

# Prudential sourcebook for MiFID Investment Firms

## MIFIDPRU TP 1 Own funds transitional provisions

		Application
1.1	R	MIFIDPRU TP 1 applies to: <ul style="list-style-type: none"> <li>(1) a <i>MIFIDPRU investment firm</i>; and</li> <li>(2) a <i>UK parent entity</i> that is required by MIFIDPRU 2.5.7R to comply with MIFIDPRU 3 on the basis of its <i>consolidated situation</i>; and</li> <li>(3) a <i>parent undertaking</i> to which the <i>group capital test</i> applies.</li> </ul>
		Purpose
1.2	G	MIFIDPRU TP 1 contains transitional provisions relating to certain permissions granted by the <i>FCA</i> before 1 January 2022 for the purposes of the <i>own funds</i> provisions of the <i>UK CRR</i> . These provisions set out where a <i>firm</i> with such a permission may continue to rely on it under the <i>MIFIDPRU</i> regime.
1.3	G	MIFIDPRU TP 1 also contains transitional provisions relating to the continued eligibility of <i>additional tier 1 instruments</i> issued before 1 January 2022 under the <i>UK CRR</i> (in the form in which the <i>UK CRR</i> stood prior to that date).
		Continuing application of certain UK CRR permissions
1.4	R	MIFIDPRU TP 1.5 applies for the duration of a permission to which it relates, except to the extent that the <i>FCA</i> revokes, varies or replaces the permission.
1.5	R	<ul style="list-style-type: none"> <li>(1) This <i>rule</i> applies to any permission listed in column (A) of the table in MIFIDPRU TP 1.6R where that permission was granted to a <i>firm</i> by the <i>FCA</i> for the purposes of the <i>UK CRR</i> before 1 January 2022.</li> <li>(2) Where this <i>rule</i> applies, a permission in column (A) of the table in MIFIDPRU TP 1.6R is deemed to have been granted for its remaining duration on equivalent terms by the <i>FCA</i> under the corresponding provision in column (B) of that table.</li> </ul>
1.6	R	This table belongs to MIFIDPRU TP 1.5R.

	(A)	(B)
	UK CRR permission granted before 1 January 2022	Deemed basis for permission on or after 1 January 2022
	Article 26(2) <i>UK CRR</i> : inclusion of interim or year-end profits in <i>common equity tier 1 capital</i> before the <i>firm</i> has taken a formal decision confirming the final profit or loss for the year	MIFIDPRU 3.3.2R
	Article 26(3) <i>UK CRR</i> : classification of an issuance of capital instruments as <i>common equity tier 1 capital</i>	MIFIDPRU 3.3.3R

1.7	G	The effect of MIFIDPRU TP 1.5 and MIFIDPRU TP 1.6 is that a permission that was initially granted under article 26(2) or 26(3) of the <i>UK CRR</i> will continue to produce an equivalent effect under the corresponding provisions in MIFIDPRU 3.3. The duration of the original permission is not affected. For example, a permission granted on 1 June 2021 for a one-year duration will be treated from 1 Jan-
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uary 2022 as if it had been granted under MIFIDPRU 3.3, but will still expire on 1 June 2022.

Additional tier 1 capital instruments issued before 1 January 2022

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|------|---|--|
| 1.8  | R | <p>(1) This <i>rule</i> applies where:</p> <p>(a) a <i>firm</i> which became a <i>MIFIDPRU investment firm</i> on 1 January 2022 issued instruments before that date which satisfied the conditions to be classified as <i>additional tier 1 instruments</i> under the <i>UK CRR</i> in the form in which it stood immediately before 1 January 2022; and</p> <p>(b) the instruments in (1) remain in issue on 1 January 2022.</p> <p>(2) Where this <i>rule</i> applies, by no later than 1 February 2022, a <i>MIFIDPRU investment firm</i> must:</p> <p>(a) notify the <i>FCA</i> using the form in MIFIDPRU TP 1 Annex 1R, submitted via the <i>online notification and application</i> system, to confirm whether:</p> <p>(i) the relevant instruments satisfy the conditions in MIFIDPRU 3.4 to be classified as <i>additional tier 1 instruments</i>; or</p> <p>(ii) the relevant instruments do not satisfy the relevant conditions in MIFIDPRU 3.4 and the <i>firm</i> has therefore ceased to recognise them as part of its <i>additional tier 1 capital</i> or has otherwise redeemed or replaced them; or</p> <p>(b) apply to the <i>FCA</i> under section 138A of the <i>Act</i> for a modification of the relevant provisions in MIFIDPRU 3.4 to continue to allow the <i>firm</i> to classify the instruments as <i>additional tier 1 instruments</i> for the purposes of MIFIDPRU.</p> |
| 1.9  | G | <p>(1) A <i>MIFIDPRU investment firm</i> may have issued instruments that, immediately before 1 January 2022, met the conditions in the <i>UK CRR</i> (in the form in which it then stood) to be classified as <i>additional tier 1 instruments</i> and which remain in issue on 1 January 2022.</p> <p>(2) Although MIFIDPRU 3.4 contains provisions for the classification of instruments under MIFIDPRU as <i>additional tier 1 instruments</i> which are broadly equivalent to those in the <i>UK CRR</i>, the trigger event under article 54(1)(a) of the <i>UK CRR</i> does not apply under MIFIDPRU. This is because the <i>own funds requirement</i> under MIFIDPRU is calculated on a different basis and therefore the trigger event for conversion of <i>additional tier 1 instruments</i> under MIFIDPRU is defined by reference to different criteria.</p>  |
| 1.10 | G | <p>An <i>additional tier 1 instrument</i> issued before 1 January 2022 under the <i>UK CRR</i> may satisfy the conditions in MIFIDPRU 3.4 so that it can be classified as an <i>additional tier 1 instrument</i> for the purposes of MIFIDPRU. This may depend upon how the trigger events were defined in the terms of the relevant instrument and whether additional trigger events (i.e. over and above the mandatory <i>UK CRR</i> trigger event that was applicable at the time of issuance) were also included.</p>  |
| 1.11 | G | <p>(1) A <i>firm</i> may apply to the <i>FCA</i> under section 138A of the <i>Act</i> to modify the provisions of MIFIDPRU 3.4 for existing <i>additional tier 1 instruments</i> issued under the <i>UK CRR</i> before 1 January 2022, to allow those instruments to be recognised as <i>additional tier 1 instruments</i> under MIFIDPRU.</p> <p>(2) In the application, the <i>FCA</i> would expect a <i>firm</i> to demonstrate how the conversion or write-down of the <i>additional tier 1 instruments</i> would function to enable the <i>firm</i> to continue to satisfy its <i>own funds requirement</i> under MIFIDPRU in times of financial stress.</p>  |

		(3)	If the <i>FCA</i> grants a modification under section 138A of the Act in such circumstances, it may grant it on a temporary basis to facilitate the <i>firm's</i> orderly transition to the <i>MIFIDPRU</i> regime.
		Continuing validity of IFPRU own funds notifications	
1.12	R	(1)	This <i>rule</i> applies to any notification listed in column (A) of the table in MIFIDPRU TP 1.13R, where the notification was validly submitted by a <i>firm</i> or <i>parent undertaking</i> to the <i>FCA</i> for the purposes of the relevant <i>rule</i> in the <i>IFPRU</i> sourcebook before 1 January 2022.
		(2)	Where this <i>rule</i> applies, a notification in column (A) of the table in MIFIDPRU TP 1.13R is deemed to have been a valid notification for the purposes of the corresponding provision in column (B) in the same row of that table.
1.13	R	The table belongs to MIFIDPRU TP 1.12R.	
		(A)	(B)
		IFPRU notification submitted before 1 January 2022	Deemed notification for the purposes of MIFIDPRU on or after 1 January 2022
		IFPRU 3.2.10R: notification of issuance of own funds instruments	MIFIDPRU 3.6.5R(1) (for a <i>MIFIDPRU investment firm</i> ) MIFIDPRU 3.6.8R(1)(b) (for a <i>UK parent entity</i> to which consolidation under MIFIDPRU 2.5.7R applies) MIFIDPRU 3.7.4R(1)(b) (for a <i>parent undertaking</i> to which the <i>group capital test</i> applies)
		IFPRU 3.2.13R: notification of issuance of ordinary shares or debt instruments under a debt securities programme	MIFIDPRU 3.6.5R(1) (for a <i>MIFIDPRU investment firm</i> ) MIFIDPRU 3.6.8R(1)(b) (for a <i>UK parent entity</i> to which consolidation under MIFIDPRU 2.5.7R applies) MIFIDPRU 3.7.4R(1)(b) (for a <i>parent undertaking</i> to which the <i>group capital test</i> applies)
1.14	G	The effect of MIFIDPRU TP 1.12R and 1.13R is that a notification that was validly submitted for the purposes of the <i>rules</i> relating to the issuance of own funds in <i>IFPRU</i> is valid for the purposes of the notification requirements relating to the issuance of <i>own funds</i> in MIFIDPRU 3.6 or 3.7. This means that:	
		(1)	a <i>MIFIDPRU investment firm</i> or <i>parent undertaking</i> to which <i>IFPRU</i> applied is not required to submit another notification to the <i>FCA</i> in relation to pre-existing instruments to treat those instruments as <i>additional tier 1 instruments</i> or <i>tier 2 instruments</i> under <i>MIFIDPRU</i> ; and
		(2)	where the <i>MIFIDPRU investment firm</i> or <i>parent undertaking</i> issues the same class of instruments on or after 1 January 2022, it can rely on the exemption from the notification requirement in MIFIDPRU 3.6.5R(2), provided that the instruments are identical in all material respects to the previous issuance notified to the <i>FCA</i> under <i>IFPRU</i> .
1.15	G	MIFIDPRU TP 1.12R and 1.13R do not affect the underlying criteria in MIFIDPRU 3 for classifying an instrument as <i>own funds</i> . Instead, the provisions deem existing notifications to be notifications for equivalent purposes under <i>MIFIDPRU</i> . This means that if the instruments that are the subject of the notifications do not meet the criteria in MIFIDPRU 3 to be classified as <i>own funds</i> , a <i>firm</i> or <i>parent undertaking</i> must not treat those instruments as such. It is the responsibility of the <i>firm</i> or <i>parent undertaking</i> relying on the transitional provisions in this annex to assess whether the relevant criteria are met in relation to any particular instrument.	

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Notification under MIFIDPRU TP 1.8R – treatment of instruments formerly classified as AT1 under UK CRR		
Annex	1R	[ <i>Editor's note:</i> The form can be found at this address: <a href="https://www.handbook.fca.org.uk/publication/form/mifidpru/MIFIDPRU_TP_1_Annex_1R_Notification_20211201.pdf">https://www.handbook.fca.org.uk/publication/form/mifidpru/MIFIDPRU_TP_1_Annex_1R_Notification_20211201.pdf</a> ]

## Prudential sourcebook for MiFID Investment Firms

### MIFIDPRU TP 2

#### Own funds requirements: transitional provisions

		Application
2.1	R	MIFIDPRU TP 2 applies to a <i>MIFIDPRU investment firm</i> on an individual basis.
2.2	R	MIFIDPRU TP 2.23R applies to a <i>UK parent entity</i> when it is applying MIFIDPRU 4 on the basis of its <i>consolidated situation</i> in accordance with MIFIDPRU 2.5.
		Purpose
2.3	G	MIFIDPRU TP 2 contains temporary transitional provisions that permit certain <i>MIFIDPRU investment firms</i> to apply a lower <i>own funds requirement</i> than would otherwise apply under MIFIDPRU 4.3. These provisions are designed to provide a smooth transition for <i>firms</i> from their regulatory capital requirements under previous prudential regimes to the requirements under <i>MIFIDPRU</i> .
2.4	G	<p>(1) MIFIDPRU TP 2 permits a <i>firm</i> (or, in the case of MIFIDPRU TP 2.23R, a <i>UK parent entity</i>) to substitute an alternative requirement for one or more of its standard <i>permanent minimum capital requirement</i>, its <i>fixed overheads requirement</i> or its <i>K-factor requirement</i>. Where a <i>firm</i> does so, the alternative requirement also replaces the standard requirement for the purposes of calculating the <i>firm's own funds requirement</i> under MIFIDPRU 4.3.</p> <p>(2) For example, under MIFIDPRU TP 2.21R, a former <i>exempt BIPRU commodities firm</i> may substitute alternative requirements for its <i>fixed overheads requirement</i> and its <i>K-factor requirement</i>. During the transitional period, the <i>own funds requirement</i> of the <i>firm</i> under MIFIDPRU 4.3.2R would be the highest of:</p> <ul style="list-style-type: none"> <li>(a) its <i>permanent minimum capital requirement</i>;</li> <li>(b) the alternative requirement substituted for its standard <i>fixed overheads requirement</i>; and</li> <li>(c) the alternative requirement substituted for its standard <i>K-factor requirement</i>.</li> </ul>
		References to "UK CRR"
2.5	R	Any reference in MIFIDPRU TP 2 to the " <i>UK CRR</i> " is as a reference to the <i>UK CRR</i> in the form in which it stood on 31 December 2021.
		Duration of transitional arrangements
2.6	R	MIFIDPRU TP 2 applies until 1 January 2027, except in the circumstances set out in MIFIDPRU TP 2.19R or MIFIDPRU TP 2.20R(4).
		Transitional provisions for fixed overheads requirement and K-factor requirement for former IFPRU investment firms and BIPRU firms
2.7	R	<p>(1) This <i>rule</i> applies to a <i>MIFIDPRU investment firm</i> that, under the <i>rules</i> in force on 31 December 2021, was classified as:</p> <ul style="list-style-type: none"> <li>(a) an <i>IFPRU investment firm</i> (other than an <i>exempt IFPRU commodities firm</i>); or</li> <li>(b) a <i>BIPRU firm</i> (other than an <i>exempt BIPRU commodities firm</i>).</li> </ul> <p>(2) A <i>firm</i> may substitute the alternative requirement in (3) for each of:</p> <ul style="list-style-type: none"> <li>(a) its <i>fixed overheads requirement</i> under MIFIDPRU 4.5; and</li> <li>(b) to the extent applicable, its <i>K-factor requirement</i> under MIFIDPRU 4.6.</li> </ul>

