

# Chapter 1

# Application

## 1.1 Application and purpose

### Application

- 1.1.1** **G** There is no overall application provision for *MIFIDPRU*. Each chapter or section has its own application statement. However, *MIFIDPRU* broadly applies to the following:
- (1) *MIFIDPRU investment firms*;
  - (2) *UK parent entities*; and
  - (3) *parent undertakings* in an *investment firm group* that are incorporated in, or have their principal place of business in, the *United Kingdom*.
- 1.1.2** **G**
- (1) The definition of a *MIFIDPRU investment firm* includes a *collective portfolio management investment firm*. This means that a *collective portfolio management investment firm* must comply with the rules in *MIFIDPRU*, except to the extent that a provision of *MIFIDPRU* otherwise provides.
  - (2) A *collective portfolio management investment firm* is also subject to the prudential requirements in **IPRU-INV 11** (Collective Portfolio Management Firms and Collective Portfolio Management Investment Firms). These *firms* should refer to **IPRU-INV 11.6** for further *guidance* on how the requirements in *MIFIDPRU* interact with the requirements in **IPRU-INV 11**.
  - (3) As explained in **MIFIDPRU 1.1.5G**, many requirements in *MIFIDPRU* apply only in relation to the *MiFID business* of a *firm* and therefore will not apply to the collective portfolio management activities carried on by a *collective portfolio management investment firm*. However, some requirements in *MIFIDPRU* apply to the *firm* as a whole.
- 1.1.3** **G** **Application to overseas firms**
- MIFIDPRU* does not directly apply to an *undertaking* which is not incorporated in, and does not have its principal place of business in, the *United Kingdom*. However, *MIFIDPRU* imposes some obligations on *UK parent entities* and *responsible UK parents* relating to *undertakings* established in a *third country* that form part of the same *investment firm group*. **MIFIDPRU 2** (Levels of application) contains additional *guidance* on the application of *MIFIDPRU* to *investment firm groups*.

## 1.1.4

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- (1) This *guidance* provision applies to a *third country MIFIDPRU investment firm*. It is without prejudice to the *FCA's* general approach to authorising *overseas firms*.
- (2) The *FCA* will not normally give a *Part 4A permission* to a *third country MIFIDPRU investment firm* unless the *FCA* is satisfied that the applicant will be subject to prudential regulation by a *regulatory body* in its home jurisdiction and the regulatory requirements are broadly equivalent to the requirements that would apply under *MIFIDPRU*.
- (3) When conducting the assessment in (2), the *FCA* will take into account the following non-exhaustive list of factors:
  - (a) whether the requirements of the jurisdiction are likely to achieve similar prudential outcomes to *MIFIDPRU*;
  - (b) how the overseas *regulatory body* supervises and enforces those requirements in practice;
  - (c) the broader legal framework applicable to the applicant in the jurisdiction; and
  - (d) whether there are adequate arrangements in place between the *FCA* and the overseas *regulatory body* to facilitate any necessary supervisory cooperation.
- (4) The *FCA* considers that the approach described in (2) and (3) is consistent with the following:
  - (a) The requirements in the *threshold conditions* including, in particular, the effective supervision *threshold condition* described in ■ COND 2.3, the appropriate resources *threshold condition* described in ■ COND 2.4 and the suitability *threshold condition* described in ■ COND 2.5.
  - (b) The need for the *FCA* to be able to apply effective supervision to a *third country MIFIDPRU investment firm* to ensure appropriate protection for *consumers* or potential *consumers*. This relies on cooperation between the *FCA* and the overseas *regulatory body* that supervises that *third country MIFIDPRU investment firm* and on the *FCA* being able to place appropriate reliance on the supervision applied by that overseas *regulatory body*.
- (5) If a *third country MIFIDPRU investment firm* is not subject to prudential regulation by a *regulatory body* in its home jurisdiction which is broadly equivalent to the requirements that would apply under *MIFIDPRU*, the *FCA* will normally expect it to establish a *subsidiary* in the *United Kingdom*. That *subsidiary* would need to be authorised as a *MIFIDPRU investment firm* and would then be directly subject to the requirements in *MIFIDPRU*. The *subsidiary* would need to demonstrate that it meets the *threshold conditions* to obtain *authorisation*.
- (6) Although a *third country MIFIDPRU investment firm* that is granted a *Part 4A permission* is not subject to *MIFIDPRU*, it must still comply with the requirements in the *threshold conditions* and *Principles* on an ongoing basis. This includes the obligation under *Principle 11* (Relations with regulators) to inform the *FCA* of anything of which the *FCA* would reasonably expect notice, which may include interactions between the *firm* and its overseas *regulatory body*.

