plans which contain non-standard assets. For the majority of affected firms, we would expect set up costs between £2,000-£20,000, and then ongoing costs of £1,000-£8,000pa. For a small number of very large firms initial systems adjustments may be larger than £20k reflecting the extremely large size of their books compared to the majority of firms. We expect that around 50% of firms do not hold any non-standard assets or are no longer accepting non-standard assets, and so this is not relevant. Accordingly, these aggregate costs amount to be £70,000-£700,000 one off costs, and then £35,000-£280,000pa. As well as allowing firms to comply with capital requirements, these systems changes provide greater transparency should another firm seek to acquire the operators pensions book.

Capital costs

4.4 Subsequent to our policy changes as outlined in Chapter 3, it is appropriate to update our analysis of the total impact of these amendments, particularly in regards to the changed level of capital in the industry. To do this, we used a sample of firms for whom we have detailed relevant data through our supervisory work in the SIPP industry. We used a sample of 30 firms, and have estimated an industry-wide impact by scaling-up the impact on our sample to include the whole population of affected firms. In doing this, we assumed that our sample is broadly representative of the industry.

4.5 We took the difference between existing capital requirements and our calculation of the new requirements for these firms. The data has been submitted to the FCA by firms through a survey, and so we assume it to be accurate. For the CS calculation, we have used the percentage of non-standard assets held within schemes as a proxy for the percentage of plans containing non-standard assets. As we have more relevant data than previously, we assumed these calculations to be more accurate than the previous CBA.

4.6 We note that in reality the majority of operators already hold capital well in excess of their existing regulatory requirements. Indeed, approximately 50% of firms in our sample currently hold capital in excess of our calculations of their new requirements. Accordingly, these calculations are likely to be upper bounds.

4.7 Some respondents suggested that the weighted average cost of capital (WACC) applied in the CBA was not appropriate, though there were few details on what an appropriate cost would be. Mechanisms for raising capital are diverse, so it is hard to give an accurate figure across firms. We have estimated a wide 5-15% range to recalculate the cost of capital.

Table 4

Firms Size (AUA by £m)	Average % of non-standard assets	Estimated Number of firms	Total Increase from existing requirement (£000s)	Ongoing WACC @ 5% (£000s)	Ongoing WACC @ 15% (£000s)
Small (0 to 100)	2.40	23	£1,160	£60	£170
Medium (100 to 500)	5.73	35	£8,360	£420	£1,250
Large (greater than 500)	4.75	12	£8,190	£410	£1,230
TOTAL		70	£17,710	£890	£2,650

4.8 As shown in Table 4, we estimate that the total increased capital requirement across the industry is likely to be in the region of £18m. This would imply an ongoing funding cost between £890,000 to £2,650,000 per annum, though as most firms hold significantly more than the current requirements, this is likely to be an overestimate.

4.9 These changes partly reflect the more recent data used in our sample and the adjusted WACC. But they also show the impact of the policy in light of the changes we have made to the framework consulted on.

4.10 While there are wider benefits of firms having capital invested in their businesses, the key benefit of this policy is that the additional capital held by firms can fund the costs associated with transferring their pension book to another operator, and ensuring that schemes can continue to be operated should the operator exit the market. Were all 70 firms to exit the market, this benefit could be up to £18m. This is unlikely. Were we to assume a firm failure rate of 5% per annum, this would be up to £900,000 of additional benefit per annum.

4.11 Over the longer term, we would expect fewer firms to fail in a disorderly manner as a result of them having higher levels of capital invested in their business. This brings wider benefits to consumers, and reduces the risk that their pension assets may need to fund the administration of a SIPP operator.

Cost pass-through

4.12 Some respondents argued that this policy will increase fees for consumers. We agree that this may be the case as some firms may decide to pass these costs through to members via increased fees.

4.13 There are various ways that this interaction could be modelled, but the level of cost pass-through is a business decision that firms make, and the FCA does not regulate pricing in this pensions industry. However, if between 0% to 100% of the increased cost from capital is passed through to members via fees, then between £0-£2,650,000pa could be passed on via fees, depending on the WACC used (see Table 1).

4.14 Scaling up the total AUA of firms in our sample suggests that the affected population of firms have combined AUA of approximately £54bn. Our upper bound of £2,650,000 accounts for approximately 0.005% of this combined AUA.