		<p>(3) Subject to (4), the alternative requirement is an amount equal to twice the following, if it had continued to apply to the <i>firm</i>:</p> <p>(a) for a former <i>IFPRU investment firm</i>, the own funds requirement in Chapter 1 of Title I of Part Three of the <i>UK CRR</i>; or</p> <p>(b) for a former <i>BIPRU firm</i>, the variable capital requirement in <i>GENPRU 2.1.40R</i> and <i>2.1.45R</i>.</p> <p>(4) The alternative requirement in (3) is subject to:</p> <p>(a) for a former <i>IFPRU investment firm</i> (other than a <i>collective portfolio management investment firm</i>), article 93(1) of the <i>UK CRR</i>, with the reference to the initial capital requirement in that provision being read as a reference to the base own funds requirement that would have applied under <i>IFPRU 3.1</i> if it had continued to apply to the <i>firm</i>;</p> <p>(b) for a former <i>BIPRU firm</i> (other than a <i>collective portfolio management investment firm</i>), the base capital requirement that would have applied under <i>GENPRU 2.1.47R</i> and <i>2.1.48R</i>; or</p> <p>(c) for a <i>collective portfolio management investment firm</i>, the base own funds requirement that applies under <i>IPRU(INV) 11.3.1R(1)</i>.</p>
2.8	G	<p>(1) The effect of <i>MIFIDPRU TP 2.7R(2)</i> is that even where <i>MIFIDPRU TP 2.7R</i> applies, it does not affect the calculation of a <i>MIFIDPRU investment firm's permanent minimum capital requirement</i> under <i>MIFIDPRU 4.4</i>. <i>MIFIDPRU TP 2.13R</i> to <i>MIFIDPRU 2.18R</i> set out the circumstances in which separate transitional arrangements may also apply to the <i>permanent minimum capital requirement</i> of a former <i>IFPRU investment firm</i> or <i>BIPRU firm</i>.</p> <p>(2) Therefore, where the <i>permanent minimum capital requirement</i> (where applicable, as limited by <i>MIFIDPRU TP 2.13R</i> to <i>2.18R</i>) is higher than the alternative requirement in <i>MIFIDPRU TP 2.7R(3)</i>, the <i>firm</i> must still ensure that it has sufficient <i>own funds</i> to meet that higher <i>permanent minimum capital requirement</i> in accordance with <i>MIFIDPRU 4.3</i>.</p>
2.9	G	<p>Where a <i>MIFIDPRU investment firm</i> applies the transitional arrangements in <i>MIFIDPRU TP 2.7</i>, the alternative requirement under <i>MIFIDPRU TP 2.7R(3)</i> reflects how the previous requirements under the <i>UK CRR</i> or <i>GENPRU</i> would have applied to the <i>firm</i> on an ongoing basis. The <i>firm</i> should therefore recalculate the alternative requirement under the <i>UK CRR</i> or <i>GENPRU</i> regularly. The <i>FCA</i> considers that it would be appropriate for the <i>firm</i> to carry out such calculations at least as frequently as it reports information on its <i>own funds requirement</i> to the <i>FCA</i> under <i>MIFIDPRU 9</i>.</p> <p>Transitional provisions for fixed overheads requirement and K-factor requirement for former exempt CAD firms</p>
2.10	R	<p>(1) This <i>rule</i> applies to a <i>MIFIDPRU investment firm</i> that under the rules in force on 31 December 2021 was classified as an <i>exempt CAD firm</i>.</p> <p>(2) A <i>firm</i> may substitute the alternative requirement in (3) for each of:</p> <p>(a) its <i>fixed overheads requirement</i> under <i>MIFIDPRU 4.5</i>; and</p> <p>(b) to the extent applicable, its <i>K-factor requirement</i> under <i>MIFIDPRU 4.6</i>.</p> <p>(3) The alternative requirement is:</p> <p>(a) from 1 January 2022 to 31 December 2022, an amount equal to the <i>firm's permanent minimum capital requirement</i> after any transitional relief that may apply under <i>MIFIDPRU TP 2.12R</i> has been taken into account; and</p> <p>(b) from 1 January 2023 to 31 December 2026:</p> <p>(i) in relation to the <i>firm's fixed overheads requirement</i>, the relevant percentage specified in (4) of the <i>firm's fixed overheads requirement</i> (as that requirement would be determined if the substitution in (2)(a) did not apply); and</p> <p>(ii) in relation to the <i>firm's K-factor requirement</i>, the relevant percent</p>

age specified in (4) of the *firm's K-factor requirement* (as that requirement would be determined if the substitution in (2)(b) did not apply).

- (4) The relevant percentage is:
- (a) from 1 January 2023 to 31 December 2023: 10%;
  - (b) from 1 January 2024 to 31 December 2024: 25%;
  - (c) from 1 January 2025 to 31 December 2025: 45%; and
  - (d) from 1 January 2026 to 31 December 2026: 70%.

Transitional provisions for K-factor requirement for firms not in existence before 1 January 2022

- 2.11 R (1) This rule applies to a *MIFIDPRU investment firm* that immediately before 1 January 2022:
- (a) was not in existence; or
  - (b) did not have a *Part 4A permission* that permitted the *firm* to carry on any *investment services and/or activities*.
- (2) A *firm* may substitute the alternative requirement in (3) for its *K-factor requirement* under MIFIDPRU 4.6 (to the extent that such a requirement applies).
- (3) The alternative requirement is an amount equal to twice the *fixed overheads requirement* of the *firm* calculated in accordance with MIFIDPRU 4.5 from time to time.

Transitional provisions for permanent minimum capital requirement: former exempt CAD firms

- 2.12 R (1) This rule applies to a *MIFIDPRU investment firm* that under the rules in force on 31 December 2021 was classified as an *exempt CAD firm*.
- (2) A *firm* may substitute the alternative requirement in (3) for its *permanent minimum capital requirement* under MIFIDPRU 4.4.
- (3) The alternative requirement is as follows:
- (a) from 1 January 2022 to 31 December 2022: £50,000;
  - (b) from 1 January 2023 to 31 December 2023: £55,000;
  - (c) from 1 January 2024 to 31 December 2024: £60,000;
  - (d) from 1 January 2025 to 31 December 2025: £65,000; and
  - (e) from 1 January 2026 to 31 December 2026: £70,000.
- (4) This rule is subject to MIFIDPRU TP 2.19R.

Transitional provisions for permanent minimum capital requirement: former IFPRU investment firms

- 2.13 R (1) Subject to (2), this rule applies to a *MIFIDPRU investment firm* that under the rules in force on 31 December 2021 was classified as an *IFPRU 50K firm*.
- (2) This rule does not apply to a firm to which MIFIDPRU TP 2.18R applies.
- (3) A *firm* may substitute the alternative requirement in (4) for its *permanent minimum capital requirement* under MIFIDPRU 4.4.
- (4) The alternative requirement is as follows:
- (a) from 1 January 2022 to 31 December 2022: £50,000;
  - (b) from 1 January 2023 to 31 December 2023: £55,000;
  - (c) from 1 January 2024 to 31 December 2024: £60,000;
  - (d) from 1 January 2025 to 31 December 2025: £65,000; and
  - (e) from 1 January 2026 to 31 December 2026: £70,000.
- (5) This rule is subject to MIFIDPRU TP 2.19R.

- 2.14 R (1) Subject to (2), this rule applies to a *MIFIDPRU investment firm* that:

		(a)	under the <i>rules</i> in force on 31 December 2021 was classified as an <i>IFPRU 125K firm</i> ; or
		(b)	is a <i>collective portfolio management investment firm</i> that would be subject to a <i>permanent minimum capital requirement</i> of £150,000 under MIFIDPRU 4.4.3R if this <i>rule</i> did not apply.
		(2)	This <i>rule</i> does not apply to a <i>firm</i> to which MIFIDPRU TP 2.18R applies.
		(3)	A <i>firm</i> may substitute the alternative requirement in (4) for its <i>permanent minimum capital requirement</i> under MIFIDPRU 4.4.
		(4)	The alternative requirement is as follows:
		(a)	from 1 January 2022 to 31 December 2022: £125,000;
		(b)	from 1 January 2023 to 31 December 2023: £130,000;
		(c)	from 1 January 2024 to 31 December 2024: £135,000;
		(d)	from 1 January 2025 to 31 December 2025: £140,000; and
		(e)	from 1 January 2026 to 31 December 2026: £145,000.
		(5)	This <i>rule</i> is subject to MIFIDPRU TP 2.19R.
2.15	R	(1)	This <i>rule</i> applies to a <i>MIFIDPRU investment firm</i> that under the <i>rules</i> in force on 31 December 2021 was classified as an <i>IFPRU 730K firm</i> .
		(2)	A <i>firm</i> may substitute the alternative requirement in (3) for its <i>permanent minimum capital requirement</i> under MIFIDPRU 4.4.
		(3)	The alternative requirement is as follows:
		(a)	from 1 January 2022 to 31 December 2022: £730,000;
		(b)	from 1 January 2023 to 31 December 2023: £735,000;
		(c)	from 1 January 2024 to 31 December 2024: £740,000;
		(d)	from 1 January 2025 to 31 December 2025: £745,000; and
		(e)	from 1 January 2026 to 31 December 2026: £750,000.
		(4)	This <i>rule</i> is subject to MIFIDPRU TP 2.19R.
		Transitional provisions for permanent minimum capital requirement: former BIPRU firms	
2.16	R	(1)	This <i>rule</i> applies to a <i>MIFIDPRU investment firm</i> that under the <i>rules</i> in force on 31 December 2021 was classified as a <i>BIPRU firm</i> (other than an <i>exempt BIPRU commodities firm</i> or a <i>collective portfolio management investment firm</i> ).
		(2)	This <i>rule</i> does not apply to a <i>firm</i> to which MIFIDPRU TP 2.18R applies.
		(3)	A <i>firm</i> may substitute the alternative requirement in (4) for its <i>permanent minimum capital requirement</i> under MIFIDPRU 4.4.
		(4)	The alternative requirement is as follows:
		(a)	from 1 January 2022 to 31 December 2022: £50,000;
		(b)	from 1 January 2023 to 31 December 2023: £55,000;
		(c)	from 1 January 2025 to 31 December 2025: £65,000; and
		(d)	from 1 January 2024 to 31 December 2024: £60,000;
		(e)	from 1 January 2026 to 31 December 2026: £70,000.
		(5)	This <i>rule</i> is subject to MIFIDPRU TP 2.19R.
2.17	G	(1)	The transitional arrangements in MIFIDPRU TP 2.13R to 2.16R permit the relevant <i>MIFIDPRU investment firms</i> to substitute an alternative requirement for their <i>permanent minimum capital requirement</i> . Those provisions do not affect the <i>fixed overheads requirement</i> or, where applicable, the <i>K-factor requirement</i> for such <i>firms</i> .



- (2) The effect of (1) is that where the *fixed overheads requirement* or the *K-factor requirement* of the relevant *MIFIDPRU investment firm* (in each case, as modified by any other relevant transitional arrangements in this section) is higher than the alternative requirement substituted for the *firm's permanent minimum capital requirement*, the *firm's own funds requirement* under MIFIDPRU 4.3 will still be the higher of those other two requirements.

