

## Prudential sourcebook for MiFID Investment Firms

### MIFIDPRU TP 10

### Transitional capital and liquidity requirements for former IFPRU investment firms, BIPRU firms or their groups with ICG or ILG issued before 1 January 2022

		Purpose	
10.1	G	(1)	MIFIDPRU TP 10 contains transitional <i>rules</i> that explain how a <i>firm</i> or a <i>group</i> that was subject to <i>individual capital guidance</i> or <i>individual liquidity guidance</i> immediately before 1 January 2022 should take that guidance into account when first determining the <i>own funds threshold requirement</i> under MIFIDPRU.
		(2)	The general purpose of MIFIDPRU TP 10 is to ensure that a <i>firm</i> does not apply an inappropriately low <i>own funds threshold requirement</i> at the outset of the MIFIDPRU regime, before the <i>firm</i> has properly considered the outcome of its <i>ICARA process</i> . MIFIDPRU TP 10 is also designed to ensure that the <i>FCA</i> has sufficient opportunity to review a <i>firm's</i> conclusions from its <i>ICARA process</i> , if the <i>FCA</i> considers it necessary, before any pre-MIFIDPRU <i>individual capital guidance</i> or <i>individual liquidity guidance</i> ceases to be relevant to the <i>firm</i> .
		(3)	MIFIDPRU TP 10 also requires a <i>firm</i> for which pre-MIFIDPRU <i>individual capital guidance</i> or <i>individual liquidity guidance</i> is relevant to submit <i>data item</i> MIF007 (ICARA assessment questionnaire) for the first time by no later than 31 March 2023. This will ensure that the <i>FCA</i> can begin considering the <i>firm's</i> approach to the <i>firm's own funds threshold requirement</i> and any pre-MIFIDPRU guidance by no later than that date.
		Application	
10.2	R	(1)	MIFIDPRU TP 10 applies to an <i>undertaking</i> in (2) or (3) where the condition in (4) is met.
		(2)	This <i>rule</i> applies to a MIFIDPRU <i>investment firm</i> that, under the <i>rules</i> in force on 31 December 2021, was classified as: <ol style="list-style-type: none"> <li>(a) an <i>IFPRU investment firm</i>; or</li> <li>(b) a <i>BIPRU firm</i>.</li> </ol>
		(3)	This <i>rule</i> also applies to the following where they form part of an <i>investment firm group</i> containing a MIFIDPRU <i>investment firm</i> to which (2) applies: <ol style="list-style-type: none"> <li>(a) a <i>UK parent entity</i>; and</li> <li>(b) an <i>authorised person</i>.</li> </ol>
		(4)	The relevant condition is that on 31 December 2021, the <i>firm</i> in (2), or any <i>investment firm group</i> (or any larger <i>group</i> that included the <i>investment firm group</i> ) of which it formed a part, was subject to either or both of the following: <ol style="list-style-type: none"> <li>(a) <i>individual capital guidance</i> (including, for these purposes, any specified capital planning buffer and any other obligation to hold a capital buffer under IFPRU 10); or</li> <li>(b) <i>individual liquidity guidance</i>.</li> </ol>

- (5) For the purposes of MIFIDPRU TP 10:
- (a) “pre-MIFIDPRU ICG” means the *individual capital guidance* in (4); and
- (b) “pre-MIFIDPRU ILG” means the *individual liquidity guidance* in (4).

Requirement to submit an ICARA assessment questionnaire by 31 March 2023

10.3 R (1) A MIFIDPRU investment firm to which MIFIDPRU TP 10 applies must submit data item MIF007 for the first time by no later than the end of 31 March 2023.

(2) This rule applies notwithstanding any provision in MIFIDPRU 7.8 or in MIFIDPRU 9.2 that would otherwise permit the firm to submit data item MIF007 for the first time on a later date.

10.4 G (1) The effect of MIFIDPRU TP 10.3R is that where, on 31 December 2021, a MIFIDPRU investment firm was classified as an IFPRU investment firm or a BIPRU firm and the firm was subject to individual capital guidance or individual liquidity guidance (or both), the firm must submit data item MIF007 for the first time by no later than 31 March 2023. This requirement also applies where the firm forms part of an investment firm group and that group (or a larger group of which it forms part) was, on 31 December 2021, subject to individual capital guidance or individual liquidity guidance (or both) issued on a consolidated basis.