4.15 Were operators to currently charge an average annual fee of 0.5% of AUA to administer a pension scheme, and operators passed on our entire upper bound estimate of cost of capital to consumers, this would increase the average annual fee to 0.505%.

4.16 This increase in average fees is likely to be more relevant to firms who administer non-standard asset types, as the increase in capital requirements is likely to be bigger than firms of a comparable size who only administer standard assets.

4.17 Non-standard assets generally prove the most costly to transfer to other operators and we would argue that consumers holding these assets do not always pay the full costs of this. An increase in the price of administering these assets caused by the additional capital requirements might correct this, improving the economic efficiency of investment decisions.

4.18 So we believe that this potential increase in fees is an acceptable price to pay for the increased protection brought by better capitalised SIPP operators. However, any increase in price is likely to lead to a corresponding reduction in demand.

4.19 We expect that a number of operators will continue to accept non-standard assets into their schemes, albeit at a higher price. While the number of firms offering this service may reduce, as we originally estimated in CP12/33, we expect there to still be a range of investment choices and offerings available to consumers.

4.20 We do not believe that these changes are likely to have a material impact on competition between firms that only administer standard assets, as capital requirement changes will be much smaller here.

Annex 1: List of non-confidential respondents

@SIPP

AJ Bell

Alltrust

Association of Member-Directed Pension Schemes

Attivo Financial Services Ltd

Barnett Waddingham

Berkeley Burke

Brian Shearing & Partners Limited

Cabot Trustees

Carey Pensions UK

Catherine Lumb

Chartered Financial Planning

Curtis Banks PLC

David Booler SIPP Trustees Limited

Dentons Pension Management Limited

Douglas Townley

DP Pensions Limited

Enhance Support Solutions

European Pensions Management Limited

Financial Services Consumer Panel

Fowler Drew Limited

Golding Smith & Partners Limited

Harsant Services Ltd

InvestAcc Pension Administration Limited

Investment Management Association

JLT Benefit Solutions Limited

Killik & Co

Liberty SIPP Limited

Liverpool Victoria
London & Colonial
Matthew Foreman
Mattioli Woods
MC Trustees
Michael J Field Consulting Actuaries
More to SIPPS
Morgan Lloyd SIPP
MW Pensions Ltd
Nick Foster
Nikhil Chouguley
Nucleus Financial Services Limited
NW Brown
Peter Wylie
Pointon York SIPP Solutions
Prakaash Kumar Subramaniam
PSG SIPP Limited
Robert Graham Trustees Limited
Rowanmoor Group plc
ShareSoc
Sippchoice
Suffolk Life
The Hornbuckle Mitchell Group Limited
The Pension Partnership LLP
UPTEL Limited
Wensley Mackay
Westerby Trustee Services Ltd

Appendix 1:
Made rules (legal instrument)

PERSONAL PENSION SCHEME OPERATORS (CAPITAL REQUIREMENTS) INSTRUMENT 2014

Powers exercised

A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):

(1) section 137A (The FCA’s general rules);
(2) section 137T (General supplementary powers); and
(3) section 139A(1) (Power of the FCA to give guidance).

B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force on 1 September 2016.

Amendments to the FCA Handbook

D. The Interim Prudential sourcebook for Investment Businesses (IPRU(INV)) is amended in accordance with Annex A to this instrument.

E. The Supervision manual (SUP) is amended in accordance with Annex B to this instrument.

Citation

F. This instrument may be cited as the Personal Pension Scheme Operators (Capital Requirements) Instrument 2014.

By order of the Board of the Financial Conduct Authority
24 July 2014

Annex A

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

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

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

…

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

…

Dematerialised instruction transmitters

…

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

… (b) In addition, a *firm* to which (a) applies, must have and maintain at all times financial resources calculated in accordance with the applicable rules in Chapter 5 at least equal to the relevant requirement set out in that chapter.

…

5 Chapter 5: Financial Resources

…

5.2.2 FINANCIAL RESOURCES

…

Liquid Capital

5.2.2(2) R (a) A *firm* must calculate its *liquid capital* in accordance with Table 5.2.2(1).