Transitional provisions for permanent minimum capital requirement: former IFPRU and BIPRU firms that relied on IFPRU 1.1.12R or BIPRU 1.1.23R (former "matched principal" firms)

- 2.18 R (1) This *rule* applies to a *firm* that, under the *rules* in force on 31 December 2021, was classified as one of the following:
- (a) an *IFPRU 50K firm*, due to the application of IFPRU 1.1.12R (Meaning of dealing on own account);
  - (b) an *IFPRU 125K firm*, due to the application of IFPRU 1.1.12R (Meaning of dealing on own account); or
  - (c) a *BIPRU firm*, due to the application of BIPRU 1.1.23R (Meaning of dealing on own account).
- (2) A *firm* may substitute the alternative requirement in (3) for its *permanent minimum capital requirement* under MIFIDPRU 4.4.
- (3) The alternative requirement is as follows:
- (a) from 1 January 2022 to 31 December 2022:
    - (i) for a former *BIPRU firm* or a former *IFPRU 50K firm*: £50,000; or
    - (ii) for a former *IFPRU 125K firm*: £125,000;
  - (b) from 1 January 2023 to 31 December 2023: £190,000;
  - (c) from 1 January 2024 to 31 December 2024: £330,000;
  - (d) from 1 January 2025 to 31 December 2025: £470,000; and
  - (e) from 1 January 2026 to 31 December 2026: £610,000.

Disapplication of permanent minimum capital requirement transitional provisions because of changes to a firm's permissions

- 2.19 R The transitional arrangements in MIFIDPRU TP 2.12R to 2.16R and MIFIDPRU TP 2.18R cease to apply if there is a change to the *permissions* of the relevant *MIFIDPRU investment firm*, or any *limitation or requirement* that applies to the *firm*, on or after 1 January 2022 that increases the *permanent minimum capital requirement* that would apply to the *firm* under MIFIDPRU 4.4.

Transitional provisions for own funds requirement: former local firms

- 2.20 R (1) Subject to (4), this *rule* applies to a *MIFIDPRU investment firm* that:
- (a) was in existence before 25 December 2019; and
  - (b) under the *rules* in force on 31 December 2021, was classified as a *local firm*.
- (2) A *firm* may substitute the alternative requirement in (3) for its *own funds requirement* under MIFIDPRU 4.3.
- (3) The alternative requirement is as follows:
- (a) from 1 January 2022 to 31 December 2022: £250,000;
  - (b) from 1 January 2023 to 31 December 2023: £350,000;
  - (c) from 1 January 2024 to 31 December 2024: £450,000;
  - (d) from 1 January 2025 to 31 December 2025: £550,000; and
  - (e) from 1 January 2026 to 31 December 2026: £650,000.
- (4) This *rule* ceases to apply to a *firm* where:
- (a) there is a change to the *permissions* of the *firm*, or any *limitation or requirement* that applies to the *firm*, on or after 1 January 2022; and

		(b)	if the change in (a) had occurred immediately before 1 January 2022, the <i>firm</i> would have ceased to meet the definition of a <i>local firm</i> .
		Transitional provisions for fixed overheads and K-factor requirements: exempt commodities firms	
2.21	R	(1)	This <i>rule</i> applies to a <i>MIFIDPRU investment firm</i> that, under the <i>rules</i> in force on 31 December 2021, was classified as: <ul style="list-style-type: none"> <li>(a) an <i>exempt IFPRU commodities firm</i>; or</li> <li>(b) an <i>exempt BIPRU commodities firm</i>.</li> </ul>
		(2)	A <i>firm</i> may substitute the alternative requirement in (3) for each of: <ul style="list-style-type: none"> <li>(a) its <i>fixed overheads requirement</i> under <a href="#">MIFIDPRU 4.5</a>; and</li> <li>(b) to the extent applicable, its <i>K-factor requirement</i> under <a href="#">MIFIDPRU 4.6</a>.</li> </ul>
		(3)	Subject to (5), the alternative requirement is: <ul style="list-style-type: none"> <li>(a) from 1 January 2022 to 31 December 2022: an amount equal to the <i>firm's permanent minimum capital requirement</i>;</li> <li>(b) from 1 January 2023 to 31 December 2026: <ul style="list-style-type: none"> <li>(i) in relation to the <i>firm's fixed overheads requirement</i>, the relevant percentage specified in (4) of the <i>firm's fixed overhead requirement</i> (as that requirement would be determined if the substitution in (2)(a) did not apply); and</li> <li>(ii) in relation to the <i>firm's K-factor requirement</i>, the relevant percentage specified in (4) of the <i>firm's K-factor requirement</i> (as that requirement would be determined if the substitution in (2)(b) did not apply).</li> </ul> </li> </ul>
		(4)	The relevant percentage is: <ul style="list-style-type: none"> <li>(a) from 1 January 2023 to 31 December 2023: 10%;</li> <li>(b) from 1 January 2024 to 31 December 2024: 25%;</li> <li>(c) from 1 January 2025 to 31 December 2025: 45%; and</li> <li>(d) from 1 January 2026 to 31 December 2026: 70%.</li> </ul>
		(5)	Subject to (6), if the <i>firm</i> was subject to <a href="#">IPRU(INV) 3</a> on 31 December 2021, the alternative requirement can never be lower than the amount of the financial resources requirement that would have applied to the <i>firm</i> if it had continued to be subject to <a href="#">IPRU(INV) 3</a> in the form in which that chapter stood on that date.
		(6)	When determining the amount of the financial resources requirement under <a href="#">IPRU(INV) 3</a> for the purposes of (5), a <i>firm</i> may determine the delta of an option as follows: <ul style="list-style-type: none"> <li>(a) if an option is traded on an exchange, the <i>firm</i> must use the delta provided by that exchange; or</li> <li>(b) if the delta is not available from the exchange, or if the option is an over-the-counter option, the <i>firm</i> may use its own estimates of delta where the conditions in <a href="#">MIFIDPRU 4.12.10R</a> are met.</li> </ul>
2.22	G		<a href="#">MIFIDPRU TP 2.21R(5)</a> means that the alternative <i>fixed overheads requirement</i> and alternative <i>K-factor requirement</i> of an <i>exempt IFPRU commodities firm</i> or an <i>exempt BIPRU commodities firm</i> under the transitional arrangements are subject to a floor if the <i>firm</i> was previously subject to <a href="#">IPRU(INV) 3</a> . The base requirement under <a href="#">IPRU(INV) 3-71R</a> (in the form in which it stood on 31 December 2021) is calculated by reference to the highest of an absolute minimum requirement, an expenditure requirement and a volume of business requirement. The <i>firm</i> should therefore recalculate the alternative requirement under <a href="#">IPRU(INV) 3</a> regularly. The <i>FCA</i> considers that it would be appropriate for the <i>firm</i> to carry out such calculations at least as frequently as it reports information on its <i>own funds requirement</i> to the <i>FCA</i> under <a href="#">MIFIDPRU 9</a> .
		Transitional provisions for consolidated own funds requirement	

- 2.23 R (1) This rule applies to a *UK parent entity* that is required to apply prudential consolidation to an *investment firm group* in accordance with MIFIDPRU 2.5.
- (2) A *UK parent entity* may substitute the alternative requirements in (3) for the following, as they result from applying MIFIDPRU 4 to its *consolidated situation*:
- (a) the consolidated *fixed overheads requirement*; and
- (b) the consolidated *K-factor requirement*.
- (3) Subject to (8), the alternative requirement is:
- (a) in relation to the *fixed overheads requirement*, an amount calculated in accordance with the formula in (4); and
- (b) in relation to the *K-factor requirement*, an amount calculated in accordance with the formula in (6).
- (4) The formula for calculating the alternative requirement for the consolidated *fixed overheads requirement* is:
- $$A = B - C$$
- where:
- A = the alternative requirement for the consolidated *fixed overheads requirement*.
- B = the consolidated *fixed overheads requirement* that results from applying MIFIDPRU 4 to the *consolidated situation* in accordance with MIFIDPRU 2.5 without applying MIFIDPRU TP 2.
- C = the transitional credit, determined in accordance with (5).
- (5) For the purposes of (4), the transitional credit (C) is the sum of the output of the following formula as applied to each *MIFIDPRU investment firm* in the *investment firm group*:
- $$C = D - E$$
- where:
- D = the individual *fixed overheads requirement* that would apply to the *MIFIDPRU investment firm* under MIFIDPRU 4, ignoring any transitional relief under MIFIDPRU TP 2.
- E = the alternative requirement that applies to the *MIFIDPRU investment firm* under MIFIDPRU TP 2 in place of the individual *fixed overheads requirement*. If no alternative requirement applies to the *firm* in place of its individual *fixed overheads requirement*, the value of E is equal to D.
- (6) The formula for calculating the alternative requirement for the consolidated *K-factor requirement* is:
- $$F = G - H$$
- where:
- F = the alternative requirement for the consolidated *K-factor requirement*.
- G = the consolidated *K-factor requirement* that results from applying MIFIDPRU 4 to the *consolidated situation* in accordance with MIFIDPRU 2.5 without applying MIFIDPRU TP 2.
- H = the transitional credit, determined in accordance with (7).
- (7) For the purposes of (6), the transitional credit (H) is the sum of the output of the following formula as applied to each *MIFIDPRU investment firm* in the *investment firm group*:
- $$H = J - K$$
- where:
- J = the *K-factor requirement* that would apply to the individual *MIFID-*

*PRU investment firm* under MIFIDPRU 4, ignoring any transitional relief under MIFIDPRU TP 2.

K = the alternative requirement that applies to the *MIFIDPRU investment firm* under MIFIDPRU TP 2 in place of the individual *K-factor requirement*. If no alternative requirement applies to the *firm* in place of its individual *K-factor requirement*, the value of K is equal to J.

- (8) The alternative requirement can never be lower than the following:
- (a) in relation to the consolidated *fixed overheads requirement*, the sum of the following in relation to the *investment firm group*:
- (i) for each *MIFIDPRU investment firm* that is subject to an alternative requirement under MIFIDPRU TP 2 in place of its individual *fixed overheads requirement*, that alternative requirement; and
- (ii) for every other *MIFIDPRU investment firm*, the *firm's* individual *fixed overheads requirement*;
- (b) in relation to the consolidated *K-factor requirement*, the sum of the following in relation to the *MIFIDPRU investment firms* in the *investment firm group*:
- (i) for each *MIFIDPRU investment firm* that is subject to an alternative requirement under MIFIDPRU TP 2 in place of its individual *K-factor requirement*, that alternative requirement; and
- (ii) for other *MIFIDPRU investment firms*, the individual *K-factor requirement*.

Interaction between alternative fixed overheads requirement and basic liquid assets requirement

- 2.24 R (1) This rule applies where:
- (a) a *firm* is applying an alternative requirement for its *fixed overheads requirement* under any of the following:
- (i) MIFIDPRU TP 2.7R(2)(a);
- (ii) MIFIDPRU TP 2.10R(2)(a);
- (iii) MIFIDPRU TP 2.21R(2)(a); or
- (b) a *UK parent entity* is applying an alternative requirement for its consolidated *fixed overheads requirement* under MIFIDPRU TP 2.23R(2)(a).
- (2) Where this rule applies to a *firm* in (1)(a), the requirement in MIFIDPRU 6.2.1R(1) applies as if the reference to the *fixed overheads requirement* is a reference to the alternative requirement.
- (3) Where this rule applies to a *UK parent entity* in (1)(b), the requirement in MIFIDPRU 6.2.1R(1), as it applies on a *consolidated basis*, applies as if the reference to the *fixed overheads requirement* is a reference to the alternative requirement.
- 2.25 G (1) The effect of MIFIDPRU TP 2.24R is that where a *firm* is applying an alternative requirement for its *fixed overheads requirement* under a transitional provision in this annex, the amount of *core liquid assets* that it must hold under MIFIDPRU 6.2.1R(1) is calculated by reference to the alternative requirement. This does not affect any amount of *core liquid assets* that the *firm* must hold under MIFIDPRU 6.2.1R(2) in relation to guarantees provided to *clients*.
- (2) MIFIDPRU TP 2.24R also applies on an equivalent basis to a *UK parent entity* that is applying an alternative requirement for its consolidated *fixed overheads requirement*.
- (3) The following is an example of how MIFIDPRU TP 2.24R applies in practice:
- (a) A former *exempt CAD firm* is calculating its *basic liquid assets requirement* under MIFIDPRU 6.2.1R after MIFIDPRU has been in force for 18 months. The *firm's fixed overheads requirement* (calculated without

any transitional relief) is 900. The *firm* has provided total guarantees to clients of 100.