(2) Under MIFIDPRU 7.8, in order to submit data item MIF007, a firm must have carried out a review of its ICARA process and documented that review in an ICARA document. Therefore, a firm to which MIFIDPRU TP 10.3R applies must ensure that it has taken these steps to allow sufficient time to submit data item MIF007 by no later than 31 March 2023. When reviewing its ICARA process, the firm should consider the potential relevance of any pre-MIFIDPRU ICG or pre-MIFIDPRU ILG to which it is subject (including where it forms part of a group that is subject to such guidance on a consolidated basis).

(3) A firm may choose to submit data item MIF007 for the first time on an earlier date. Firms are reminded that under MIFIDPRU 7.8.2R, they must review the adequacy of their ICARA process at least once every 12 months. A firm may therefore wish to choose a review date during 2022 that aligns with the firm’s preferred date for an annual review in subsequent years. The FCA has specified a deadline of 31 March 2023 for the submission of data item MIF007 by firms subject to MIFIDPRU TP 10.3R to allow firms flexibility about their choice of review date, while also allowing a sufficient period of time to complete and submit data item MIF007 if their chosen review date falls near the end of 2022.

Individual capital guidance

10.5 R (1) This rule applies to a firm that on 31 December 2021 was subject to pre-MIFIDPRU ICG that was issued to the firm on an individual basis.

(2) This rule applies from 1 January 2022 until the earliest of:

(a) 6 months after the date on which the firm submits data item MIF007 in accordance with MIFIDPRU TP 10.3R;

(b) the date on which the FCA first communicates to the firm the outcome of a SREP carried out on the firm; or

(c) the date on which the FCA first issues individual guidance to, or imposes a requirement on, the firm for the purposes of specifying the amount of own funds that the firm must hold to comply with the overall financial adequacy rule.

(3) During the period in (2), the firm’s own funds threshold requirement must be at least equal to the transitional requirement in (4).

(4) A firm must calculate the transitional requirement by:

		(a)	determining the absolute amount of <i>own funds</i> that the <i>firm</i> was required to hold to comply with the pre-MIFIDPRU ICG on:
		(i)	in the case of an <i>IFPRU investment firm</i> , the following dates: 31 December 2020, 31 March 2021, 30 June 2021 and 30 September 2021; and
		(ii)	in the case of a <i>BIPRU firm</i> , the reporting reference dates of the two most recent FSA003 <i>data items</i> submitted on or before 31 December 2021; and
		(b)	calculating the arithmetic mean of the absolute values in (a).
10.6	G	(1)	As part of its <i>ICARA process</i> , a <i>firm</i> to which MIFIDPRU TP 10 applies must assess its <i>own funds threshold requirement</i> (i.e. the amount of <i>own funds</i> that the <i>firm</i> must hold to comply with the <i>overall financial adequacy rule</i> ). The transitional requirement in MIFIDPRU TP 10.5R(4) is a “floor” to the amount of a <i>firm’s own funds threshold requirement</i> , not a maximum amount and applies only during the transitional period specified in MIFIDPRU TP 10.5R(2).
		(2)	The transitional requirement is therefore relevant only to extent that the <i>firm</i> would otherwise have sought to apply an <i>own funds threshold requirement</i> during the transitional period that is lower than the transitional requirement.
		(3)	The transitional requirement is intended to ensure that a <i>firm</i> that is subject to pre-MIFIDPRU ICG does not apply an inappropriately low <i>own funds threshold requirement</i> as a result of its <i>ICARA process</i> before the <i>FCA</i> has been able to consider the <i>firm’s</i> assessment. The transitional period will therefore allow the <i>FCA</i> sufficient time to understand the <i>firm’s</i> approach to assessing its <i>own funds threshold requirement</i> under MIFIDPRU, during which the <i>firm</i> must ensure that it maintains <i>own funds</i> at least equal to the transitional requirement.
		(4)	Once the transitional period in MIFIDPRU TP 10.5R(2) has expired, the transitional requirement no longer applies. In its <i>ICARA document</i> , the <i>firm</i> should therefore explain what it considers its <i>own funds threshold requirement</i> will be when the “floor” under the transitional requirement is no longer applicable. The <i>FCA</i> can then review the <i>firm’s</i> assessment during the transitional period to determine if the <i>firm</i> has formed a reasonable judgement about its <i>own funds threshold requirement</i> .
10.7	G	(1)	The reference dates in MIFIDPRU TP 10.5R(4)(a)(i) for an <i>IFPRU investment firm</i> are designed to be aligned to the reference dates of the <i>firm’s</i> CO-REP – Own Funds reports.
		(2)	Under MIFIDPRU TP 10.5R(4)(a)(ii), the reference dates for a <i>BIPRU firm</i> are determined in accordance with the reference dates of its FSA003 (Capital adequacy) reports.
		(3)	In each case, this means that the <i>firm</i> can use its previous regulatory capital returns to assist in the calculation of its transitional requirement under MIFIDPRU TP 10.
10.8	G	(1)	The following is a worked example of the effect of MIFIDPRU TP 10.5R.
		(2)	An <i>IFPRU investment firm</i> has been issued with pre-MIFIDPRU ICG specifying that the <i>firm</i> should hold <i>own funds</i> of 200% of its Pillar 1 requirement under the <i>UK CRR</i> , plus a £50 million fixed add-on. The pre-MIFIDPRU ICG applies to the <i>firm</i> on 31 December 2021. From 1 January 2022, the <i>firm</i> will be a <i>MIFIDPRU investment firm</i> .
		(3)	Under MIFIDPRU TP 10.3R, the <i>firm</i> must submit <i>data item</i> MIF007 by no later than 31 March 2023. The <i>firm</i> chooses to review its <i>ICARA process</i> on 1 December 2022 and submits <i>data item</i> MIF007 for the first time on 15 January 2023.
		(4)	As part of its <i>ICARA process</i> , the <i>firm</i> assesses its <i>own funds threshold requirement</i> – i.e. the amount of <i>own funds</i> that the <i>firm</i> considers it will need to hold to comply with the <i>overall financial adequacy rule</i> . The <i>firm</i>