(b) In addition to the above, a *firm* whose *permitted business* includes *establishing, operating or winding up a personal pension scheme* must comply with:

(i) the requirements in relation to the realisability of *liquid capital* found in Note 2 of Table 5.2.3(4)(a); and

(ii) the limitation in respect of Item 14 of Table 5.2.2(1), not to include net trading book profits in the firm's *liquid capital* calculation.

…

Liquid capital requirement

5.2.3(4)(a) R The *liquid capital requirement* for a *firm* subject to paragraph (a) of rule 5.2.3(1) is ~~the greater of~~:

(i) ~~£5,000; and~~ for a *firm* whose *permitted business* includes *establishing, operating or winding up a personal pension scheme*, the higher of (A) £20,000, and (B) the calculation from Table 5.2.3(4)(a);

(ii) for any other *firm*, the higher of (A) £5,000 and (B), its *total capital requirement* calculated in accordance with rule 5.2.3(5);

…

TABLE 5.2.2(1)	**CALCULATION OF OWN FUNDS AND LIQUID CAPITAL**
…	
Part II **Detailed Requirements**	
…	
8 Net trading book profits (Item 14)	For *firms* which are not *exempt CAD firms* unaudited profits can be included at item 14. This Item must not be included in the *liquid capital* calculation of a *firm* whose *permitted business* includes *establishing, operating or winding up a personal pension scheme.* **Note**
…	

The following table is new, and should be inserted between Table 5.2.2(1) and Table 5.2.3(5)(a). The text is not underlined.

Table 5.2.3(4)(a)	**Liquid Capital Requirement for firms whose permitted business includes establishing, operating or winding up a personal pension scheme.**

Liquid Capital Requirement = Initial Capital Requirement + Capital Surcharge

Calculation of Initial Capital Requirement

Where

ICR	means Initial Capital Requirement
AUA	means Assets Under Administration as defined below.
K1	is set subject to the firm's AUA as specified in the below table

AUA	K1 constant to be applied
<£100m	10
£100-£200m	15
>£200m	20

ICR = (√AUA) x K1

Assets Under Administration: For the calculation in this Table, this means the average of the sum of the *personal pension schemes* administered by the firm at the latest 4 quarter end dates.

Where it is not possible to value an asset at the quarter end date (for example because there is no readily available market price), the most recent market valuation should be used.
Where it would be reasonable to assume that the value of the asset has changed by more than 15% since the most recent market valuation, a *firm* should instead use a reasonable estimate. For UK commercial property, such an estimate could, where relevant, be obtained through an appropriate commercial property index. This is without prejudice to any requirement on a *firm* to provide a *personal pension scheme* member with accurate and timely valuations of their portfolios.

Calculation of Capital Surcharge

Where

CS	means Capital Surcharge
P	means the fraction of *personal pension schemes* administered by the *firm* which contain one or more asset types which **do not** appear in the list of Standard Assets below, at the most recent quarter end. For example, if a quarter of personal pensions contained non-Standard Assets, this would be inputted in to the formula as 0.25.
K2	is set at 2.5.
ICR	means the Initial Capital Requirement calculated as above.

CS = (√P) x K2 x ICR

Standard Assets

The List of Standard Assets is as follows (subject to Note 1):

Bank account deposits

Cash

Cash funds

Corporate bonds

Exchange traded commodities

Government & local authority bonds and other fixed interest stocks

Physical gold bullion

Investment notes (structured products)

Shares in *Investment trusts*

Managed pension funds

National Savings and Investment products

Permanent interest bearing shares (PIBs)

Real estate investment trusts (REITs)

Shares listed on:

- the Alternative Investment Market;
- the London Stock Exchange; or
- a *recognised overseas investment exchange*.

UK commercial property

Units in *Regulated collective investment schemes*

NOTE 1: A Standard Asset, and where relevant the underlying assets, must be capable of being accurately and fairly valued on an ongoing basis and readily realised within 30 days, whenever required. Valuations should be undertaken in accordance with the generally accepted standards used in the relevant sector for the asset.

The Standard Asset list includes assets which would normally meet the Standard Asset criteria.

There will be instances where this is not the case. For example, where the transfer of UK commercial property cannot be registered at the Land Registry, and/or it would take more than 30 days to transfer the asset. Where a firm identifies such an asset within its scheme(s) it should treat the asset as non-Standard.