- (b) Under MIFIDPRU TP 2.10R(2)(a), the *firm* can apply an alternative requirement of 10% of its standard *fixed overheads requirement* in accordance with MIFIDPRU TP 2.10R(4)(a). The alternative requirement is therefore 90 (i.e. 10% of 900).
- (c) Under MIFIDPRU TP 2.24R, the *firm* calculates the amount of core liquid assets that it requires under MIFIDPRU 6.2.1R(1) by reference to the alternative requirement. This means that the *firm* must hold *core liquid assets* of 30 for these purposes (i.e. one third of 90).
- (d) Under MIFIDPRU 6.2.1R(2), the *firm* must also hold *core liquid assets* of 1.6% of the total amount of the guarantees it has provided to clients. In this case, that means that the *firm* must hold a further 1.6 in *core liquid assets* (i.e. 1.6% of 100). This amount is not affected by the transitional relief in MIFIDPRU TP 2.24R.
- (e) The *firm* would therefore need to hold *core liquid assets* of 31.6 to satisfy its *basic liquid assets requirement*.

Interaction between alternative requirements under MIFIDPRU TP 2, own funds wind-down trigger and own funds threshold requirement

- 2.25A R (1) Where a *firm* is applying an alternative requirement for its:
- (a) *fixed overheads requirement* under any of the following: MIFIDPRU TP 2.7R(2)(a), MIFIDPRU TP 2.10R(2)(a), or MIFIDPRU TP 2.21R(2)(a);
  - (b) *K-factor requirement* under any of the following: MIFIDPRU TP 2.7R(2)(b); MIFIDPRU TP 2.10R(2)(b); MIFIDPRU TP 2.11R(2); or MIFIDPRU TP 2.21R(2)(b);
  - (c) *permanent minimum capital requirement* under any of the following: MIFIDPRU TP 2.12R(2), MIFIDPRU TP 2.13R(3), MIFIDPRU TP 2.14R(3), MIFIDPRU TP 2.15R(2), MIFIDPRU TP 2.16R(3), or MIFIDPRU TP 2.18R(2); or
  - (d) *own funds requirement* under MIFIDPRU TP 2.20R(2);
- that *firm* may substitute the alternative requirement for the corresponding requirement when calculating its *own funds threshold requirement* in accordance with MIFIDPRU 7.6.4G.
- (2) Where a *firm* is applying an alternative requirement for its *fixed overheads requirement* under any of the provisions listed in (1)(a), the *firm's own funds wind-down trigger* is:
- (a) the alternative requirement for its *fixed overheads requirement*; or
  - (b) another amount specified by the FCA in a *requirement* applied to the *firm*.
- (3) Where a *firm* is applying an alternative requirement for its *own funds requirement* under MIFIDPRU TP 2.20R(2), the *firm's own funds wind-down trigger* is:
- (a) the lower of its *fixed overheads requirement* and the alternative requirement for its *own funds requirement*; or
  - (b) another amount specified by the FCA in a *requirement* applied to the *firm*.
- 2.25B G (1) The effect of MIFIDPRU TP 2.25AR(1) is that a *firm* may substitute an alternative requirement under a transitional provision in this annex for its corresponding requirement when calculating its *own funds threshold requirement*. This is illustrated by the example in (2).
- (2) MIFIDPRU TP 2.12R(2) permits a *MIFIDPRU investment firm* (that was classified under the rules in force on 31 December 2021 as an *exempt CAD firm*) to substitute the alternative requirement in TP 2.12R(3) for its *permanent minimum capital requirement* under MIFIDPRU 4.4. MIFIDPRU TP 2.25AR(1) further allows such *firm* to substitute the alternative requirement for its *permanent min-*

*imum capital requirement* when determining its *own funds wind-down threshold requirement* in accordance MIFIDPRU 7.6.4G.

Continuing validity of UK CRR market risk permissions

- 2.26 R (1) This *rule* applies to any permission listed in column (A) of the table in MIFIDPRU TP 2.27R, where that permission was granted to a *firm* by the FCA for the purposes of the UK CRR before 1 January 2022.
- (2) Where this *rule* applies, a permission in column (A) of the table in MIFIDPRU TP 2.27R is deemed to have the effect described in column (B) in the same row of that table.
- 2.27 R This table belongs to MIFIDPRU TP 2.26R.

	(A)	(B)
	UK CRR permission granted before 1 January 2022	Effect of permission under MIFIDPRU on or after 1 January 2022
	Articles 329, 352(1) or 358 UK CRR: permission to use own estimates for delta for the purposes of the standardised approach for the market risk of options	The permission in column (A) is deemed to be a valid notification under MIFIDPRU 4.12.10R for equivalent purposes
	Article 331 UK CRR: permission to use sensitivity models to calculate interest rate risk	The permission in column (A) is deemed to have been granted on equivalent terms for its remaining duration under MIFIDPRU 4.12.66R
2.28	G	(1) MIFIDPRU 4.12.10R requires a MIFIDPRU investment firm that wishes to use its own estimates of delta for the purposes of the standardised approach for the market risk of options to notify the FCA that it meets certain minimum standards before doing so. Previously, firms that were subject to the UK CRR were required to seek the FCA's permission before using their own estimates of delta for these purposes. The effect of MIFIDPRU TP 2.25R and 2.26R is that any permission granted for these purposes to a former CRR firm that has subsequently become a MIFIDPRU investment firm will be treated as a valid notification for the purposes of MIFIDPRU 4.12.10R. This means that the firm does not need to submit a new notification under MIFIDPRU 4.12.10R to use its own estimates of delta under that rule for which the firm previously had permission.
		(2) The effect of MIFIDPRU TP 2.26R and 2.27R is that a former CRR firm that was granted a permission to use interest rate sensitivity models under article 331 UK CRR and that has subsequently become a MIFIDPRU investment firm can treat that permission as having been granted on equivalent terms for the purposes of the corresponding requirement under MIFIDPRU. The duration of the original permission is not affected. For example, if a firm was granted permission to use an interest rate sensitivity model on 1 June 2021 for a one-year duration, that permission will be treated from 1 January 2022 as if it had been granted under MIFIDPRU, but will still expire on 1 June 2022.

## Prudential sourcebook for MiFID Investment Firms

### MIFIDPRU TP 3 Group capital test: transitional arrangements

		Application
3.1	R	<p>MIFIDPRU TP 3 applies to:</p> <ol style="list-style-type: none"> <li>(1) a <i>MIFIDPRU investment firm</i>;</li> <li>(2) a <i>UK parent entity</i>; and</li> <li>(3) a <i>GCT parent undertaking</i> in an <i>investment firm group</i>.</li> </ol>
		Purpose
3.2	G	<p>MIFIDPRU TP 3 contains transitional provisions which allow an <i>investment firm group</i> to apply the <i>group capital test</i> on a temporary basis before the <i>FCA</i> has determined an application under MIFIDPRU 2.4.17R, provided that certain conditions are met.</p>
		Temporary application of the group capital test
3.3	R	<ol style="list-style-type: none"> <li>(1) This <i>rule</i> applies to an <i>investment firm group</i> where: <ol style="list-style-type: none"> <li>(a) the <i>UK parent entity</i> or a <i>MIFIDPRU investment</i> within that <i>investment firm group</i> has submitted an application to the <i>FCA</i> under MIFIDPRU 2.4.17R by no later than 1 February 2022; and</li> <li>(b) the <i>management body</i> of the <i>UK parent entity</i> or <i>MIFIDPRU investment firm</i> has determined that there is a reasonable basis to conclude that the <i>investment firm group</i> satisfies the requirements in MIFIDPRU 2.4.17R(2)(a) and (b).</li> </ol> </li> <li>(2) This <i>rule</i> applies from 1 January 2022 until the earlier of the following: <ol style="list-style-type: none"> <li>(a) 1 January 2024; or</li> <li>(b) the date specified in the notification to the <i>UK parent entity</i> or <i>MIFIDPRU investment firm</i> of the <i>FCA</i>'s decision in relation to the application in (1)(a).</li> </ol> </li> <li>(3) Where this <i>rule</i> applies, the <i>undertakings</i> in MIFIDPRU TP 3.1 may apply the <i>group capital test</i> in accordance with MIFIDPRU 2.6, even though the <i>FCA</i> has not granted permission to use the <i>group capital test</i> under MIFIDPRU 2.4.17R.</li> </ol>
3.4	G	<p>Under MIFIDPRU 2.4.18R(2)(g), an application submitted under MIFIDPRU 2.4.17R must demonstrate how the <i>investment firm group</i> would comply with the consolidated requirements under MIFIDPRU 2.5 if the <i>FCA</i> did not grant permission to apply the <i>group capital test</i>. The application must also explain the timeframe in which the <i>investment firm group</i> would expect to comply with the consolidated requirements. If the <i>FCA</i> does not grant the application, it will use this information to determine an appropriate date under MIFIDPRU TP 3.3R(2)(b) on which the transitional arrangements will end.</p>





# Prudential sourcebook for MiFID Investment Firms

## MIFIDPRU TP 4 K-factor metric calculations: transitional

		Application
4.1	R	<p>MIFIDPRU TP 4 applies to a <i>MIFIDPRU investment firm</i> where:</p> <ol style="list-style-type: none"> <li>(1) immediately before 1 January 2022, the <i>firm</i> was carrying on <i>investment services and/or activities</i>; and</li> <li>(2) the <i>investment services and/or activities</i> in (1) result in <i>K-factor metrics</i> that are relevant to the calculation of the following on or after 1 January 2022: <ol style="list-style-type: none"> <li>(i) the <i>firm's K-factor requirement</i>; or</li> <li>(ii) an alternative requirement in MIFIDPRU TP 2 that is calculated by reference to the <i>K-factor requirement</i>.</li> </ol> </li> </ol>
4.2	R	<p>MIFIDPRU TP 4.11 applies to a <i>UK parent entity</i> where the following conditions are met:</p> <ol style="list-style-type: none"> <li>(1) the <i>UK parent entity</i> is required to apply MIFIDPRU 4 on a <i>consolidated basis</i> in accordance with MIFIDPRU 2.5.7R; and</li> <li>(2) the <i>consolidated situation</i> of the <i>UK parent entity</i> includes one or more of the following: <ol style="list-style-type: none"> <li>(a) a <i>MIFIDPRU investment firm</i> to which MIFIDPRU TP 4.1R applies; or</li> <li>(b) a <i>third country entity</i> to which MIFIDPRU TP 4.1R would apply if it were established in the <i>UK</i>.</li> </ol> </li> </ol>
		Purpose
4.3	G	<ol style="list-style-type: none"> <li>(1) The standard <i>rules</i> in MIFIDPRU 4 require a <i>MIFIDPRU investment firm</i> to collect data on the <i>K-factor metrics</i> that are relevant to the <i>investment services and/or activities</i> that the <i>firm</i> carries on. Certain <i>K-factor average metric</i> calculations are based on average values and require a minimum level of historical data.</li> <li>(2) MIFIDPRU TP 4 contains transitional rules for the calculation of a <i>firm's K-factor requirement</i> where a <i>firm</i> was carrying on <i>investment services and/or activities</i> immediately before MIFIDPRU began to apply, but does not have the historical data necessary to calculate the relevant <i>K-factor average metric</i>.</li> <li>(3) MIFIDPRU TP 4 is not relevant to the calculation of the following elements of the <i>K-factor requirement</i> because they do not use historical data: <ol style="list-style-type: none"> <li>(1) the <i>K-NPR requirement</i>;</li> <li>(2) the <i>K-TCD requirement</i>; and</li> <li>(3) the <i>K-CON requirement</i>.</li> </ol> </li> </ol>
		Duration
4.4	G	The duration of the transitional arrangements in MIFIDPRU TP 4 depends on the relevant <i>K-factor average metric</i> . Under MIFIDPRU TP 4.5.R(3), the transitional arrangements cease to apply when a <i>firm</i> has (or should have) collected sufficient historical

information to perform the necessary calculations in accordance with the standard calculation *rules* for the relevant *K-factor average metric* in MIFIDPRU 4.