will then need to compare the *firm's* assessment with the transitional requirement under MIFIDPRU TP 10.5R and apply the higher of the two amounts. This is because under MIFIDPRU TP 10.5R(3), the *firm's own funds threshold requirement* must be at least equal to the transitional requirement in MIFIDPRU TP 10.5R(4). However, the *own funds threshold requirement* can still be higher than the transitional requirement if:

- (a) the *firm's own funds requirement* under MIFIDPRU 4.3 (as limited by any applicable transitional provision) exceeds the transitional requirement under MIFIDPRU TP 10.5R; or
  - (b) the *firm* determines that it should hold a higher level of *own funds* to comply with the *overall financial adequacy rule*.
- (5) The *firm's* Pillar 1 requirement on each of the reference dates in MIFIDPRU TP 10.5R(4)(a)(i) was as follows:
- (a) 31 December 2020: £70 million
  - (b) 31 March 2021: £115 million
  - (c) 30 June 2021: £125 million
  - (d) 30 September 2021: £90 million
- (6) The *firm* would calculate the absolute amounts required by its pre-MIFIDPRU ICG as follows:
- (a) 31 December 2020:  
 $£70m \times 200\% = £140m$   
 $£140m + £50m = £190m$
  - (b) 31 March 2021:  
 $£115m \times 200\% = £230m$   
 $£230m + £50m = £280m$
  - (c) 30 June 2021:  
 $£125m \times 200\% = £250m$   
 $£250m + £50m = £300m$
  - (d) 30 September 2021:  
 $£90m \times 200\% = £180m$   
 $£180m + £50m = £230m$
- (7) The *firm* would calculate the arithmetic mean of those absolute values as:  
 $£190m + £280m + £300m + £230m = £1,000m$   
 $£1,000m / 4 = £250m$
- (8) Under MIFIDPRU TP 10.5R(3), the *firm's own funds threshold requirement* can therefore be no lower than £250m from 1 January 2022 until the earliest of:
- (a) 15 July 2023 (i.e. 6 months after 15 January 2023, which was the date on which the *firm* first submitted *data item* MIF007);
  - (b) the date on which the FCA informs the *firm* of the outcome of a SREP carried out on the *firm*; or
  - (c) the date on which the FCA otherwise issues *individual guidance* to, or imposes a *requirement* on, the *firm* for the purposes of specifying the amount of *own funds* that the *firm* needs to hold to comply with the overall financial adequacy rule.
- (9) However, the transitional requirement under MIFIDPRU TP 10.5R does not limit the *firm's own funds threshold requirement* during the period in (8). If the *firm's* own assessment of its *own funds threshold requirement* under its ICARA process results in a number that is higher £250m, the *firm*

must therefore hold *own funds* that are at least equal to the higher amount. If the *firm's* assessment results in a number that is lower than £250m, then the *firm* must hold *own funds* of at least £250m until the period in (8) has elapsed.