NOTE 2: In addition to complying with the provisions of Table 5.2.2(1), in accordance with *rule* 5.2.2(2)(b), a *firm* must hold its *liquid capital* in financial resources as follows:

ICR	realisable within 12 months; and
CS	realisable within 30 days

Amend the following as shown.

13 Chapter 13: Financial Resource Requirements for Personal Investment Firms

…

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

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

SUMMARY OF FINANCIAL RESOURCES FOR *CATEGORY B FIRMS*				
Type of *firm*	Financial Resources Test 1 *Own funds* Test	Financial Resources Test 1A Adjusted *Net current assets* Test	Financial Resources Test 2 Expenditure-based Test	*Rule*/section References
…				
All *Category B firms* that do not hold *client money* or assets, but are *permitted* to *establish, operate or wind up a personal pension scheme*. <u>**[See Note 1]**</u>	£10,000	Adjusted *net current assets* of £1	Adjusted capital equal to the highest of 6/52 of relevant annual expenditure, £400 per adviser, £10,000 and any other expenditure-based requirement set out in 13.12.1 applicable to the *firm*.	13.10 13.11 13.12.1 13.12.2 to 13.12.5A
All Category B firms that hold *client money* or assets and are *permitted* to *establish, operate or wind up a personal pension scheme*. <u>**[See Note 1]**</u>	£10,000	Adjusted *net current assets* of £1	Adjusted capital equal to the highest of 13/52 of relevant annual expenditure, £400 per adviser, and £10,000	13.10 13.11 13.12.1G 13.12.2 to 13.12.5A
<u>**Note 1**</u>	<u>In addition, a *firm permitted* to *establish, operate or wind up a personal pension scheme* must have and maintain at all times financial resources calculated in accordance with the applicable rules in Chapter 5 at least</u>			

	equal to the relevant requirement set out in that chapter.

…

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

…

Annex B

Amendments to the Supervision manual (SUP)

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

16 Reporting requirements

…

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:

Description of *data item*	*Firms* prudential category and applicable *data items* (note 1)					
	IFPRU investment firms and *BIPRU firms*		*Firms* other than *BIPRU firms* or *IFPRU investment firms*			
	IFPRU	*BIPRU*	*IPRU (INV)* Chapter 3	*IPRU (INV)* Chapter 5	*IPRU (INV)* Chapter 9	*IPRU (INV)* Chapter 13
…						
Capital adequacy	…	…	…	FSA034 or FSA035 or FIN071 (note 14)	…	…
…						
…						
Note 14	FSA034 must be completed by a firm not subject to the exemption in IPRU(INV) 5.2.3(2)R. FSA035 must be completed by a firm subject to the exemption in IPRU(INV) 5.2.3(2)R, unless it calculates its own funds requirement in accordance with IPRU(INV) rule 5.2.3(4)(a)(i), in which case FIN071 must be completed.					
…						

…

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.

Data item	*IFPRU 730K firm*	*IFPRU 125K firm* and *collective portfolio management firm*	*IFPRU 50K firm*	*BIPRU firm*	*UK consolidation group* or *defined liquidity group*	*Firm* other than *BIPRU firms* or *IFPRU investment firms*
COREP/ FINREP	Refer to *EU CRR* and applicable technical standards				Refer to *EU CRR* and applicable technical standards	
…						
FIN068	…					
<u>FIN071</u>						<u>Quarterly</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.

Data item	Daily	Weekly	Monthly	Quarterly	Half yearly	Annual
COREP/ FINREP	Refer to *EU CRR* and applicable technical standards					
…						
FIN068					…	
<u>FIN071</u>				<u>20 *business days*</u>		
…						