		<b>Purpose</b>
1.1.5	G	The purpose of <i>MIFIDPRU</i> is to set out the detailed prudential requirements that apply to a <i>MIFIDPRU investment firm</i> . <i>MIFIDPRU</i> does not apply to a <i>designated investment firm</i> , which is subject to prudential regulation by the <i>PRA</i> . Generally, the <i>rules</i> in <i>MIFIDPRU</i> are intended to cover the <i>MiFID business</i> undertaken by a <i>firm</i> , but certain requirements apply to a <i>firm</i> as a whole.
1.1.6	G	The requirements in <i>MIFIDPRU</i> expand upon the basic requirements under the appropriate resources <i>threshold condition</i> referred to in ■ COND 2.4 and the requirement in <i>Principle 4</i> for a <i>firm</i> to maintain adequate financial resources.
		<b>Tied agents</b>
1.1.7	G	<p>(1) Certain provisions of <i>MIFIDPRU</i> refer to, or apply in relation to, <i>tied agents</i>. The definition of a <i>tied agent</i> refers to a <i>person</i> who, on behalf of an <i>investment firm</i> (including a <i>third country investment firm</i>):</p> <ul style="list-style-type: none"> <li>(a) promotes <i>investment services</i> or <i>ancillary services</i> to <i>clients</i> or prospective <i>clients</i>;</li> <li>(b) receives and transmits instructions or orders from the <i>client</i> in respect of <i>investment services</i> or <i>financial instruments</i>;</li> <li>(c) places <i>financial instruments</i>; or</li> <li>(d) provides advice to <i>clients</i> or prospective <i>clients</i> in respect of <i>investment services</i> or <i>financial instruments</i>.</li> </ul> <p>(2) The references in <i>MIFIDPRU</i> to <i>tied agents</i> do not include <i>appointed representatives</i> that do not meet the definition of a <i>tied agent</i> (for example, because the relevant <i>appointed representative</i> does not carry on its activities in relation to the <i>MiFID business</i> of its principal <i>firm</i>). However, a <i>firm's</i> potential responsibility for <i>appointed representatives</i> (whether or not they are also <i>tied agents</i>) will be a relevant factor for a <i>firm's</i> <i>ICARA process</i> under ■ MIFIDPRU 7 (Governance and risk management).</p>
		<b>Voluntary application of stricter requirements</b>
1.1.8	R	No provision in <i>MIFIDPRU</i> prevents a <i>firm</i> from: <ul style="list-style-type: none"> <li>(1) holding <i>own funds</i> (or components of <i>own funds</i>) or <i>liquid assets</i> that exceed those required by <i>MIFIDPRU</i>; or</li> <li>(2) applying other measures that are stricter than those required by <i>MIFIDPRU</i>.</li> </ul>
1.1.9	G	<p>(1) If a <i>firm</i> applies stricter measures than those required under <i>MIFIDPRU</i> in accordance with ■ MIFIDPRU 1.1.8R, the <i>firm</i> must still ensure that it meets the basic requirements of <i>MIFIDPRU</i>. This is illustrated by the following two examples:</p> <ul style="list-style-type: none"> <li>(a) Example 1: A <i>firm</i> decides to hold <i>own funds</i> of 0.03% of its <i>average AUM</i>, rather than 0.02% as required under</li> </ul>

■ MIFIDPRU 4.7.5R. This would be a stricter measure that still met the basic requirements of *MIFIDPRU* and therefore would be permitted under ■ MIFIDPRU 1.1.8R.

