

Chapter 3

Cross sector groups

3.1 Application

3.1.1

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(1) Unless otherwise stated, ■ GENPRU 3.1 applies to every *firm* that is a member of a *financial conglomerate* other than:

- (a) [deleted]
- (b) [deleted]
- (c) [deleted]
- (d) an *ICVC*;
- (e) a *bank*;
- (f) a *designated investment firm*; and
- (g) an *insurer*.

(1A) ■ GENPRU 3.1 (except ■ GENPRU 3.1.5R to ■ GENPRU 3.1.12G) applies to each of the following *firms* that is a member of a *financial conglomerate*:

- (a) a *bank*;
- (b) a *designated investment firm*; and
- (c) an *insurer* that is a "UK Solvency II firm" as defined in the PRA Rulebook: Glossary.

(2) ■ GENPRU 3.1 does not apply to a *firm* with respect to a *financial conglomerate* of which it is a member if the interest of the *financial conglomerate* in that *firm* is no more than a *participation*.

(3) ■ GENPRU 3.1.25 R (Capital adequacy requirements: high level requirement), and ■ GENPRU 3.1.35 R (Risk concentration and intra group transactions: the main rule) do not apply with respect to a *third-country financial conglomerate*.

Purpose

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■ GENPRU 3.1 implemented requirements in the *Financial Groups Directive*. However, material on the following topics is to be found elsewhere in the *Handbook* as follows:

- (1) further material on *third-country financial conglomerates* can be found in ■ GENPRU 3.2;
- (2) ■ SUP 15.9 contains notification *rules* for members of *financial conglomerates*;

- (3) material on reporting obligations can be found in ■ SUP 16.12.32 R and ■ SUP 16.12.33 R; and
- (4) material on systems and controls in *financial conglomerates* can be found in ■ SYSC 12.

3.1.2A

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■ GENPRU 3.1 has been amended to reflect the introduction of a new prudential regime for *MiFID* investment firms (*MIFIDPRU*). This new regime streamlines and simplifies the prudential requirements for *MIFIDPRU investment firms*. It refocuses prudential requirements and expectations away from the risks a *firm* faces to also consider, and look to mitigate, the potential for harm these *firms* can pose to consumers and markets. If a *financial conglomerate* for which the *FCA* is the *coordinator* considers the amendments to ■ GENPRU 3.1 do not appropriately reflect the risks and potential harms to which its activities give rise, it should contact the *FCA* to discuss how the *rules* could be modified to do so.

Introduction: identifying a financial conglomerate

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- (1) In general the process in (2) to (8) applies for identifying *financial conglomerates*.
- (2) The relevant *competent authority* that has authorised *regulated entities* should try to identify any *consolidation group* that is a *financial conglomerate*. If a *competent authority* is of the opinion that a *regulated entity* authorised by that *competent authority* is a member of a *consolidation group* which may be a *financial conglomerate* it should communicate its view to the other *competent authority*.
- (3) A *competent authority* may start (as described in (2)) the process of deciding whether a group is a *financial conglomerate* even if it would not be the *coordinator*.
- (4) A member of a group may also start that process by notifying one of the *competent authorities* that have authorised group members that its group may be a *financial conglomerate*, for example by notification under ■ SUP 15.9.
- (5) If a group member gives a notification in accordance with (4), that does not automatically mean that the group should be treated as a *financial conglomerate*. The process described in (6) to (9) still applies.
- (6) The *competent authority* that would be *coordinator* will take the lead in establishing whether a group is a *financial conglomerate* once the process has been started as described in (2) and (3).
- (7) The process of establishing whether a group is a *financial conglomerate* will normally involve discussions between the *financial conglomerate* and the *competent authorities* concerned.
- (8) A *financial conglomerate* should be notified by its *coordinator* that it has been identified as a *financial conglomerate* and of the appointment of the *coordinator*. The notification should be given to the *parent undertaking* at the head of the group or, in the absence of a *parent undertaking*, the *regulated entity* with the largest

balance sheet total in the *most important financial sector*. That notification does not of itself make a group into a *financial conglomerate*; whether or not a group is a *financial conglomerate* is governed by the definition of *financial conglomerate* as set out in ■ GENPRU 3.1.

