

## Chapter 2

# Level of application of requirements

## 2.3 Exemptions

### 2.3.1

**R**

A MIFIDPRU investment firm will be exempt from ■ MIFIDPRU 8 (Disclosure) on an individual basis if:

- (1) the *firm* has applied to the *FCA* in accordance with ■ MIFIDPRU 2.3.3R;
- (2) the application in (1) demonstrates to the satisfaction of the *FCA* that:
  - (a) the *firm* is a *SNI MIFIDPRU investment firm*;
  - (b) the *firm* is a *subsidiary* and is included in the supervision on a *consolidated basis of an insurance undertaking or reinsurance undertaking* in accordance with Rule 10.5 of the *PRA Rulebook: Solvency II firms: Group Supervision*;
  - (c) the *firm* and its *parent undertaking* are subject to *authorisation* and supervision in the *UK*;
  - (d) *own funds* are distributed adequately between the *firm* and its *parent undertaking* and:
    - (i) there is no current or foreseen material practical or legal impediment to the prompt transfer of capital or repayment of liabilities by the *parent undertaking*;
    - (ii) either the *parent undertaking* will guarantee the commitments entered into by the *firm*, or the risks in the *firm* are of negligible interest;
    - (iii) the risk evaluation, measurement and control procedures of the *parent undertaking* include the *firm*; and
    - (iv) the *parent undertaking* holds more than 50% of the voting rights attached to shares in the capital of the *firm* or has the right to appoint or remove a majority of the members of the *firm's management body*.
- (3) the *PRA* does not object to the exemption.

### 2.3.2

**R**

A MIFIDPRU investment firm will be exempt from ■ MIFIDPRU 6 (Liquidity) on an individual basis where:

- (1) the *firm* has applied to the *FCA* in accordance with ■ MIFIDPRU 2.3.3R;
- (2) the application in (1) demonstrates to the satisfaction of the *FCA* that:
  - (a) the *firm*:

- (i) is supervised on a *consolidated basis* in accordance with Chapter 2 of Title II of Part One of the *UK CRR*; or
  - (ii) is included in an *investment firm group* that is subject to ■ MIFIDPRU 2.5.11R and has not obtained the exemption referred to in ■ MIFIDPRU 2.5.19R;
- (b) the *parent undertaking*, on a *consolidated basis*, monitors and has oversight at all times over the liquidity positions of all *institutions* and *MIFIDPRU investment firms* within the group or sub-group that are exempted from liquidity requirements on an individual basis, and ensures a sufficient level of liquidity for all of those *institutions* and *MIFIDPRU investment firms*;
- (c) the *parent undertaking* and the *firm* have entered into contracts that, to the satisfaction of the *appropriate regulator*, provide for the free movement of funds between the *parent undertaking* and the *firm* to enable them to meet their individual obligations and joint obligations as they become due;
- (d) there is no current or foreseen material, practical or legal impediment to the fulfilment of the contracts in (c); and
- (3) the *PRA* does not object to the exemption if it is the consolidating supervisor of the group.

### 2.3.3

**R** An application referred to in ■ MIFIDPRU 2.3.1R(1) or ■ MIFIDPRU 2.3.2R(1) must:

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