…

Regulated Activity Group 4

…

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

Description of *data item*	*Firms'* prudential category and applicable *data items* (note 1)							
	IFPRU investment firms and *BIPRU firms*		*Firms* other than *BIPRU firms* or *IFPRU investment firms*					
	IFPRU	*BIPRU*	*IPRU (INV)* Chapter 3	*IPRU (INV)* Chapter 5	*IPRU (INV)* Chapter 9	*IPRU (INV)* Chapter 11 (*collective portfolio management firms* only)	*IPRU (INV)* Chapter 12	*IPRU (INV)* Chapter 13
…								
Capital adequacy	COREP (Note 34)	FSA003 (Note 2)	FSA033	FSA034 or FSA035 or FIN071 (note 14)	FSA031	FIN066	FIN069	Section D1 and D2 RMAR or FSA032 (note 15)
…								
Note 14	FSA034 must be completed by a *firm* not subject to the exemption in *IPRU(INV)* 5.2.3(2)R. FSA035 must be completed by a *firm* subject to the exemption in *IPRU(INV)* 5.2.3(2)R, unless it calculates its *own funds requirement* in accordance with *IPRU(INV) rule* 5.2.3(4)(a)(i), in which case FIN071 must be completed.							

…

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.

Data item	*Firms'* prudential category					
	IFPRU 730K firm	*IFPRU 125K firm* and *collective portfolio management investment firm*	*IFPRU 50K firm*	*BIPRU firm*	*UK consolidation group* or *defined liquidity group*	*Firm* other than *BIPRU firms* or *IFPRU investment firms*
COREP/ FINREP	Refer to *EU CRR* and applicable technical standards				Refer to *EU CRR* and applicable technical standards	
…						
FIN070						…

<u>FIN071</u>						<u>Quarterly</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.

Data item	Daily	Weekly	Monthly	Quarterly	Half yearly	Annual
COREP/ FINREP	Refer to *EU CRR* and applicable technical standards					
…						
FIN070				…		
<u>FIN071</u>				<u>20 *business days*</u>		
…						

…

Regulated Activity Group 6

…

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

Description of *data item*	*Firm's* prudential category and applicable data item (note 1)			
	IPRU(INV) Chapter 3	*IPRU(INV)* Chapter 5	*IPRU(INV)* Chapter 9	*IPRU(INV)* Chapter 13
…				
Capital adequacy	FSA033	FSA034 or FSA0035 <u>or FIN071</u> (note 4)	FSA031	FSA032 or Sections D1 and D2 RMAR (notes 5 and 7)
…				
…				
Note 4	FSA034 must be completed by a *firm* not subject to the exemption in *IPRU(INV)* 5.2.3(2)R. FSA035 must be completed by a *firm* subject to the exemption in *IPRU(INV)* 5.2.3(2)R<u>, unless it calculates its *own funds requirement* in accordance with *IPRU(INV) rule* 5.2.3(4)(a)(i), in which case FIN071 must be completed</u>.			

…	

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

…	
FSA039	…
FIN071	Quarterly
…	

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

Data item	Quarterly	Half yearly	Annual
…			
FSA040	…		
FIN071	20 *business days*		
…			

…

Regulated Activity Group 8

…

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

Description of *data item*	*Firms'* prudential category and applicable *data item* (note 1)					
	IFPRU investment firms and *BIPRU firms*		*Firms* other than *BIPRU firms* or *IFPRU investment firms*			
	IFPRU	*BIPRU*	*IPRU (INV)* Chapter 3	*IPRU (INV)* Chapter 5	*IPRU (INV)* Chapter 9	*IPRU (INV)* Chapter 13
…						

Capital adequacy	COREP (Note 30)	FSA003 (Note2)	FSA033	FSA034 or FSA035 or FIN071 (note 14)	FSA031	Sections D1 and D2 RMAR (note 17) or FSA 032 (note 15)
…						
Note 14	FSA034 must be completed by a *firm* not subject to the exemption in *IPRU(INV)* 5.2.3(2)R. FSA035 must be completed by a *firm* subject to the exemption in *IPRU(INV)* 5.2.3(2)R, unless it calculates its *own funds requirement* in accordance with *IPRU(INV) rule* 5.2.3(4)(a)(i), in which case FIN071 must be completed.					
…						

…

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.

Data item	*Firms'* prudential category					
	IFPRU 730K firm	*IFPRU 125K firm*	*IFPRU 50K firm*	*BIPRU firm*	*UK consolidation group* or *defined liquidity group*	*Firms* other than *BIPRU firms* or *IFPRU investment firms*
COREP/ FINREP	Refer to *EU CRR* and applicable technical standards				Refer to *EU CRR* and applicable technical standards	
…						
FSA058	…					
FIN071						Quarterly
…						

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 .