(9) ■ GENPRU 3 Annex 3 is a questionnaire (together with its explanatory notes) that the *FCA* asks groups that may be *financial conglomerates* to fill out in order to decide whether or not they are.

(10) If a *mixed financial holding company* is subject to equivalent provisions under the *UK prudential sectoral legislation* in relation to the *banking and investment services sector* and under ■ GENPRU 3 (Cross sector groups) and the *FCA* is the *coordinator*, the *FCA* may, on application by a *firm* and after consulting the other *competent authority* responsible for the supervision of subsidiaries, disapply such provisions of the *UK prudential sectoral legislation* in relation to the *banking and investment services sector* with regard to the *mixed financial holding company* and apply only the relevant provisions of ■ GENPRU 3 to the *mixed financial holding company*.

3.1.3A **G** If a *mixed financial holding company* is subject to equivalent provisions under this Chapter and under *UK prudential sectoral legislation* in relation to the *insurance sector* and the *FCA* is the *coordinator*, the *FCA* may, on application by the *firm*, disapply such provisions of the *UK prudential sectoral legislation* with regard to that undertaking which are considered by the *FCA* as equivalent to those applying to the *firm* under ■ GENPRU 3.1.

[Note: article 120(2) of *CRD*]

Introduction: The role of other competent authorities

3.1.4 **G** A lead supervisor (called the *coordinator*) is appointed for each *financial conglomerate*. The definition of *coordinator* in the *Financial Groups Directive Regulations* describes the criteria for deciding which *competent authority* is appointed as *coordinator*.

[Note: Article 10 and 11 of the *Financial Groups Directive*]

Definition of financial conglomerate: basic definition

3.1.5 **R** A *financial conglomerate* means a *consolidation group* that is identified as a *financial conglomerate* in accordance with the decision tree in ■ GENPRU 3 Annex 4.

Definition of financial conglomerate: sub-groups

3.1.6 **R** A *consolidation group* is not prevented from being a *financial conglomerate* because it is part of a wider:

- (1) *consolidation group*; or
- (2) *financial conglomerate*; or
- (3) group of persons linked in some other way.

Definition of financial conglomerate: the financial sectors: general

- 3.1.7** **R** For the purpose of the definition of *financial conglomerate*, there are two *financial sectors* as follows:
- (1) the *banking sector* and the *investment services sector*, taken together; and
 - (2) the *insurance sector*.
- 3.1.8** **R**
- (1) This *rule* applies for the purpose of the definition of *financial conglomerate* and the *financial conglomerate definition decision tree*.
 - (1A) [deleted]
 - (2) Any *mixed financial holding company* is considered to be outside the *overall financial sector* for the purpose of the tests set out in the boxes titled Threshold Test 1, Threshold Test 2 and Threshold Test 3 in the *financial conglomerate definition decision tree*.
 - (3) Determining whether the tests set out in the boxes titled Threshold Test 2 and Threshold Test 3 in the *financial conglomerate definition decision tree* are passed is based on considering the consolidated and/or aggregated activities of the members of the *consolidation group* within the *insurance sector* and the consolidated and/or aggregated activities of the members of the *consolidation group* within the *banking sector* and the *investment services sector*.

Definition of financial conglomerate: adjustment of the percentages

- 3.1.9** **R** Once a *financial conglomerate* has become a *financial conglomerate* and subject to supervision in accordance with this chapter, the figures in the *financial conglomerate definition decision tree* are altered as follows:
- (1) the figure of 40% in the box titled Threshold Test 1 is replaced by 35%;
 - (2) the figure of 10% in the box titled Threshold Test 2 is replaced by 8%; and
 - (3) the figure of six billion Euro in the box titled Threshold Test 3 is replaced by five billion Euro.
- 3.1.10** **R** The alteration in **GENPRU 3.1.9 R** only applies to a *financial conglomerate* during the period that:
- (1) begins when the *financial conglomerate* would otherwise have stopped being a *financial conglomerate* because it does not meet one of the unaltered thresholds referred to in **GENPRU 3.1.9 R**; and
 - (2) covers the three years following that date.