- (b) Example 2: A *firm* decides to hold a significant amount of additional *own funds* instead of applying the deductions from its *common equity tier 1 capital* required under ■ MIFIDPRU 3.3.6R. This is on the basis that the additional *own funds* far exceed the estimated value of the required deductions and the *firm* considers that the deduction calculations are too onerous. While the *firm* may consider that holding these additional *own funds* is a stricter measure, this approach would not meet the basic requirements of *MIFIDPRU*, which require the *firm* to calculate and apply the deductions. In addition, the failure to apply the correct deductions to *common equity tier 1 capital* may result in the *firm* incorrectly applying the *concentration risk* requirements and limits in ■ MIFIDPRU 5. This approach would therefore not be permitted under ■ MIFIDPRU 1.1.8R because it does not meet the basic requirements of *MIFIDPRU*.

- (2) If a *firm* wishes to apply a stricter measure but is unsure of whether that measure would meet the basic requirements of *MIFIDPRU*, it should discuss the proposal with the *FCA* before applying the measure.

### Notifications and applications under MIFIDPRU for which there is no dedicated form

#### 1.1.10

**R**

This *rule* applies where:

a notification or an application for permission is required under a provision in (2); and

the provisions in *MIFIDPRU* do not specify that a particular notification or application form must be used for that purpose.

The relevant provisions in (1) are:

a *rule* in *MIFIDPRU*;

a provision of the *UK CRR* that is applied by *MIFIDPRU*; or

a provision in binding technical standards made for the purposes of the *UK CRR* where those binding technical standards are applied by *MIFIDPRU*.

Where this *rule* applies, a *firm*, *UK parent entity* or *GCT parent undertaking* that is subject to the relevant provision in (2) must:

where the provision requires a notification, complete the notification form in ■ MIFIDPRU 1 Annex 5R and submit it to the *FCA* using the *online notification and application system*; or

where the provision requires an application for permission, complete the application form in ■ MIFIDPRU 1 Annex 6R and submit it to the *FCA* using the *online notification and application system*.

## 1.2 SNI MIFIDPRU investment firms

### Basic conditions for classification as an SNI MIFIDPRU investment firm

#### 1.2.1

**R**

A MIFIDPRU investment firm is an SNI MIFIDPRU investment firm if it satisfies the following conditions:

- (1) its *average AUM*, as calculated in accordance with ■ MIFIDPRU 4.7.5R is less than £1.2 billion;
- (2) its *average COH*, as calculated in accordance with ■ MIFIDPRU 4.10.19R is less than:
  - (a) £100 million per *day* for *cash trades*; and
  - (b) £1 billion per *day* for *derivatives trades*;
- (3) its *average ASA*, as calculated in accordance with ■ MIFIDPRU 4.9.8R is zero;
- (4) its *average CMH*, as calculated in accordance with ■ MIFIDPRU 4.8.13R is zero;
- (5) it does not have *permission* for any of the following:
  - (a) *dealing on own account*; or
  - (b) underwriting of *financial instruments* and/or placing of *financial instruments* on a firm commitment basis;
- (6) its on- and off-balance sheet total is less than £100 million;
- (7) its total annual gross revenue from *investment services and/or activities* is less than £30 million, calculated as an average on the basis of the annual figures from the two-year period immediately preceding the given financial year;
- (8) it has not been classified as a *non-SNI MIFIDPRU investment firm* due to the effect of ■ MIFIDPRU 10.2 (Categorisation of clearing firms as non-SNI MIFIDPRU investment firms);
- (9) its *average DTF*, as calculated in accordance with ■ MIFIDPRU 4.15.4R, is zero; and
- (10) it is not appointed to act as a *depository* in accordance with ■ FUND 3.11.10R(2) or ■ COLL 6.6A.8R(3)(b)(i).