Data item	Daily	Weekly	Monthly	Quarterly	Half yearly	Annual

COREP/ FINREP	Refer to *EU CRR* and applicable technical standards					
…						
FSA058				…		
FIN071				20 *business days*		
…						

…

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

…

FIN071: Capital adequacy for firms with the permission of establishing, operating or winding up a personal pension scheme

			A	B
	Regulatory Capital			
	Tier 1			
1	Paid up share capital (excluding preference shares)			
2	Eligible LLP member's capital			
3	Share premium account			
4	Reserves			
5	Non-cumulative preference shares			
6	Less:	Investment in own shares		
7		Intangible assets		
8		Material current year losses		
9		Material holdings in credit and financial institutions		
10		Excess LLP member's drawings		
11	Total deductions			
12	Tier 1 Capital			
	Tier 2			
13	Revaluation reserves			
14	Fixed term cumulative preference share capital			
15	Long term subordinated loans			
16	Other cumulative preference share capital and debt capital			
17	Qualifying arrangements			
18	Tier 2 Capital			
19	Own Funds			
	Tier 3			
20	Short term Qualifying Subordinated Loans and excess Tier 2 capital			
21	Less: Illiquid assets			
22	Qualifying Property			
23	Liquid Capital			
	Regulatory capital test			
24	Assets under Administration			
25	Number of plans			
26	Fraction of plans containing non-standard asset types			
27	Initial Capital Requirement			
28	Capital Surcharge			
29	Total Capital Requirement			
30	Surplus / Deficit of liquid capital			
31	Is capital held in accordance with Note 2 of IPRU(INV) 5.2.3(4)(a)			

In SUP 16 Annex 25G (Guidance notes for data items in SUP 16 Annex 24R) insert the following new notes after FIN070. The text is not underlined.

FIN071: Capital adequacy for firms with the permission of establishing, operating or winding up a personal pension scheme

Introduction

The purpose of reporting form FIN071 is to provide a framework for the collection of information required by the *FCA* as a basis for its supervision activities. It also has the purpose of helping the *FCA* monitor *firms'* capital adequacy and financial soundness. This data item is intended to reflect the underlying prudential requirements contained in *IPRU(INV)* 5.2.3(4)R(a)(i) and allows monitoring against the requirements set out there.

Defined Terms

Terms referred to in these notes where defined by the Companies Act 2006, or the provisions of the *firm's* accounting framework (usually UK GAAP or IFRS), bear that meaning for the purposes of this guidance and completing FIN071. The descriptions indicated in these notes are designed simply to repeat, summarise or amplify the relevant statutory or other definitions and terminology without departing from their full meaning or effect.

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

Currency

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

Data Elements

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

Description	**Data Element**	**Guidance**
Regulatory Capital		
	1 to 22	The figures entered in this section should be consistent with those entered in FSA029 submitted for the same reporting period.
Liquid Capital	23 B	The amount of own funds in accordance with Table 5.2.2(1) in *IPRU(INV)*.
Regulatory Capital Test		
Assets under Administration	24 B	The average of the sum of the *personal pension schemes* administered by the *firm* at the most recent 4 quarter end dates, in accordance with Table 5.2.3(4)(a) in *IPRU(INV)*.
Number of Plans	25 B	The number of pension plans that the *firm* operates.
Fraction of plans containing non-standard asset types	26 B	The fraction of plans that the *firm* operates that contains non-standard assets, in accordance with Table 5.2.3(4)(a) in *IPRU(INV)*.
Initial Capital Requirement	27 B	A *firm* must calculate its Initial Capital Requirement in accordance with Table 5.2.3(3)(a) in *IPRU(INV).*
Capital Surcharge	28 B	A *firm* must calculate its Capital Surcharge in accordance with Table 5.2.3(4)(a) in *IPRU(INV).*
Total Capital Requirement	29 B	This is the sum of 27B and 28B, in accordance with Table 5.2.3(3)(a) in *IPRU(INV)*.
Capital held in accordance with Note 2 of *IPRU(INV)* 5.2.3(4)(a)	31 B	The *firm* should enter "YES" or "NO".

Financial Conduct Authority

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