Definition of financial conglomerate: balance sheet totals

- 3.1.11 **R** The calculations referred to in the *financial conglomerate definition decision tree* regarding the balance sheet must be made on the basis of the aggregated balance sheet total of the members of the *consolidation group*, according to their annual accounts. For the purposes of this calculation, *undertakings* in which a *participation* is held must be taken into account as regards the amount of their balance sheet total corresponding to the aggregated proportional share held by the *consolidation group*. However, where consolidated accounts are available, they must be used instead of aggregated accounts.

Definition of financial conglomerate: solvency requirement

- 3.1.12 **R** The solvency and capital adequacy requirements referred to in the *financial conglomerate definition decision tree* must be calculated in accordance with the provisions of the relevant *sectoral rules*.

Definition of financial conglomerate: discretionary changes to the definition

- 3.1.13 **G** Regulation 16 to 20, 21 and 24 of the *financial groups directive regulations* allow *competent authorities*, on a case by case basis, to:
- (1) change the definition of *financial conglomerate* and the obligations applying with respect to a *financial conglomerate* (which would include, where the *appropriate regulator* would be the *coordinator* under ■ GENPRU 3.1.3G (6), permitting *firms* to apply, on an annual basis and subject to publication and notification to the *competent authority*, for a group of which it is a member not to be regarded as a *financial conglomerate* on the basis of regulation 16 of the *financial groups directive regulations* (for a group that, in terms of the tests in ■ GENPRU 3 Annex 4, does not meet Threshold Test 2 but meets Threshold Test 3) or regulation 17 of the *financial groups directive regulations* (for a group that, in terms of the tests in ■ GENPRU 3 Annex 4, meets Threshold Test 2 but not Threshold Test 3);
 - (2) apply the scheme in the *financial groups directive regulations* to *UK regulated entities* in specified kinds of group structures that do not come within the definition of *financial conglomerate*; and
 - (3) exclude a particular entity in the scope of capital adequacy requirements that apply with respect to a *financial conglomerate*.

Capital adequacy requirements: introduction

- 3.1.14 **G** The capital adequacy provisions of ■ GENPRU 3.1 are designed to be applied to *financial conglomerates*.
- 3.1.15 **G** ■ GENPRU 3.1.25 R is a high level capital adequacy *rule*. It applies whether or not the *FCA* is the *coordinator* of the *financial conglomerate* concerned.
- 3.1.16 **G** ■ GENPRU 3.1.29 R to ■ GENPRU 3.1.31 R and ■ GENPRU 3 Annex 1 apply the detailed capital adequacy requirements that correspond with the *Financial Groups Directive*. They only deal with a *financial conglomerate* for which the

FCA is the *coordinator*. If another *competent authority* is *coordinator* of a *financial conglomerate*, those *rules* do not apply with respect to that *financial conglomerate* and instead that *coordinator* will be responsible for implementing those detailed requirements.

- 3.1.17 **G** Annex I of the *Financial Groups Directive* laid down three methods for calculating capital adequacy at the level of a *financial conglomerate*. Those three methods are as follows:
- (1) Method 1 calculates capital adequacy using accounting consolidation. It is set out in ■ GENPRU 3.1.29 R to ■ GENPRU 3.1.31 R and Part 1 of ■ GENPRU 3 Annex 1.
 - (2) Method 2 calculates capital adequacy using a deduction and aggregation approach. It is set out in ■ GENPRU 3.1.29 R to ■ GENPRU 3.1.31 R and Part 2 of ■ GENPRU 3 Annex 1.
 - (3) [deleted]
 - (4) Method 3 consists of a combination of Methods 1 and 2 and would be implemented by means of a *requirement*.
- 3.1.18 **G** [deleted]
- 3.1.19 **G** Paragraph 5.7 of ■ GENPRU 3 Annex 1 (Capital adequacy calculations for financial conglomerates) deals with a case in which there are no capital ties between entities in a *financial conglomerate*. In particular, the *FCA*, after consultation with the other *competent authority* and in accordance with this chapter, will determine which proportional share of a solvency deficit in such an entity will have to be taken into account, bearing in mind the liability to which the existing relationship gives rise.
- 3.1.20 **G** (1) [deleted]
(2) [deleted]
- 3.1.21 **G** The method to be applied may be decided by the *coordinator* after consultation with the other *competent authority* and the *financial conglomerate* itself. Where the *FCA* acts as *coordinator*, the *financial conglomerate* itself may choose which of Method 1 or Method 2 it will apply, unless the *firm* is subject to a *requirement* obliging the *firm* to apply a particular method.
- 3.1.22 **G** [deleted]
- 3.1.23 **G** [deleted]
- 3.1.24 **G** [deleted]