**1.2.2** **G** The definitions of *ASA* and *CMH* relate to *client* assets and *client* money that are held in the course of *MiFID* business. As a result, a *firm* may hold *client* assets or *client* money in the course of business other than *MiFID* business (provided that it has the necessary *permissions* to do so) and still meet the conditions to be classified as an *SNI MIFIDPRU investment firm*. When determining whether *client* assets or *client* money are to be treated as held in the course of *MiFID* business for these purposes, *MIFIDPRU investment firms* should refer to the *rules* and *guidance* in ■ MIFIDPRU 4.8 (K-CMH requirement) and ■ 4.9 (K-ASA requirement).

### Additional provisions relating to the calculation of conditions to be classified as an SNI MIFIDPRU investment firm

**1.2.3** **R** Notwithstanding the calculation methodologies in ■ MIFIDPRU 4, the *firm* must use the following for the purposes of the conditions in ■ MIFIDPRU 1.2.1R:

- (1) end-of-day values to calculate:
  - (a) its *average AUM* under ■ MIFIDPRU 1.2.1R(1);
  - (b) its *average COH* under ■ MIFIDPRU 1.2.1R(2);
  - (c) its *average ASA* under ■ MIFIDPRU 1.2.1R(3);
- (2) intra-day values to assess its *average CMH* under ■ MIFIDPRU 1.2.1R(4).

**1.2.4** **R**

- (1) By way of derogation from ■ MIFIDPRU 1.2.1R, a *firm* may use the alternative approach in (2) to measure:
  - (a) its *average AUM* for the purposes of ■ MIFIDPRU 1.2.1R(1); and/or
  - (b) its *average COH* for the purposes of ■ MIFIDPRU 1.2.1R(2).
- (2) The alternative approach is to apply the methodologies in ■ MIFIDPRU 4 for measuring *average AUM* and *average COH*, but with the following modifications:
  - (a) the measurement must be performed over the immediately preceding 12 *months*; and
  - (b) the exclusion of the 3 most recently monthly values does not apply.
- (3) If a *firm* uses the derogation in (1), it must:
  - notify the *FCA* by submitting the form in ■ MIFIDPRU 1 Annex 1R via the *online notification and application system*; and
  - apply the alternative approach for a continuous period of at least 12 *months* from the date specified in the *firm's* notice in (a).
- (4) If a *firm* ceases to apply the derogation in (1), it must notify the *FCA* by submitting the form in ■ MIFIDPRU 1 Annex 1R via the *online notification and application system*.

**1.2.5** **G** Where a *firm* relies on the derogation in ■ MIFIDPRU 1.2.4R, the alternative approach applies only for the purpose of determining whether the *firm* meets the requirements to be classified as an *SNI MIFIDPRU investment firm*.

It does not apply for the purpose of the *firm's* calculation of its *K-factor requirement* under ■ MIFIDPRU 4.