Missing historical data for K-factor calculations: transitional provisions for individual MIFIDPRU firms

- 4.5 R (1) This *rule* applies to the extent that a *MIFIDPRU investment firm* does not have the necessary historical data to calculate the *K-factor average metric* required for any of the following in accordance with the relevant *rules* in MIFIDPRU 4:
- (a) its *K-AUM requirement*;
  - (b) its *K-CMH requirement*;
  - (c) its *K-ASA requirement*;
  - (d) its *K-COH requirement*;
  - (e) its *K-DTF requirement*; or
  - (f) its *K-CMG requirement*.
- (2) Subject to MIFIDPRU TP 4.13R(2)(a), a *firm* may either:
- (a) use reasonable estimates to fill any missing historical data points in the calculation of the relevant *K-factor average metric*; or
  - (b) as an exception to the standard calculation *rules* in MIFIDPRU 4, use the modified calculation in MIFIDPRU TP 4.11R to calculate the relevant *K-factor average metric*.
- (3) This *rule* ceases to apply in relation to a *K-factor metric* on the earlier of the following:
- (a) the date on which the *firm* has collected sufficient historical information to calculate the *K-factor average metric* in accordance with the *rules* in MIFIDPRU 4; or
  - (b) the date that falls *n months* after the date on which *MIFIDPRU* first began to apply, where *n* is the number of *months'* worth of data points required to calculate that *K-factor average metric* in accordance with the standard calculation *rules* in MIFIDPRU 4.
- 4.6 G (1) MIFIDPRU TP 4.5R(3) specifies the date on which the transitional arrangements for calculating a *K-factor average metric* will cease to apply and the *firm* must therefore use the standard calculation *rules* in MIFIDPRU 4 for that *K-factor average metric*. This date may vary depending on the position of the individual *firm*.
- (2) Under MIFIDPRU TP 4.5R(3)(a), once a *firm* has sufficient historical information to perform the calculation in the standard way, it is no longer permitted to use either reasonable estimates for missing data points or to use the modified calculation in MIFIDPRU 4.11R. For example, on the date on which *MIFIDPRU* begins to apply, Firm A already has historical data on its *AUM* covering the previous 10 *months*. The standard calculation of *average AUM* in MIFIDPRU 4 requires 15 *months* of historical data. Since the *firm* must begin collecting *AUM* data no later than the date that *MIFIDPRU* begins to apply, the *firm* will have sufficient data to perform the standard calculation 5 *months* later. At that point, the transitional arrangements under MIFIDPRU TP 4 will no longer apply to the *firm's* calculation of *average AUM*.
- (3) MIFIDPRU TP 4.5R(3)(b) acts as a "long-stop" date for the transitional arrangements under MIFIDPRU TP 4. A *firm* must begin collecting data on its *K-factor metrics* no later than the date that *MIFIDPRU* begins to apply. Therefore, a *MIFIDPRU investment firm* should have sufficient historical data to perform the standard calculation of a *K-factor metric* once sufficient *months* have elapsed to cover at least the standard calculation period for that *K-factor metric*. For example, the standard calculation for

			<p><i>average CMH</i> requires 9 months of historical data. For the purposes of MIFIDPRU TP 4.5.R(3)(b), the value of <i>n</i> is therefore 9, and the transitional arrangements under MIFIDPRU TP 4 will cease to apply to the calculation of <i>average CMH</i> 9 months after MIFIDPRU first begins to apply.</p>
4.7	R	(1)	A <i>firm</i> must apply its chosen approach under MIFIDPRU TP 4.5R(2) consistently for a specific <i>K-factor average metric</i> .
		(2)	A <i>firm</i> may apply different approaches under MIFIDPRU TP 4.5R(2) for different <i>K-factor average metrics</i> .
4.8	G		MIFIDPRU TP 4.7R prevents a <i>firm</i> from changing its approach to missing historical data points for a particular <i>K-factor average metric</i> . For example, if a <i>firm</i> is missing the necessary historical data points and chooses to apply the modified calculation in MIFIDPRU TP 4.11R to determine <i>average AUM</i> , it cannot subsequently decide to estimate the missing values for <i>average AUM</i> instead. However, a <i>firm</i> may choose, for example, to use reasonable estimates for missing values for <i>average AUM</i> , but to apply the modified calculation in MIFIDPRU TP 4.11R for the purposes of missing values for <i>average COH</i> . In the example, this could reflect the fact that the <i>firm</i> has a reasonable basis on which to estimate <i>AUM</i> , but is unable to produce reasonable estimates for <i>COH</i> .
4.9	R		If the FCA requests it, a <i>firm</i> that uses reasonable estimates in accordance with MIFIDPRU TP 4.5R(2)(a) must explain how it has determined the relevant estimates.
4.10	G		If a <i>firm</i> does not have a reasonable basis on which to estimate missing historical data points for a <i>K-factor average metric</i> , it should apply the modified calculation in MIFIDPRU TP 4.11R.
4.11	R	(1)	A <i>firm</i> that is using the modified calculation for determining a <i>K-factor average metric</i> , other than for the <i>K-CMG requirement</i> , must apply the following requirements:
		(a)	the <i>firm</i> must calculate the arithmetic mean of the daily values (or in the case of <i>AUM</i> , monthly values) for the <i>K-factor metric</i> over the previous <i>n months</i> , excluding the most recent <i>y months</i> ;
		(b)	<i>n</i> is the number of <i>months</i> that have elapsed since MIFIDPRU began to apply (with the <i>month</i> during which MIFIDPRU begins to apply being counted as month 1);
		(c)	<i>y</i> is the greater of:
		(i)	zero; or
		(ii)	<i>n</i> minus <i>x</i> ; and
		(d)	<i>x</i> is a fixed value, being:
		(i)	12 for <i>average AUM</i> ;
		(ii)	6 for <i>average CMH</i> , <i>average ASA</i> or <i>average DTF</i> ; and
		(iii)	3 for <i>average COH</i> .
		(2)	A <i>firm</i> that uses the modified calculation for determining the level of margin for the purposes of the <i>K-CMG requirement</i> must apply the following requirements:
		(a)	the <i>firm</i> must calculate the third highest amount of total margin as calculated under MIFIDPRU 4.13.5R required from the <i>firm</i> on a daily basis over the preceding <i>n months</i> ; and
		(b)	<i>n</i> is the number of <i>months</i> that have elapsed since MIFIDPRU began to apply (with the <i>month</i> during which MIFIDPRU begins to apply being counted as month 1).
4.12	G	(1)	The following are worked examples of the modified calculation in MIFIDPRU TP 4.11R.
		(2)	Firm A has chosen to apply the modified calculation for <i>average AUM</i> . MIFIDPRU has been in force for 6 months. Firm A would calculate its <i>average AUM</i> as follows:

- (a) the value of  $n$  is 6, being the length of time that *MIFIDPRU* has been in force;
  - (b) the value of  $y$  is zero, as zero is greater than  $n$  minus  $x$  (i.e. 6 minus 12). This means that Firm A must not exclude any of the most recent *months* of daily figures; and
  - (c) when calculating *average AUM* for present purposes, Firm A must therefore calculate the arithmetic mean of the previous 6 *months* of daily values for *AUM*.
- (3) Firm B applies the modified calculation for *COH*, as it is unable to generate reasonable estimates for missing data points for *COH*. *MIFIDPRU* has been in force for 4 *months*. Firm B would calculate its *COH* as follows:
- (a) the value of  $n$  is 4, being the length of time that *MIFIDPRU* has been in force;
  - (b) the value of  $y$  is 1, as  $n$  minus  $x$  (i.e. 4 minus 3) is greater than zero; and
  - (c) when calculating *average COH* for present purposes, Firm B must therefore calculate the arithmetic mean of the previous 4 *months* of daily values for *COH*, excluding the values for the most recent *month*.
- (4) *MIFIDPRU* has been in force for 10 *months*. Although Firm C would like to apply the modified calculation for *average CMH*, under *MIFIDPRU TP 4.5R(3)(b)*, this is not permitted. This is because the standard calculation of *average CMH* under *MIFIDPRU 4* requires only 9 *months* of daily values. Firm C should therefore have collected sufficient data by that time to be able to apply the standard calculation.

Missing historical data for K-factor calculations: transitional provisions for investment firm groups to which consolidation applies

- 4.13 R (1) If the conditions in (2) are met, a *UK parent entity* may apply the transitional arrangements in *MIFIDPRU TP 4.5R* to *MIFIDPRU TP 4.11R*, as modified by *MIFIDPRU TP 4.14R*, when calculating *K-factor average metrics* on a *consolidated basis*.
- (2) The conditions are as follows:
- (a) to the extent that it is relying on the transitional arrangements in *MIFIDPRU TP 4*, each *MIFIDPRU investment firm* in the *investment firm group* must apply the same approach under *MIFIDPRU TP 4.5R(2)* to calculate a specific *K-factor average metric* on an individual basis; and
  - (b) the *UK parent entity* must apply the same approach under *MIFIDPRU TP 4.5R(2)* to calculate a specific *K-factor average metric* on a *consolidated basis* as the *firms* in (a) have applied on an individual basis.
- 4.14 R Where a *UK parent entity* is applying *MIFIDPRU TP 4.5R* to 4.11R in accordance with *MIFIDPRU TP 4.13R*, the following modifications apply:
- (1) a reference to a "*K-factor metric*" or a "*K-factor average metric*" is a reference to that *K-factor metric* or *K-factor average metric* as it applies on a *consolidated basis*;
  - (2) a reference to the "*K-AUM requirement*", "*K-COH requirement*", "*K-ASA requirement*", "*K-CMH requirement*", "*K-DTF requirement*" or "*K-CMG requirement*" is a reference to those requirements as they apply on a *consolidated basis*;
  - (3) a reference to *MIFIDPRU 4* is a reference to that chapter as it applies on a *consolidated basis* in accordance with *MIFIDPRU 2.5*; and
  - (4) a reference to a "*firm*" is a reference to the *UK parent entity*.

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- |      |   |     |  |
|------|---|-----|--|
| 4.15 | G | (1) | Under MIFIDPRU 2.5, a <i>third country</i> entity that would be a <i>MIFIDPRU investment firm</i> if it were established in the <i>UK</i> may contribute towards a consolidated <i>K-factor metric</i> . A <i>UK parent entity</i> may rely on the transitional arrangements in MIFIDPRU TP 4 in relation to missing data points relating to such entities that the <i>UK parent entity</i> requires to calculate the consolidated <i>K-factor requirement</i> .   |
|      |   | (2) | However, under MIFIDPRU 2.5.9R, a <i>UK parent entity</i> must ensure that any <i>subsidiaries</i> that are not subject to MIFIDPRU (including <i>third country entities</i> ) implement the necessary arrangements to ensure that the <i>UK parent entity</i> can comply with consolidated requirements. As a result, the guidance in MIFIDPRU TP 4.6G(2) is equally applicable to <i>third country entities</i> within the <i>investment firm group</i> , which must ensure that they begin to collect the necessary data once MIFIDPRU begins to apply. |



## Prudential sourcebook for MiFID Investment Firms

### MIFIDPRU TP 5 Advance data collection

		Application
5.1	R	MIFIDPRU TP 5 applies to: <ol style="list-style-type: none"> <li>(1) a <i>MIFIDPRU investment firm</i>; and</li> <li>(2) a <i>UK parent entity</i>.</li> </ol>
		Duration
5.2	R	MIFIDPRU TP 5 applies from 1 December 2021 until 1 January 2022 (the “relevant period”).
		Purpose
5.3	G	<ol style="list-style-type: none"> <li>(1) MIFIDPRU TP 5 requires <i>MIFIDPRU investment firms</i> and <i>UK parent entities</i> to begin collecting data on <i>K-factor metrics</i> one month before the <i>MIFIDPRU</i> sourcebook begins to apply in full.</li> <li>(2) If <i>firms</i> and <i>parent undertakings</i> will be using the alternative calculation in MIFIDPRU TP 4 after MIFIDPRU begins to apply in full, the data covering the relevant period will allow them to calculate their <i>K-factor requirement</i> during the first month.</li> <li>(3) If <i>firms</i> and <i>parent undertakings</i> will be using the reasonable estimates approach in MIFIDPRU TP 4 after MIFIDPRU begins to apply in full, the data covering the relevant period will provide at least one month’s observed historical data which must be used in the relevant calculations. The observed data may also be helpful for verifying whether any remaining estimated historical data points are reasonable.</li> </ol>
		Requirement to collect data on K-factor metrics
5.4	R	<ol style="list-style-type: none"> <li>(1) A <i>MIFIDPRU investment firm</i> or <i>UK parent entity</i> must collect the required information in (2) throughout the relevant period.</li> <li>(2) The required information is:             <ol style="list-style-type: none"> <li>(a) for a <i>MIFIDPRU investment firm</i>, data on the <i>K-factor metrics</i> that the <i>firm</i> would be required to collect to calculate its individual <i>K-factor requirement</i> if MIFIDPRU applied in full; and</li> <li>(b) for a <i>UK parent entity</i>, data on the <i>K-factor metrics</i> that the <i>investment firm group</i> would be required to collect to calculate its <i>K-factor requirement</i> on a <i>consolidated basis</i> if MIFIDPRU applied in full.</li> </ol> </li> </ol>
5.5	G	MIFIDPRU TP 5.4R only requires a <i>firm</i> or <i>parent undertaking</i> to collect data on <i>K-factor metrics</i> that are relevant to the <i>investment services/and or activities</i> that it carries on (or in the case of a <i>parent undertaking</i> , that relevant entities within its <i>investment firm group</i> carry on).