Capital adequacy requirements: high level requirement

- 3.1.25 **R** (1) A *firm* that is a member of a *financial conglomerate* must at all times have capital resources of such an amount and type that results in the capital resources of the *financial conglomerate* taken as a whole being adequate.
- (2) This *rule* does not apply with respect to any *financial conglomerate* until notification has been made that it has been identified as a *financial conglomerate* as contemplated by regulation 2 of the *Financial Groups Directive Regulations*.

3.1.26 **R** [deleted]

3.1.27 **R** [deleted]

- 3.1.28 **R** (1) [deleted]
- (2) [deleted]

Capital adequacy requirements: application of Method 1 or 2

3.1.29 **R** If, with respect to a *firm* and a *financial conglomerate* of which it is a member, this *rule* applies under **GENPRU 3.1.29A R** to the *firm* with respect to that *financial conglomerate* as described in **GENPRU 3.1.30 R**, the *firm* must at all times have capital resources of an amount and type that ensures that the *conglomerate capital resources* of that *financial conglomerate* at all times equal or exceed its *conglomerate capital resources requirement*.

3.1.29A **R** **GENPRU 3.1.29 R** applies to a *firm* with respect to the *financial conglomerate* of which it is a member if notification has been made in accordance with regulation 2 of the *Financial Groups Directive Regulations* that the *financial conglomerate* is a *financial conglomerate* and that the *FCA* is *coordinator* of that *financial conglomerate*.

Capital adequacy requirements: use of requirement to apply Method 1 or 2 for calculating capital adequacy

- 3.1.30 **R** If **GENPRU 3.1.29 R** (application of Method 1 or 2) applies to a *firm* with respect to the *financial conglomerate* of which it is a member, then with respect to the *firm* and the *financial conglomerate*:
 - (1) the definitions of *conglomerate capital resources* and *conglomerate capital resources requirement* that apply for the purposes of that *rule* are the ones from whichever of Part 1 or Part 2 of **GENPRU 3 Annex 1** the *firm* has indicated to the *FCA* it will apply, unless the *firm* is subject to a *requirement* obliging the *firm* to apply a specific part of **GENPRU 3 Annex 1**, in which case **GENPRU 3.1.31 R** will apply; and
 - (2) the *firm* must indicate to the *FCA* in advance which Part of **GENPRU 3 Annex 1** the *firm* intends to apply.

3.1.31 **R** If ■ GENPRU 3.1.29 R (application of Method 1 or 2) applies to a *firm* with respect to a *financial conglomerate* of which it is a member, and the *firm* is subject to a *requirement* obliging the *firm* to apply a specific part of ■ GENPRU 3 Annex 1, the definitions of *conglomerate capital resources* and *conglomerate capital resources requirement* that apply for the purposes of that *rule* are the ones from whichever of Part 1 or Part 2 of ■ GENPRU 3 Annex 1 is specified in the *requirement*.

Risk concentration and intra-group transactions: introduction

3.1.32 **G** ■ GENPRU 3.1.35 R implements requirements that correspond to Article 7(4) and Article 8(4) of the *Financial Groups Directive* that where a *financial conglomerate* is headed by a *mixed financial holding company*, the *sectoral rules* regarding *risk concentration* and *intra-group transactions* of the *most important financial sector* in the *financial conglomerate*, if any, shall apply to that sector as a whole, including the *mixed financial holding company*.

3.1.33 **G** The *FCA* may, on a case by case basis, require the application at the level of the *financial conglomerate* of the provisions of the *sectoral rules* on *risk concentrations* and *intra-group transactions*.
 [Note: Article 7(3), Article 8(3) and Annex II of the *Financial Groups Directive*]

Risk concentration and intra-group transactions: application

3.1.34 **R** ■ GENPRU 3.1.35 R applies to a *firm* with respect to a *financial conglomerate* of which it is a member if the *financial conglomerate* is headed by a *mixed financial holding company*.