- 10.9 G The worked example in MIFIDPRU TP 10.8G is based on a simple example of pre-MIFIDPRU ICG that is based on a fixed percentage of the *firm's* Pillar 1 requirement and a simple fixed add-on. Many *firms* may have pre-MIFIDPRU ICG that is set by reference to a more complicated calculation. Where relevant, this may also include capital planning buffers and other capital buffers required under IFPRU 10. This may include the use of scalars, other add-ons and percentages of particular components of the Pillar 1 calculation. When determining the absolute amounts for the purpose of MIFIDPRU TP 10.5R(4)(a), the *firm* must follow whatever methodology was specified in the applicable pre-MIFIDPRU ICG.
- 10.10 R
- (1) This rule applies to the *UK parent entity* of, and *firms* forming part of, an *investment firm group* that on 31 December 2021 was subject to pre-MIFIDPRU ICG issued on a *consolidated basis*.
  - (2) This rule applies from 1 January 2022 until the earliest of:
    - (a) 6 months after the date on which all *firms* in the *investment firm group* have first submitted *data item* MIF007 in accordance with MIFIDPRU TP 10.3R;
    - (b) the date on which the FCA has first communicated to each MIFIDPRU *investment firm* in the *investment firm group* the outcome of a SREP carried out on the *firm*; or
    - (c) the date on which the FCA had first issued individual guidance to, or imposed a *requirement* on, each MIFIDPRU *investment firm* in the *investment firm group* for the purposes of specifying the amount of *own funds* that the *firm* must hold to comply with the *overall financial adequacy rule*.
  - (3) Where this rule applies, the *UK parent entity* of the *investment firm group* must:
    - (a) determine the absolute amount of *own funds* that was required on a *consolidated basis* to comply with the pre-MIFIDPRU ICG on:
      - (i) in the case of *individual capital guidance* set under IFPRU, the following dates: 31 December 2020, 31 March 2021, 30 June 2021 and 30 September 2021; and
      - (ii) in the case *individual capital guidance* set under BIPRU, the reporting reference dates of the two most recent consolidated FSA003 *data items* submitted on or before 31 December 2021;
    - (b) calculate the arithmetic mean of the absolute values in (a); and
    - (c) allocate the amount in (b) between the entities in the *investment firm group* on an equivalent basis to that used by the *group* to comply with the consolidated pre-MIFIDPRU ICG immediately before 1 January 2022.
  - (4) During the period in (2):
    - (a) the *own funds threshold requirement* of each MIFIDPRU *investment firm* included in the pre-MIFIDPRU ICG must be at least equal to the amount allocated to that *firm* under (3)(c); and
    - (a) any other *authorised person* included in the pre-MIFIDPRU ICG must hold financial resources that cover at least the amount allocated to that *authorised person* under (3)(c).
  - (5) The *UK parent entity* must record the basis for any allocation under (3)(c).
- Individual liquidity guidance
- 10.11 R (1) This rule applies to a *firm* that on 31 December 2021 was subject to pre-MIFIDPRU ILG issued on an individual basis.