## Prudential sourcebook for MiFID Investment Firms

### MIFIDPRU TP 6

#### Application of criteria to be classified as an SNI MIFIDPRU investment firm: transitional

		Application
6.1	R	MIFIDPRU TP 6 applies to the following: <ol style="list-style-type: none"> <li>(1) a <i>MIFIDPRU investment firm</i>; and</li> <li>(2) a <i>UK parent entity</i>, in accordance with MIFIDPRU TP 6.9R.</li> </ol>
		Purpose
6.2	G	<ol style="list-style-type: none"> <li>(1) MIFIDPRU TP 6 explains how a <i>MIFIDPRU investment firm</i>, or a <i>UK parent entity</i> which is applying MIFIDPRU 1.2 on a <i>consolidated basis</i>, should determine whether it meets the conditions to be classified as an <i>SNI MIFIDPRU investment firm</i> on the date on which MIFIDPRU begins to apply.</li> <li>(2) Under MIFIDPRU TP 6.4R, a <i>MIFIDPRU investment firm</i> or a <i>UK parent entity</i> may use either the reasonable estimates approach or the alternative calculation in MIFIDPRU TP 4.5R(2) to determine missing historical data points for the purposes of applying the <i>average AUM</i> or <i>average COH</i> conditions under MIFIDPRU 1.2.1R(1) and (2).</li> <li>(3) Under MIFIDPRU TP 6.7R, a <i>MIFIDPRU investment firm</i> or a <i>UK parent entity</i> must use its best efforts to estimate any missing historical data points for the purposes of applying the condition relating to total annual gross revenue from <i>investment services and/or activities</i> in MIFIDPRU 1.2.1R(7).</li> <li>(4) The transitional arrangements in MIFIDPRU TP 6 apply only to the extent that the <i>firm</i> has missing historical data points. If a <i>firm</i> has observed historical data covering any part of the relevant period, the <i>firm</i> should use those data points when applying the relevant calculations.</li> </ol>
		Duration
6.3	G	The duration of the transitional arrangements in MIFIDPRU TP 6 depends on the relevant condition for classification as an <i>SNI MIFIDPRU investment firm</i> under MIFIDPRU 1.2. Under MIFIDPRU TP 6.4R(5) and MIFIDPRU TP 6.7R(3), the transitional arrangements cease to apply once a <i>firm</i> or <i>UK parent entity</i> has (or should have) collected sufficient historical information to apply the relevant condition in accordance with the applicable methodology in MIFIDPRU 1.2.
		Missing historical data for application of SNI classification criteria: transitional for individual MIFIDPRU investment firms
6.4	R	<ol style="list-style-type: none"> <li>(1) This <i>rule</i> applies to the extent that a <i>MIFIDPRU investment firm</i> does not have the necessary historical data to determine whether the following conditions are met:             <ol style="list-style-type: none"> <li>(a) the <i>average AUM</i> condition in MIFIDPRU 1.2.1R(1); or</li> <li>(b) the <i>average COH</i> condition in MIFIDPRU 1.2.1R(2).</li> </ol> </li> <li>(2) If a <i>firm</i> decides to apply the alternative approach in MIFIDPRU 1.2.4R for the purposes of assessing whether a condition in (1) is met, this <i>rule</i> applies to the extent that the <i>firm</i> does not have the necessary historical data to apply that alternative approach to the relevant condition.</li> </ol>

		(3)	Where this <i>rule</i> applies, a <i>firm</i> may (subject to (4) and MIFIDPRU TP 6.5R) use either of the approaches set out in MIFIDPRU TP 4.5R(2) to assess whether the relevant condition in (1) is met.
		(4)	A <i>firm's</i> choice of approach under (3) must be consistent with any choice that the <i>firm</i> has made under MIFIDPRU TP 4.5R(2) in relation to the same <i>K-factor average metric</i> for the purposes of applying the transitional arrangements in MIFIDPRU TP 4.
		(5)	This <i>rule</i> ceases to apply in relation to a condition in (1) on the earlier of the following: <ul style="list-style-type: none"> <li>(a) the date on which the <i>firm</i> has collected sufficient historical information necessary to apply the condition in accordance with the applicable methodology under MIFIDPRU 1.2; or</li> <li>(b) the date that falls <i>n months</i> after the date on which MIFIDPRU began to apply, where <i>n</i> is the number of <i>months'</i> worth of data points required to apply that condition in accordance with the applicable methodology under MIFIDPRU 1.2.</li> </ul>
6.5	R	(1)	This <i>rule</i> applies where a <i>firm</i> has chosen to apply both of the approaches below to determine whether the <i>average AUM</i> condition in MIFIDPRU 1.2.1R(1) or the <i>average COH</i> conditions in MIFIDPRU 1.2.1R(2) is met: <ul style="list-style-type: none"> <li>(a) the alternative approach in MIFIDPRU 1.2.4R; and</li> <li>(b) the modified calculation under MIFIDPRU TP 4.5R(2)(b).</li> </ul>
		(2)	Where this <i>rule</i> applies, the modified calculation applies as if: <ul style="list-style-type: none"> <li>(a) in MIFIDPRU TP 4.11R(1)(a), the words “excluding the most recent <i>y months</i>” were deleted; and</li> <li>(b) MIFIDPRU TP 4.11R(1)(c) and (d) were omitted.</li> </ul>
6.6	R	(1)	A <i>firm</i> must apply its chosen approach under MIFIDPRU TP 6.4R(2) consistently in relation to a specific condition in MIFIDPRU TP 6.4R(1).
		(2)	A <i>firm</i> may apply different approaches under MIFIDPRU TP 6.4R(2) in relation to different conditions in MIFIDPRU TP 6.4R(1).
6.7	R	(1)	This <i>rule</i> applies to the extent that a MIFIDPRU investment firm does not have the necessary historical data to determine if the condition relating to the total annual gross revenue from <i>investment services and/or activities</i> in MIFIDPRU 1.2.1R(7) is met.
		(2)	Where this <i>rule</i> applies, a <i>firm</i> must use its best efforts to estimate any missing historical data points for the calculation of the condition in (1).
		(3)	This <i>rule</i> ceases to apply in relation to a condition in (1) on the earlier of the following: <ul style="list-style-type: none"> <li>(a) the date on which the <i>firm</i> has collected sufficient historical information necessary to apply the condition in accordance with the standard methodology under MIFIDPRU 1.2; or</li> <li>(b) the date on which two complete financial years for the <i>firm</i> have elapsed after the date that MIFIDPRU began to apply.</li> </ul>
6.8	R		If the FCA requests, a <i>firm</i> must provide a reasonable explanation of how the <i>firm</i> has determined any estimate under MIFIDPRU TP 6.4R(3) or MIFIDPRU TP 6.7R(2).
6.9	G	(1)	It is unnecessary to provide transitional arrangements for the following conditions: <ul style="list-style-type: none"> <li>(a) the <i>average ASA</i> condition in MIFIDPRU 1.2.1R(3);</li> <li>(b) the <i>average CMH</i> condition in MIFIDPRU 1.2.1R(4);</li> <li>(c) whether the <i>firm</i> has <i>permission to deal on own account</i> in MIFIDPRU 1.2.1R(5);</li> </ul>

			<ul style="list-style-type: none"> <li>(d) the condition relating to the balance sheet total of the <i>firm</i> in MIFIDPRU 1.2.1R(6);</li> <li>(e) the <i>average DTF</i> condition in MIFIDPRU 1.2.1R(9); and</li> <li>(f) the condition relating to acting as a depositary in MIFIDPRU 1.2.1R(10).</li> </ul>
		(2)	The <i>average ASA</i> and <i>average CMH</i> conditions require that the <i>firm</i> has not held any <i>MiFID client money</i> , or any <i>client</i> assets in the course of <i>MiFID business</i> , during the preceding 9 <i>months</i> , excluding the most recent 3 <i>months</i> . A <i>firm</i> should already have information on whether it has held <i>client money</i> or <i>client</i> assets in the past. If the <i>firm</i> is unable to determine whether any amounts of <i>client money</i> or <i>client</i> assets were held in connection with <i>MiFID business</i> , it should apply MIFIDPRU 4.8.6R or MIFIDPRU 4.9.6R and treat the amounts as if they were held in connection with <i>MiFID business</i> for these purposes.
		(3)	The conditions in (1)(c), (1)(d) and (1)(f) do not rely on historical information and therefore can be assessed by the <i>firm</i> at the point at which <i>MIFIDPRU</i> first begins to apply without any need for transitional arrangements.
		(4)	The <i>average DTF</i> condition requires that the <i>firm</i> must not have entered into any transactions by <i>dealing on own account</i> or through the <i>execution of orders on behalf of clients</i> in the <i>firm's</i> own name during the preceding 9 <i>months</i> , excluding the most recent 3 <i>months</i> . The <i>FCA</i> considers that a <i>firm</i> should already know whether it executed any transactions in that capacity during the relevant period.
6.10	G	(1)	MIFIDPRU TP 6.4R(5) and MIFIDPRU TP 6.7R(3) specify the date on which the transitional arrangements for applying certain conditions under MIFIDPRU 1.2.1R will cease to apply. From that date onwards, the <i>firm</i> will need to apply the standard methodology for determining whether it meets the relevant condition. This date may vary depending on the position of the individual <i>firm</i> and the relevant condition.
		(2)	Under MIFIDPRU TP 6.4R(5)(a), if a <i>firm</i> has sufficient historical information to apply a condition in MIFIDPRU TP 6.4R(1), it is no longer permitted to rely on the transitional arrangements. The following are examples of how this requirement applies: <ul style="list-style-type: none"> <li>(a) Example 1: On the date on which <i>MIFIDPRU</i> begins to apply, Firm A already has historical data on its <i>AUM</i> covering the previous 10 <i>months</i>. Assuming that the <i>firm</i> is applying the standard criteria under MIFIDPRU 1.2.1R (and not the alternative approach in MIFIDPRU 1.2.4R), the <i>average AUM</i> condition under MIFIDPRU 1.2.1R(1) requires 15 <i>months</i> of historical data. Since the <i>firm</i> must be collecting <i>AUM</i> data once <i>MIFIDPRU</i> begins to apply, Firm A will have sufficient data to apply the standard calculation for the <i>average AUM</i> condition 5 <i>months</i> later. At that point, the <i>firm</i> will no longer be able to rely on the transitional arrangements under MIFIDPRU TP 6, but instead must use the observed historical data to determine whether the condition in MIFIDPRU 1.2.1R(1) is met.</li> <li>(b) Example 2: Firm B has notified the <i>FCA</i> under MIFIDPRU 1.2.4R that it is using the alternative approach to applying the <i>average AUM</i> condition in MIFIDPRU 1.2.1R. Firm B has 13 <i>months</i> of historical data on its <i>AUM</i>. Under MIFIDPRU TP 6.4R(5)(a), Firm B may not rely on the transitional arrangements in MIFIDPRU TP 6. Although the standard calculation for the <i>AUM</i> condition in MIFIDPRU 1.2.1R(1) would require 15 <i>months</i> of historical data, the alternative approach under MIFIDPRU 1.2.4R(2) requires only 12 <i>months</i> of data. As Firm B has sufficient observed historical data to apply its chosen methodology, the transitional arrangements do not apply.</li> </ul>