- 1.2.6** **R** (1) Subject to (2), a *firm* must use the values recorded at the end of the last financial year for which accounts have been finalised and approved by its *management body* to assess each of the following conditions:
- (a) its on- and off-balance sheet total under ■ MIFIDPRU 1.2.1R(6); and
  - (b) its total annual gross revenue under ■ MIFIDPRU 1.2.1R(7).
- (2) The *firm* must use provisional accounts where its accounts have not been finalised and approved after 6 *months* from the end of the last financial year.
- 1.2.7** **R** (1) A *firm* may use the end-of-day value for *average CMH* instead of the intra-day value under ■ MIFIDPRU 1.2.3R(2) if:
- (a) there is an error in record-keeping or in the reconciliation of accounts that incorrectly indicates that the *firm* has breached the zero threshold in ■ MIFIDPRU 1.2.1R(4); and
  - (b) the error is resolved before the end of the *business day* to which it relates.
- (2) If a *firm* uses an end-of-day value under (1), it must notify the *FCA* immediately of:
- the error;
  - the reasons that the error occurred; and
  - how the error has been corrected.
- (3) The notification in (2) must be submitted via the *online notification and application system* using the form in ■ MIFIDPRU 1 Annex 2R.
- 1.2.8** **G** (1) ■ MIFIDPRU 1.2.7R applies where a *firm* has incorrectly recorded an amount of *client money* as *CMH* and identifies the mistake before the end of the same *business day*. This could occur, for example, where there has been an error in data entry, or where a *firm* incorrectly records *client money* as meeting the *CMH* definition.
- (2) ■ MIFIDPRU 1.2.7R does not apply where a *firm* mistakenly accepts an amount that satisfies the *CMH* definition and subsequently returns that amount to the relevant *client*. In that case, the *firm* will have breached the zero threshold in ■ MIFIDPRU 1.2.1R(4) and the situation has not arisen due to an error in record-keeping or reconciliation. A *firm* that wishes to be classified as an *SNI investment firm* should therefore operate effective systems and controls that prevent it from mistakenly accepting *money* or assets that constitute *CMH* or *ASA*.
- 1.2.9** **R** A *MIFIDPRU investment firm* must assess the following conditions on the basis of the *firm's* individual situation:
- (1) *average ASA* under ■ MIFIDPRU 1.2.1R(3);



- (2) average *CMH* under ■ MIFIDPRU 1.2.1R(4);
- (3) average *DTF* under ■ MIFIDPRU 1.2.1R(9);
- (4) whether the *firm* has *permission to deal on own account*;
- (5) whether the *firm* is a *clearing member* or an *indirect clearing firm*;  
and
- (6) whether the *firm* is appointed to act as a *depository* in accordance with ■ FUND 3.11.10R(2) or ■ COLL 6.6A.8R(3)(b)(i).

## 1.2.10

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A MIFIDPRU investment firm must assess the conditions in (2) on the basis of the combined position of each of the following entities that form part of the same *group* as the *firm*;

*MIFIDPRU investment firms*;

*designated investment firms*;

*collective portfolio management investment firms*; and

*third country investment firms* that carry on *investment services and/or activities* in the UK.

The relevant conditions are:

- (a) where a MIFIDPRU investment firm has metrics for *AUM*, average *AUM* under ■ MIFIDPRU 1.2.1R(1);
- (b) where a MIFIDPRU investment firm has metrics for *COH*, average *COH* under ■ MIFIDPRU 1.2.1R(2);
- (c) the on- and off-balance sheet total under ■ MIFIDPRU 1.2.1R(6);  
and
- (d) total annual gross revenue under ■ MIFIDPRU 1.2.1R(7).

When measuring the combined total annual gross revenue under (2)(d), the *firm* may exclude any double counting that arises in respect of gross revenues generated within the *group*.

When calculating the contribution of the following to the combined position of the *group*, the *firm* must:

- (a) for a *collective portfolio management investment firm*, include only amounts that are attributable to the *investment services and/or activities* that fall within ■ COLL 6.9.9R (4) to ■ COLL 6.9.9R (6) or ■ FUND 1.4.3R (3) to ■ FUND 1.4.3R (6); and
- (b) for a *third country investment firm*:
  - (i) include only amounts that are attributable to the *investment services and/or activities* that are carried on by the *third country investment firm* in the UK; and
  - (ii) apply the definitions of *AUM* and *COH* as if the references to "*MiFID business*" in those definitions included the *investment services and/or activities* in (i).

## 1.2.11

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- (1) ■ MIFIDPRU 1.2.10R applies to each individual MIFIDPRU investment firm by reference to the relevant entities that form part of that firm's

group. The purpose of the rule is to prevent a MIFIDPRU investment firm from dividing its business between separate group entities that may each carry-on investment services and/or activities in the UK in order to avoid being classified as a non-SNI MIFIDPRU investment firm. Where two or more MIFIDPRU investment firms exceed one or more of the relevant thresholds in ■ MIFIDPRU 1.2.10R on a combined basis, each of those firms will be treated as a non-SNI MIFIDPRU investment firm.