		(2)	This <i>rule</i> applies from 1 January 2022 until the earliest of: <ol style="list-style-type: none"> <li>(a) 6 <i>months</i> after the date on which the <i>firm</i> submits <i>data item</i> MIF007 in accordance with MIFIDPRU TP 10.3R;</li> <li>(b) the date on which the <i>FCA</i> first communicates to the <i>firm</i> the outcome of a <i>SREP</i> carried out on the <i>firm</i>; or</li> <li>(c) the date on which the <i>FCA</i> first issues individual guidance to, or imposes a <i>requirement</i> on, the <i>firm</i> for the purposes of specifying the amount of <i>liquid assets</i> that the <i>firm</i> must hold to comply with the <i>overall financial adequacy rule</i>.</li> </ol>
		(3)	During the period in (2), the <i>firm's liquid assets threshold requirement</i> must be at least equal to the liquidity resources that the <i>firm</i> would need to hold to comply with the pre-MIFIDPRU ILG if the <i>firm</i> had continued to be subject to that <i>individual liquidity guidance</i> .
		(4)	The <i>ICARA document</i> that is the subject of <i>data item</i> MIF007 referred to in (2)(a) must explain any difference between the <i>firm's</i> assessment of its <i>liquid assets threshold requirement</i> and the transitional requirement that applies under (3).
10.12	G	(1)	MIFIDPRU TP 10.11R requires a <i>firm</i> that is subject to pre-MIFIDPRU ILG to apply a minimum transitional " <i>floor</i> " to its <i>liquid assets threshold requirement</i> from 1 January 2022 until the earlier of: <ol style="list-style-type: none"> <li>(a) 6 <i>months</i> after the <i>firm</i> has first submitted <i>data item</i> MIF007 to the <i>FCA</i> under MIFIDPRU TP2; or</li> <li>(b) the date on which the <i>FCA</i> has either communicated to the <i>firm</i> the outcome of a <i>SREP</i> carried out on the <i>firm</i> or the <i>FCA</i> has otherwise issued the <i>firm</i> with <i>individual guidance</i> or imposed a <i>requirement</i> on the <i>firm</i> in connection with the amount of <i>liquid assets</i> that it must hold to satisfy the <i>overall financial adequacy rule</i>.</li> </ol>
		(2)	Under MIFIDPRU TP 10.11R(4), the " <i>floor</i> " is determined as the amount of <i>liquid assets</i> that the <i>firm</i> would need to hold to comply with its pre-MIFIDPRU ILG if that guidance had continued to apply to the <i>firm</i> . This means that the <i>firm</i> should continue to calculate the impact of the pre-MIFIDPRU ILG and where appropriate, update the resulting required amount of liquidity resources during the transitional period in MIFIDPRU TP 10.11R(2).
		(3)	The purpose of MIFIDPRU TP 10.11R is to apply an equivalent approach in relation to the <i>liquid assets threshold requirement</i> to that described in MIFIDPRU TP 10.6G in relation to the <i>own funds threshold requirement</i> . This ensures that the <i>FCA</i> has sufficient time to understand the <i>firm's</i> approach to determining its <i>liquid assets threshold requirement</i> before the " <i>floor</i> " of the transitional requirement for liquidity ceases to apply.
		(4)	The transitional requirement under MIFIDPRU TP 10.11R(4) specifies a minimum level for the <i>liquid assets threshold requirement</i> . During the transitional period in MIFIDPRU TP 10.10R(2), the <i>firm</i> may nonetheless determine that its <i>liquid assets threshold requirement</i> is higher than the transitional requirement because: <ol style="list-style-type: none"> <li>(a) the <i>firm's basic liquid assets requirement</i> under MIFIDPRU 6 (as limited by any other applicable transitional provision) exceeds the transitional requirement; or</li> <li>(b) the <i>firm</i> determines that it should hold a higher level of <i>liquid assets</i> to comply with the <i>overall financial adequacy rule</i>.</li> </ol>
10.13	R	(1)	This <i>rule</i> applies to the <i>UK parent entity</i> of, and <i>firms</i> forming part of, an <i>investment firm group</i> that on 31 December 2021 was subject to pre-MIFIDPRU ILG issued on a <i>consolidated basis</i> .
		(2)	This <i>rule</i> applies from 1 January 2022 until the earliest of:

- (a) 6 months after the date on which all *firms* in the *investment firm group* have first submitted *data item* MIF007 in accordance with MIFIDPRU TP 10.3R;
  - (b) the date on which the *FCA* has first communicated to each *MIFIDPRU investment firm* in the *investment firm group* the outcome of a *SREP* carried out on the *firm*; or
  - (c) the date on which the *FCA* has first issued individual guidance to, or imposed a *requirement* on, each *MIFIDPRU investment firm* in the *investment firm group* for the purposes of specifying the amount of *liquid assets* that the *firm* must hold to comply with the *overall financial adequacy rule*.
- (3) Where this rule applies, the *UK parent entity* of the *investment firm group* must allocate the consolidated liquidity resources that would be required to comply with the pre-MIFIDPRU ILG if it continued to apply on an ongoing basis between the entities in the *investment firm group* in accordance with (4).
- (4) The allocation in (3) must be on an equivalent basis to that used by the *group* to comply with the consolidated pre-MIFIDPRU ILG immediately before 1 January 2022.
- (5) During the period in (2):
  - (a) the *liquid assets threshold requirement* of each *MIFIDPRU investment firm* included in the consolidated pre-MIFIDPRU ILG must be at least to the amount allocated to that *firm* by the *UK parent entity* under (3); and
  - (b) any other *authorised person* included in the consolidated pre-MIFIDPRU ICG must hold liquidity resources that cover at least the amount allocated to that *authorised person* under (3).
- (6) The *UK parent entity* must record the basis for any allocation under (3).
- (7) Each *ICARA document* that is the subject of *data item* MIF007 referred to in (2)(a) must explain any difference between the *firm's* assessment of its *liquid assets threshold requirement* and the transitional requirement that applies under (5).