6.11	G	(1)	MIFIDPRU 6.4R(4) and 6.6R are designed to ensure consistency in a <i>firm's</i> approach to applying the transitional arrangements in MIFIDPRU TP 4 and MIFIDPRU TP 6.
		(2)	MIFIDPRU TP 6.4R(4) requires a <i>firm</i> to be consistent in its choice of approaches for the purposes of MIFIDPRU TP 4 and MIFIDPRU TP 6. For example, Firm A does not have sufficient information to calculate its <i>average AUM</i> for the purposes of the condition in MIFIDPRU 1.2.1R(1) and the <i>K-AUM requirement</i> under MIFIDPRU 4.7. If Firm A chooses to use the reasonable estimates approach under MIFIDPRU TP 4.5R(2) to calculate its <i>K-AUM requirement</i> , the <i>firm</i> must also use the reasonable estimates approach under MIFIDPRU TP 6.4R(3) to apply the <i>average AUM</i> condition in MIFIDPRU 1.2.1R(1). The estimates that Firm A uses for both purposes must be consistent.
		(3)	MIFIDPRU TP 6.6R prevents a <i>firm</i> from alternating between approaches for the purposes of MIFIDPRU TP 6. For example, Firm B chooses under MIFIDPRU TP 6.4R(3) to apply the alternative calculation in MIFIDPRU TP 4.11R for the purposes of the determining whether the <i>average COH</i> condition in MIFIDPRU TP 6.4R(1) is met. Firm B may not later decide to switch to applying the reasonable estimates approach to determine whether that condition is met.
6.12	G		Under MIFIDPRU TP 5, a <i>MIFIDPRU investment firm</i> is required to collect at least 1 month of <i>K-factor metrics</i> that are relevant to any <i>investment services and/or activities</i> it carries on before <i>MIFIDPRU</i> begins to apply in full. When determining any estimate for the purposes of MIFIDPRU TP 6.4R(3) or MIFIDPRU 6.7R(2), a <i>firm</i> should consider any observed historical data that is available. Where the observed historical data covers a short period, a <i>firm</i> should take into account possible seasonal variations in figures or other factors which may be relevant to the accuracy of the estimate.
			Missing historical data for application of SNI classification criteria: transitional for investment firm groups to which consolidation applies
6.13	R	(1)	A <i>UK parent entity</i> to which consolidation under MIFIDPRU 2.5 applies may apply the transitional arrangements in MIFIDPRU TP 6.4R to 6.12G to its <i>consolidated situation</i> in accordance with this <i>rule</i> .
		(2)	Where a <i>UK parent entity</i> is applying MIFIDPRU TP 6.4R to 6.12G in accordance with (1), the following modifications apply: (a) a reference to a condition in MIFIDPRU 1.2.1R is a reference to that condition as it applies on a <i>consolidated basis</i> ; and (b) a reference to a " <i>MIFIDPRU investment firm</i> " or a " <i>firm</i> " is a reference to the <i>UK parent entity</i> .
		(3)	Any estimate produced by the <i>UK parent entity</i> of an <i>investment firm group</i> under MIFIDPRU TP 6.4R(3) or MIFIDPRU TP 6.7R(2) for the purposes of its <i>consolidated situation</i> must be consistent with any estimates produced on an individual basis by any <i>MIFIDPRU investment firms</i> forming part of that <i>investment firm group</i> .

## Prudential sourcebook for MiFID Investment Firms

### MIFIDPRU TP 7

### Transitional provision for own funds instruments without UK CRR approvals before 1 January 2022

Application			
7.1	R	(1)	<p>MIFIDPRU TP 7 applies to a <i>MIFIDPRU investment firm</i> that, immediately before 1 January 2022:</p> <p>(a) was an <i>authorised person</i>; and</p> <p>(b) either:</p> <p>(i) was not classified as a <i>CRR firm</i> in accordance with the rules then in force; or</p> <p>(ii) met all of the conditions in (2).</p>
		(2)	<p>The conditions referred to in (1)(b)(ii) are:</p> <p>(a) the <i>firm</i> was classified as a <i>CRR firm</i> in accordance with the <i>rules</i> that applied immediately before 1 January 2022; and</p> <p>(b) in relation to an instrument to which MIFIDPRU TP 7.4R(1) applies, the <i>firm</i> had not, before 1 January 2022:</p> <p>(i) obtained <i>FCA</i> approval under article 26(3) of the <i>UK CRR</i> (in the form in which it stood immediately before 1 January 2022); or</p> <p>(ii) notified the <i>FCA</i> of the issuance of the instrument under IFPRU 3.2 (as it applied immediately before 1 January 2022).</p>
7.2	R	(1)	<p>MIFIDPRU TP 7 also applies to the following if the conditions in (2) are met:</p> <p>(a) a <i>UK parent entity</i> to which MIFIDPRU 3 applies on a <i>consolidated basis</i> in accordance with MIFIDPRU 2.5.7R; and</p> <p>(b) a <i>parent undertaking</i> to which the <i>group capital test</i> applies.</p>
		(2)	<p>The conditions are that immediately before 1 January 2022 the <i>UK parent entity</i> or <i>parent undertaking</i>:</p> <p>(a) formed part of the same <i>investment firm group</i> as a <i>firm</i>, which, on 1 January 2022 became a <i>MIFIDPRU investment firm</i>; and</p> <p>(b) either:</p> <p>(i) was not required to hold <i>own funds</i> on an individual or a consolidated basis in accordance with the <i>UK CRR</i>; or</p> <p>(ii) met all of the conditions in (3).</p>

		(3)	The conditions referred to in (2)(b)(ii) are:
		(a)	the <i>UK parent entity</i> or <i>parent undertaking</i> was required to hold <i>own funds</i> on an individual or a consolidated basis in accordance with the <i>UK CRR</i> (in the form in which it stood immediately before 1 January 2022); and
		(b)	the <i>UK parent entity</i> or <i>parent undertaking</i> has issued an instrument to which <a href="#">MIFIDPRU TP 7.4R(1)</a> applies;
		(c)	in relation to the instrument in (b), the <i>UK parent entity</i> or <i>parent undertaking</i> had not, before 1 January 2022:
		(i)	obtained <i>FCA</i> approval under article 26(3) of the <i>UK CRR</i> (in the form in which it stood immediately before 1 January 2022); or
		(ii)	notified the <i>FCA</i> of the issuance of the instrument under <a href="#">IFPRU 3.2</a> (as it applied immediately before 1 January 2022).
		(4)	A reference in (3)(c) to a notification or approval includes a notification or approval that was granted to another member of the <i>UK parent entity</i> or <i>parent undertaking's group</i> in relation to an instrument issued by the <i>UK parent entity</i> or <i>parent undertaking</i> .
	Purpose		
7.3	G	(1)	Before <i>MIFIDPRU</i> applied, certain <i>firms</i> that subsequently became <i>MIFIDPRU investment firms</i> determined their available capital resources according to various provisions in <i>GENPRU</i> or <i>IPRU-INV</i> . In addition, certain other <i>firms</i> were not subject to a dedicated prudential sourcebook in the <i>FCA Handbook</i> that contained a detailed regime for recognising the eligibility of capital resources.
		(2)	The <i>rules</i> on <i>own funds</i> in <a href="#">MIFIDPRU 3</a> broadly replicate the approach to recognising capital resources under the <i>UK CRR</i> . The purpose of <a href="#">MIFIDPRU TP 7</a> is to permit <i>firms</i> that were not <i>CRR firms</i> immediately before <i>MIFIDPRU</i> began to apply to recognise instruments as <i>own funds</i> under <i>MIFIDPRU</i> without requiring separate permission from, or notification to, the <i>FCA</i> if those instruments:
		(a)	were issued before <i>MIFIDPRU</i> began to apply; and
		(b)	meet the conditions to be classified as <i>own funds</i> under <a href="#">MIFIDPRU 3</a> (other than the conditions relating to the requirements to seek prior <i>FCA</i> consent or to notify the <i>FCA</i> ).
		(3)	Under <a href="#">MIFIDPRU TP 1</a> , a permission recognising the issuance of capital instruments as <i>common equity tier 1 capital</i> under the <i>UK CRR</i> is deemed to be an equivalent permission under <i>MIFIDPRU</i> . A notification made before <i>MIFIDPRU</i> began to apply by a former <i>CRR firm</i> in relation to the issuance of <i>additional tier 1 instruments</i> and <i>tier 2 instruments</i> will also continue to be valid under <a href="#">MIFIDPRU TP 1</a> .
		(3A)	Where a former <i>CRR firm</i> did not obtain permission for an existing instrument under the <i>UK CRR</i> or make a notification under <a href="#">IFPRU 3.2</a> in relation to an instrument, there will be no existing permission or notification to carry forward under <a href="#">MIFIDPRU TP 1</a> . In that case, the former <i>CRR firm</i> may make a notification under <a href="#">MIFIDPRU TP 7</a> in relation to any outstanding capital instruments issued before 1 January 2022, provided that those instruments meet the conditions to be recognised as the relevant type of <i>own funds</i> under <a href="#">MIFIDPRU 3</a> .

- (4) MIFIDPRU TP 7 also applies to *UK parent entities* to which MIFIDPRU 3 applies on a *consolidated basis* and *parent undertakings* to which the *group capital test* applies, where those entities were not required to hold *own funds* on an individual or consolidated basis under the *UK CRR* immediately before MIFIDPRU began to apply. This means that provided that the existing instruments issued by these entities meet the relevant conditions in MIFIDPRU 3, they can be treated as *own funds* for the purposes of the application of MIFIDPRU 3 on a *consolidated basis* or the *group capital test* as long as the entity complies with MIFIDPRU TP 7.
- (5) MIFIDPRU TP 7 also applies to a *UK parent entity* or other *parent undertaking* that was required to hold *own funds* under the *UK CRR* (whether on an individual or consolidated basis) immediately before MIFIDPRU began to apply but did not:
- (a) obtain permission for an existing common equity tier 1 instrument under the *UK CRR*; or
  - (b) make a notification in accordance with IFPRU 3.2 in relation to an existing additional tier 1 instrument or a tier 2 instrument.
- (6) Where (5) applies, the *UK parent entity* or other *parent undertaking* may make a notification under MIFIDPRU TP 7 in relation to any outstanding capital instruments issued before 1 January 2022, provided that those instruments meet the conditions to be recognised as the relevant type of *own funds* under MIFIDPRU 3.
- (7) In some cases, the *FCA* may have granted permission to, or accepted a notification from, another member of the *UK parent entity* or other *parent undertaking's group* in relation to an instrument issued by the *UK parent entity* or other *parent undertaking* that counted towards the *consolidated situation*. This is because the *UK CRR* previously applied only indirectly to unregulated *parent undertakings*. In that case, the existing *UK CRR* permission or notification will be treated as a permission or notification of the *UK parent entity* or *parent undertaking*. This means that it will convert into an equivalent deemed MIFIDPRU 3 permission or notification of the *UK parent entity* or *parent undertaking* under MIFIDPRU TP 1. A notification under MIFIDPRU TP 7 is not required in this situation.

Eligibility of pre-MIFIDPRU capital resources meeting requirements in MIFIDPRU 3 to qualify as own funds under MIFIDPRU without a separate permission or notification

- 7.4 R (1) This *rule* applies to any capital instrument that:
- (a) was issued by a *firm*, *UK parent entity* or *parent undertaking* before 1 January 2022; and
  - (b) was still in issue on 1 January 2022.
- (2) The *firm*, *UK parent entity* or *parent undertaking* in (1)(a) is deemed to have been granted the permission, or to have complied with the notification obligation, in column (A) of the table in MIFIDPRU TP 7.5R in relation to a capital instrument where the following conditions are met:
- (a) the conditions in column (B) of the same row of the table in MIFIDPRU TP 7.5R are met in relation to that instrument; and
  - (b) the *firm* has submitted the notification in MIFIDPRU TP 7 Annex 1R using the *online notification and application system* by no later than 29 June 2022.
- (3) A deemed permission or notification under (2) ceases to apply in relation to a capital instrument if the terms of the instrument are varied on or after 1 January 2022 and the instrument ceases to meet:

	(a)	in relation to an instrument being treated as <i>common equity tier 1 capital</i> , the conditions in MIFIDPRU 3.3 (other than the condition for prior FCA permission to classify the instrument as <i>common equity tier 1 capital</i> );
	(b)	in relation to an instrument being treated as <i>additional tier 1 capital</i> , the conditions in MIFIDPRU 3.4; and
	(c)	in relation to an instrument being treated as <i>tier 2 capital</i> , the conditions in MIFIDPRU 3.5.
7.5	R	This table belongs to MIFIDPRU TP 7.4R.