- (1A) (a) A MIFIDPRU investment firm that does not have metrics for AUM or COH, does not need to take into account the AUM or COH of other members of its group when calculating average AUM under ■ MIFIDPRU 1.2.1R(1) or average COH under ■ MIFIDPRU 1.2.1R(2). This is illustrated by the example in (b).
- (b) Firm A (a MIFIDPRU investment firm providing services for the execution of orders on behalf of clients, with no AUM itself) is part of the same group as Firm B and Firm C (both MIFIDPRU investment firms providing portfolio management services, each with AUM of £0.8 billion). As Firm A does not have any AUM, it does not need to take into account the average AUM of Firms B and C when considering the average AUM threshold in ■ MIFIDPRU 1.2.1R(1), and Firm A is therefore not a non-SNI investment firm under this particular metric. Firms B and C would both be non-SNI MIFIDPRU investment firms because they do have metrics for AUM and because their combined average AUM is more than the threshold in ■ MIFIDPRU 1.2.1R(1).
- (2) Where a MIFIDPRU investment firm forms part of an investment firm group to which consolidation applies under ■ MIFIDPRU 2.5, ■ MIFIDPRU 2.5.21R explains how ■ MIFIDPRU 1.2 applies to the consolidated situation of the relevant UK parent entity.

**Summary of conditions for classification as an SNI MIFIDPRU investment firm and associated calculation requirements**

1.2.12

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The following table summarises the effect of ■ MIFIDPRU 1.2.1R to ■ 1.2.10R.

Measure	Measurement of relevant values	Threshold to be classified as an SNI MIFIDPRU investment firm	Application of threshold on an individual basis or combined basis of investment firms within a group (see MIFIDPRU 1.2.9R and 1.2.10R)	
Average AUM	End-of-day	Less than £1.2 billion	Combined	See Note 1
Average COH (cash trades)	End-of-day	Less than £100 million per day	Combined	See Note 1

Measure	Measurement of relevant values	Threshold to be classified as an SNI MIFIDPRU investment firm	Application of threshold on an individual basis or combined basis of investment firms within a group (see MIFIDPRU 1.2.9R and 1.2.10R)	
Average COH (derivatives)	End-of-day	Less than £1 billion per day	Combined	See Note 1
Average ASA	End-of-day	Zero	Individual	
Average CMH	Intra-day	Zero	Individual	See Note 2
Average DTF	End-of-day	Zero	Individual	
NPR	<i>Firm must not have permission to deal on own account, so these measures must always be zero</i>		Individual	
CMG			Individual	
TCD			Individual	
On- and off-balance sheet total	End of last financial year for which accounts finalised by <i>management body</i>	Less than £100 million	Combined	See Note 3
Total annual gross revenue from <i>investment services and/or activities</i>	End of last financial year for which accounts finalised by <i>management body</i>	Less than £30 million, based on an average of annual figures for the two-year period immediately preceding the given financial year	Combined	See Notes 3 and 4
Whether <i>firm</i> is a <i>clearing member</i> or <i>indirect clearing firm</i> under MIFIDPRU 10.2	<i>Firm must not be a clearing member or indirect clearing firm</i>		Individual	
Whether the <i>firm</i> has been appointed to act as a <i>depository</i> in accordance with FUND 3.11.10R(2) or COLL 6.6A.8R(3)(b)(i)	<i>Firm must not be appointed as a depository under the relevant FUND and COLL provisions</i>		Individual	