Risk concentration and intra group transactions: the main rule

3.1.35 **R** Subject to ■ GENPRU 3.1.35AR, a *firm* must ensure that the *sectoral rules* regarding *risk concentration* and *intra-group transactions* of the *most important financial sector* in the *financial conglomerate* referred to in ■ GENPRU 3.1.34 R are complied with with respect to that *financial sector* as a whole, including the *mixed financial holding company*. The *sectoral rules* for these purposes are those identified in the table in ■ GENPRU 3.1.36 R.

3.1.35A **R** A *mixed financial holding company* must comply with the *sectoral rules* in the table in ■ GENPRU 3.1.36R for the *investment services sector* where:

the *FCA* is the *coordinator* of the *financial conglomerate*; and

the *banking and investment services sector* is the *most important financial sector*.

Risk concentration and intra-group transactions: Table of applicable sectoral rules

3.1.36 **R** Table: application of sectoral rules
 This table belongs to ■ GENPRU 3.1.35 R

The most important financial sector	Applicable sectoral rules	
	Risk concentration	Intra-group transactions
<i>Banking and investment services sector</i>	Part Four of the UK CRR <i>Banking sector</i>	The UK CRR and the PRA Rulebook
	MIFIDPRU 5 <i>the investment services sector</i>	SYSC 12.1.12R
<i>Insurance sector</i>	PRA Rulebook: Solvency II Firms Group Supervision 16.1	PRA Rulebook: Solvency II Firms: Groups: 16.2
Note	Any <i>waiver</i> , approval or permission granted to a member of the <i>financial conglomerate</i> , on an individual or consolidated basis, shall not apply in respect of the <i>financial conglomerate</i> for the purposes of GENPRU 3.1.36 R. For this purpose, "permission" refers to a consent, approval or agreement conferred on the <i>appropriate regulator as competent authority</i> .	

3.1.37 R [deleted]

- 3.1.38 R
- (1) [deleted]
 - (2) [deleted]
 - (3) [deleted]
 - (4) [deleted]

The financial sectors: asset management companies and alternative investment fund managers

- 3.1.39 R
- (1) This rule deals with the inclusion of an *asset management company* or an *alternative investment fund manager* that is a member of a *financial conglomerate* in the scope of regulation of *financial conglomerates*.

[Note: Articles 30 and 30a of the *Financial Groups Directive*]
 - (2) An *asset management company* or an *alternative investment fund manager* is in the overall *financial sector* and is a *regulated entity* for the purpose of:
 - (a) GENPRU 3.1.29 R to GENPRU 3.1.36 R;
 - (b) GENPRU 3 Annex 1 (Capital adequacy calculations for financial conglomerates) and GENPRU 3 Annex 2 (Prudential rules for third country groups); and

- (c) any other provision of the *Handbook* relating to the supervision of *financial conglomerates*.
- (3) Save in the circumstances in (5), in the case of a *financial conglomerate* for which the *FCA* is the *coordinator*, all *asset management companies* and all *alternative investment fund managers* must, for the purposes in (2), be allocated to either the *MIFIDPRU investment services sector* or the *insurance sector*. But if that choice has not been made in accordance with (4) and notified to the *FCA* in accordance with (4)(d), an *asset management company* or an *alternative investment fund manager* must be allocated to the *MIFIDPRU investment services sector*.
- (4) The choice in (3):
- (a) must be made by the *undertaking* in the *financial conglomerate* that is:
 - (i) the *parent undertaking* at the head of the group or,
 - (ii) in the absence of a *parent undertaking*, the *undertaking* that is deemed to be the *parent undertaking* in accordance with the rules in ■ MIFIDPRU 2.4;
 - (b) applies to all *asset management companies* and all *alternative investment fund managers* that are members of the *financial conglomerate* from time to time;
 - (c) cannot be changed; and
 - (d) must be notified to the *FCA* as soon as reasonably practicable.
- [Note: Article 4(2) of the *Financial Groups Directive*]
- (5) Where a *UCITS management company* or an *asset management company* is an *investment firm* it must be allocated to the *MIFIDPRU investment services sector*.
- (a) [deleted]
 - (b) [deleted]