Measure	Measurement of relevant values	Threshold to be classified as an SNI MIFIDPRU investment firm	Application of threshold on an individual basis or combined basis of investment firms within a group (see MIFIDPRU 1.2.9R and 1.2.10R)
<b>Notes</b>			
Note 1:	Under MIFIDPRU 1.2.4R, the <i>firm</i> can choose to calculate the relevant values for these measures by applying the applicable methodologies in MIFIDPRU 4 to the most recent 12 <i>months</i> without excluding the three most recent monthly values.		
Note 2:	Under MIFIDPRU 1.2.7R, the <i>firm</i> may use the end-of-day value if there has been an error in record keeping or in reconciliation of accounts that incorrectly indicates the <i>firm</i> has breached the zero threshold for <i>average CMH</i> , provided that the error is corrected before the end of the <i>business day</i> to which it relates.		
Note 3:	Under MIFIDPRU 1.2.6R, the <i>firm</i> must use provisional accounts where the relevant accounts have not been finalised and approved after 6 <i>months</i> from the end of the last financial year.		
Note 4:	Under MIFIDPRU 1.2.10R, the <i>firm</i> may exclude any double counting that arises in respect of gross revenues generated within the <i>group</i> .		

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

1.2.13

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- (1) This *rule* applies to a *non-SNI MIFIDPRU investment firm* that subsequently satisfies all the conditions in ■ MIFIDPRU 1.2.1R.
- (2) The *firm* in (1) shall be reclassified as an *SNI MIFIDPRU investment firm* only if:
  - (a) the *firm* satisfies the relevant conditions for a continuous period of at least 6 *months* (or any longer period that has elapsed before the *firm* submits the notification in (b)); and
  - (b) the *firm* notifies the *FCA* that it satisfies the conditions in (a).
- (3) The notification in (2)(b) must be submitted via the *online notification and application system* using the form in ■ MIFIDPRU 1 Annex 3R.

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

1.2.14

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Where a *MIFIDPRU investment firm* no longer satisfies all the conditions set out in ■ MIFIDPRU 1.2.1R, it ceases to be an *SNI MIFIDPRU investment firm* with immediate effect, except where ■ MIFIDPRU 1.2.15R applies.

- 1.2.15** **R** (1) Where a *MIFIDPRU investment firm* exceeds one or more of the thresholds in (2), but continues to satisfy all other conditions in ■ MIFIDPRU 1.2.1R, it ceases to be an *SNI MIFIDPRU investment firm* 3 months after the date on which it first exceeded the relevant threshold.
- (2) The relevant thresholds are:
- the *average AUM* threshold in ■ MIFIDPRU 1.2.1R(1);
  - either or both of the *average COH* thresholds in ■ MIFIDPRU 1.2.1R(2);
  - the on- and off-balance sheet total threshold in ■ MIFIDPRU 1.2.1R(6); and
  - the total annual gross revenue threshold in ■ MIFIDPRU 1.2.1R(7).
- 1.2.16** **R** (1) If a *MIFIDPRU investment firm* ceases to satisfy one of the conditions in ■ MIFIDPRU 1.2.1R, it must promptly notify the *FCA*.
- (2) The notification in (1) must be submitted via the *online notification and application system* using the form in ■ MIFIDPRU 1 Annex 4R.
- 1.2.17** **G** Where a *firm* ceases to satisfy one of the conditions in ■ MIFIDPRU 1.2.15R, but subsequently satisfies that condition within the three-month period referred to in that rule, the *firm* will still be reclassified as a *non-SNI MIFIDPRU investment firm* 3 months after the date on which it first ceased to satisfy that condition. The *firm* will only be reclassified as an *SNI MIFIDPRU investment firm* if it satisfies the conditions in, and requirements of, ■ MIFIDPRU 1.2.13R.
- Application of senior management, remuneration and systems and controls requirements to SNI MIFIDPRU investment firms**
- 1.2.18** **R** (1) Subject to (2) and (3), the following provisions do not apply to an *SNI MIFIDPRU investment firm*:
- MIFIDPRU 7.3 (Risk, remuneration and nomination committees);
  - the provisions in ■ SYSC 19G (MIFIDPRU Remuneration Code) which are not listed in ■ SYSC 19G.1.6R(2).
- (2) Subject to (4) and (5), if a *non-SNI MIFIDPRU investment firm* satisfies the conditions in ■ MIFIDPRU 1.2.1R to be classified as an *SNI MIFIDPRU investment firm*, the provisions in (1) will cease to apply only:
- 6 months after the date on which the *firm* first satisfied those conditions (or after any longer period that has elapsed before the *firm* submits the notification in (b)(ii)); and
  - provided that the *firm*:
    - continued to satisfy the conditions throughout the period in (a); and
    - has notified the *FCA* under ■ MIFIDPRU 1.2.13R(2)(b).

- (3) Subject to (4) and (5), if an *SNI MIFIDPRU investment firm* no longer satisfies the conditions in ■ MIFIDPRU 1.2.1R to be classified as an *SNI MIFIDPRU investment firm*, it must:
  - (a) notify the *FCA* immediately in accordance with ■ MIFIDPRU 1.2.16R of the date on which it ceased to satisfy the conditions; and
  - (b) comply with the provisions in (1) within 12 *months* from the date on which the *firm* ceased to satisfy the conditions.
- (4) ■ MIFIDPRU 7.3 (Risk, remuneration and nomination committees) does not apply to a *non-SNI MIFIDPRU investment firm* if the *firm* meets the conditions in ■ MIFIDPRU 7.1.4R.
- (5) The provisions listed in ■ SYSC 19G.1.1R(4) do not apply to a *non-SNI MIFIDPRU investment firm* if the *firm* meets the conditions in ■ SYSC 19G.1.1R(2).

## 1.2.19

**G** Under the Capital Requirements (Country-by-Country Reporting) Regulations 2013 (SI 2013/3118) as amended, *non-SNI MIFIDPRU investment firms* may be required to disclose information relating to their branches or subsidiaries outside the *UK*. The Regulations also set out how the country-by-country reporting obligations apply when a *MIFIDPRU investment firm* is reclassified as an *SNI MIFIDPRU investment firm* or a *non-SNI MIFIDPRU investment firm*.



## 1.3 Actions for damages

### 1.3.1

**R** A contravention of any *rule* in *MIFIDPRU* does not give rise to a right of action by a *private person* under section 138D of the *Act* (and each of those *rules* is specified under section 138D(3) of the *Act* as a provision giving rise to no such right of action).





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

*[Editor's note: The form can be found at this address: [https://www.handbook.fca.org.uk/form/MIFIDPRU 1 Annex 1R Notification under MIFIDPRU 1.2.4R .pdf](https://www.handbook.fca.org.uk/form/MIFIDPRU%201%20Annex%201R%20Notification%20under%20MIFIDPRU%201.2.4R.pdf)*



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

*[Editor's note: The form can be found at this address: [https://www.handbook.fca.org.uk/form/MIFIDPRU 1 Annex 2R Notification under MIFIDPRU 1.2.7R\(2\) of the use of an end-of-day value for CMH.pdf](https://www.handbook.fca.org.uk/form/MIFIDPRU%201%20Annex%202R%20Notification%20under%20MIFIDPRU%201.2.7R(2)%20of%20the%20use%20of%20an%20end-of-day%20value%20for%20CMH.pdf)*



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

*[Editor's note: The form can be found at this address: [https://www.handbook.fca.org.uk/form/MIFIDPRU 1 Annex 3R Notification under MIFIDPRU 1.2.13R\(2\)\(b\).pdf](https://www.handbook.fca.org.uk/form/MIFIDPRU%201%20Annex%203R%20Notification%20under%20MIFIDPRU%201.2.13R(2)(b).pdf)*



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

MIFIDPRU 1 Annex 4R Notification under MIFIDPRU 1.2.16R that a firm.group no longer qualifies.pdf





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## Application for a permission under MIFIDPRU for which there is no dedicated application form

*Editor's note:* The form can be found at this address:[https://www.handbook.fca.org.uk/form/mifidpru/MIFIDPRU1\\_Annex5R\\_20220101.pdf](https://www.handbook.fca.org.uk/form/mifidpru/MIFIDPRU1_Annex5R_20220101.pdf)



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## Notification under MIFIDPRU for which there is no dedicated notification form

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