(A)	(B)
Requirement for permission or notification with which the <i>firm, UK parent entity or parent undertaking</i> is deemed to have complied	Conditions for deemed compliance to apply
<i>Individual MIFIDPRU investment firms</i>	
Article 26(3) UK CRR (as applied and modified by MIFIDPRU 3.3.1R) and MIFIDPRU 3.3.3R: Requirement for prior FCA permission to classify an issuance of capital instruments by a <i>firm</i> as <i>common equity tier 1 capital</i>	Immediately before MIFIDPRU began to apply or, if later, on the date on which the notification in MIFIDPRU TP 7.4R(2)(b) was made, the capital instruments met the conditions to be classified as <i>common equity tier 1 capital</i> in MIFIDPRU 3.3, except for the requirement for prior FCA permission under article 26(3) of the UK CRR and MIFIDPRU 3.3.3R
MIFIDPRU 3.6.5R(1)(a): Requirement to notify the FCA of the intention to issue <i>additional tier 1 instruments</i>	Immediately before MIFIDPRU began to apply or, if later, on the date on which the notification in MIFIDPRU TP 7.4R(2)(b) was made, the capital instruments met the conditions to be classified as <i>additional tier 1 capital</i> in MIFIDPRU 3.4
MIFIDPRU 3.6.5R(1)(b): Requirement to notify the FCA of the intention to issue <i>tier 2 instruments</i>	Immediately before MIFIDPRU began to apply or, if later, on the date on which the notification in MIFIDPRU TP 7.4R(2)(b) was made, the capital instruments met the conditions to be classified as <i>tier 2 capital</i> in MIFIDPRU 3.5
<i>UK parent entities</i> to which consolidation under MIFIDPRU 2.5.7R applies	
Article 26(3) UK CRR (as applied and modified by MIFIDPRU 3.3.1R) and MIFIDPRU 3.6.8R, as they apply on a <i>consolidated basis</i> under MIFIDPRU 2.5.7R(1): Requirement for prior FCA permission to classify an issuance of capital instruments by a <i>UK parent entity</i> as <i>common equity tier 1 capital</i>	Immediately before MIFIDPRU began to apply or, if later, on the date on which the notification in MIFIDPRU TP 7.4R(2)(b) was made, the capital instruments met the conditions to be classified as <i>common equity tier 1 capital</i> in MIFIDPRU 3.3 (as it applies on a consolidated basis), except for the requirement for prior FCA permission under article 26(3) of the UK CRR and MIFIDPRU 3.3.3R
MIFIDPRU 3.6.5R(1)(a), as modified by MIFIDPRU 3.6.8R: Requirement to notify the FCA of the intention to issue <i>additional tier 1 instruments</i>	Immediately before MIFIDPRU began to apply or, if later, on the date on which the notification in MIFIDPRU TP 7.4R(2)(b) was made, the capital instruments met the conditions to be classified as <i>additional tier 1 capital</i> in MIFIDPRU 3.4 (as it applies on a consolidated basis)
MIFIDPRU 3.6.5R(1)(b), as modified by MIFIDPRU 3.6.8R: Requirement to notify the FCA of the intention to issue <i>tier 2 instruments</i>	Immediately before MIFIDPRU began to apply or, if later, on the date on which the notification in MIFIDPRU TP 7.4R(2)(b) was made, the capital instruments met the conditions to be classified as <i>tier 2 capital</i> in MIFIDPRU 3.5 (as it applies on a consolidated basis)
<i>Parent undertakings</i> to which the <i>group capital test</i> applies	
Article 26(3) UK CRR (as applied and modified by	Immediately before MIFIDPRU began to apply or,



		(A)	(B)
		Requirement for permission or notification with which the <i>firm, UK parent entity or parent undertaking</i> is deemed to have complied	Conditions for deemed compliance to apply
		<i>Individual MIFIDPRU investment firms</i>	
		MIFIDPRU 3.3.1R) and MIFIDPRU 3.3.3R, as they apply to a parent undertaking under MIFIDPRU 3.7.4R(1)(a):  Requirement for prior <i>FCA</i> permission to classify an issuance of capital instruments by a <i>parent undertaking</i> as <i>common equity tier 1 capital</i>	if later, on the date on which the notification in MIFIDPRU TP 7.4R(2)(b) was made, the capital instruments met the conditions to be classified as <i>common equity tier 1 capital</i> in MIFIDPRU 3.3, except for the requirement for prior <i>FCA</i> permission under article 26(3) of the <i>UK CRR</i> and MIFIDPRU 3.3.3R
		MIFIDPRU 3.6.5R(1)(a), as modified by MIFIDPRU 3.7.4R(1)(b):  Requirement to notify the <i>FCA</i> of the intention to issue <i>additional tier 1 instruments</i>	Immediately before <i>MIFIDPRU</i> began to apply or, if later, on the date on which the notification in MIFIDPRU TP 7.4R(2)(b) was made, the capital instruments met the conditions to be classified as <i>additional tier 1 capital</i> in MIFIDPRU 3.4
		MIFIDPRU 3.6.5R(1)(b), as modified by MIFIDPRU 3.7.4R(1)(b):  Requirement to notify the <i>FCA</i> of the intention to issue <i>tier 2 instruments</i>	Immediately before <i>MIFIDPRU</i> began to apply or, if later, on the date on which the notification in MIFIDPRU TP 7.4R(2)(b) was made, the capital instruments met the conditions to be classified as <i>tier 2 capital</i> in MIFIDPRU 3.5
7.6	G	Where a <i>firm, UK parent entity or parent undertaking</i> is deemed under MIFIDPRU TP 7.3R and 7.4R to have notified the <i>FCA</i> of its intention to issue <i>additional tier 1 instruments</i> or <i>tier 2 instruments</i> , MIFIDPRU 3.6.5R(2)(a) will apply to a subsequent issuance of the same class of instruments. In practice, this means that provided that the subsequent issuance of the same class is on terms that are identical in all material respects to the existing class of those instruments, a notification to the <i>FCA</i> under MIFIDPRU 3.6.5R(1) is not required.	
		Notification under MIFIDPRU TP 7.4R(2)(b) on treating pre-MIFIDPRU capital instruments as own funds under MIFIDPRU 3	
TP 7 Annex 1	R	[Editor's note: The form can be found at this address: <a href="https://www.handbook.fca.org.uk/forms/">https://www.handbook.fca.org.uk/forms/</a>	



## Prudential sourcebook for MiFID Investment Firms

### MIFIDPRU TP 8 Commodity and emission allowance dealers

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into for
1.	MIFIDPRU 6	R	The <i>rules and guidance</i> in MIFIDPRU 6 do not apply to a <i>commodity and emission allowance dealer</i> .	Until 1 January 2027.	1 January 2022



## Prudential sourcebook for MiFID Investment Firms

### MIFIDPRU TP 9 IFPRU waivers: transitional

		<b>Application</b>
9.1	R	MIFIDPRU TP 9 applies to a <i>non-SNI MIFIDPRU investment firm</i> .
9.2	R	MIFIDPRU TP 9 applies where, immediately before 1 January 2022, a <i>waiver</i> given in relation to a <i>rule</i> listed in column A of the table in MIFIDPRU TP 9.5R has effect.
		<b>Duration of transition</b>
9.3	R	This section applies to each <i>waiver</i> in MIFIDPRU TP 9.2R, until the direction given in respect of that <i>waiver</i> ceases to have effect on its terms, or is revoked, whichever is the earlier.
		<b>Transitional</b>
9.4	R	Each <i>waiver</i> given in relation to a <i>rule</i> listed in column A of the table in MIFIDPRU TP 9.5R is treated as a <i>waiver</i> given to the <i>firm</i> in relation to the <i>rule</i> listed in the same row in column B of the table.
		<b>Table</b>
9.5	R	Table of FCA rules

  

Column A	Column B
SYSC 4.3A.8R	MIFIDPRU 7.3.5R
SYSC 7.1.18R	MIFIDPRU 7.3.1R
SYSC 19A.3.12R	MIFIDPRU 7.3.3R



## 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: <ul style="list-style-type: none"> <li>(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</li> <li>(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</li> </ul>
		(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:
		(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;
		(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
		(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> .
		(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:
		(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
		(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> .
		(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:
		(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
		(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> .
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).



## Prudential reporting with a reference date before 1 January 2022

### MIFIDPRU TP 11 Prudential reporting with a reference date before 1 January 2022

11.1	R	Except where the context otherwise requires, a reference in MIFIDPRU TP 11 to any provision of <i>SUP</i> is to that provision as it applied on 31 December 2021.
11.2	R	MIFIDPRU TP 11 applies where the following conditions are met: <ol style="list-style-type: none"> <li>(1) the reference date for a <i>data item</i> under SUP 16.12 was before 1 January 2022;</li> <li>(2) the submission date under SUP 16.12 for the <i>data item</i> in (1) fell on or after 1 January 2022; and</li> <li>(3) a <i>firm</i> is no longer required to submit the <i>data item</i> in (1) due to amendments to SUP 16.12 that took effect on 1 January 2022.</li> </ol>
11.3	R	Where MIFIDPRU TP 11 applies to a <i>firm</i> in relation to a <i>data item</i> , the <i>firm</i> must submit the <i>data item</i> to the <i>FCA</i> in accordance with the provisions of SUP 16.12 (as applied under MIFIDPRU TP 11.1R).
11.4	G	<ol style="list-style-type: none"> <li>(1) As a result of the introduction of the MIFIDPRU regime for MIFIDPRU investment firms, SUP 16.12 was amended with effect from 1 January 2022 to introduce updated prudential reporting requirements.</li> <li>(2) The effect of MIFIDPRU TP 11 is that where the reference date for a report falls on or before 31 December 2021, but the submission date for that report falls on after 1 January 2022, the <i>firm</i> must still submit the report in accordance with the reporting and submission requirements that applied on 31 December 2021.</li> <li>(3) The purpose of MIFIDPRU TP 11 is to ensure that the <i>FCA</i> receives appropriate information on the prudential position of <i>firms</i> during the transition from previous prudential regimes to the MIFIDPRU regime.</li> <li>(4) MIFIDPRU TP 11 does not apply to remuneration reporting. This is because SYSC TP 11.4R(1) requires a <i>firm</i> that was subject to any of the remuneration codes listed in SYSC TP 11.4R(2) on 31 December 2021 to comply with any reporting requirements relating to <i>remuneration</i> awarded for performance periods before the performance period to which the MIFIDPRU Remuneration Code first applies.</li> </ol>
11.5	G	<ol style="list-style-type: none"> <li>(1) The following is an example of how MIFIDPRU TP 11 applies in practice.</li> </ol>

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- (2) A BIPRU firm is required to report *data item* FSA003 (Capital adequacy) under SUP 16.12.11R. The reporting reference date for FSA003 is determined by reference to the *firm's accounting reference date*. Under SUP 16.12.13R, the *firm* has 30 *business days* after the reporting reference date to submit the relevant *data item* to the FCA. The *firm's accounting reference date* is 1 December 2021.
- (3) The reporting reference date for the *firm's* FSA003 return (i.e. 1 December 2021) falls before 1 January 2022. The submission date for the return (which is 30 *business days* later on 17 January 2022) falls after 1 January 2022. SUP 16.12 was amended on 1 January 2022 to delete the requirement for *firms* to submit *data item* FSA003.
- (4) Under MIFIDPRU TP 11, the firm must still submit *data item* FSA003 to the FCA, reflecting the *firm's* position as at 1 December 2021. The *data item* must be submitted in accordance with the relevant *rules* in SUP 16.12 that applied on 31 December 2021.



## Disclosure requirements: transitional provisions

### MIFIDPRU TP 12

#### Disclosure requirements: transitional provisions

12.1	R		MIFIDPRU TP 12 applies to a <i>MIFIDPRU investment firm</i> .
12.2	R		<p>For the purposes of MIFIDPRU TP 12, the “reference date” in relation to a set of disclosures means the date by reference to which those disclosures are prepared, being:</p> <p>(1) in relation to disclosures showing the position of a <i>firm</i> at a fixed point in time, that point in time; and</p> <p>(2) in relation to disclosures that must be prepared by reference to a period, the last day of that period.</p>
			Delayed application of rules for a commodity and emission allowance dealer
12.3	R	(1)	This <i>rule</i> applies until 31 December 2026.
		(2)	<p>A <i>commodity and emission allowance dealer</i> is exempt from the following requirements in this chapter:</p> <p>(a) <a href="#">MIFIDPRU 8.2</a> (Risk management objectives and policies);</p> <p>(b) <a href="#">MIFIDPRU 8.3</a> (Governance arrangements);</p> <p>(c) <a href="#">MIFIDPRU 8.4</a> (Own funds);</p> <p>(d) <a href="#">MIFIDPRU 8.5</a> (Own funds requirements), and</p> <p>(e) <a href="#">MIFIDPRU 8.6</a> (Remuneration policies and practices).</p>
12.4	R	(1)	<p>This <i>rule</i> applies to disclosures required under either of the following, where the conditions in (2) are met:</p> <p>(a) <a href="#">BIPRU 11</a>; or</p> <p>(b) Part Eight of the <i>UK CRR</i>.</p>
		(2)	<p>The conditions referred to in (1) are that:</p> <p>(a) the reference date for the relevant disclosures in (1) is before 1 January 2022;</p> <p>(b) the deadline to publish the disclosures in (1) falls on or after 1 January 2022; and</p> <p>(c) as a result of one of the following, a <i>firm</i> is no longer required to publish the disclosures in (1):</p> <p>(i) the deletion of the <i>BIPRU</i> sourcebook</p>

				with effect from 1 January 2022; or
			(ii)	changes to the scope of the <i>UK CRR</i> that took effect on 1 January 2022.
		(3)		Where this <i>rule</i> applies, a <i>firm</i> must publish the relevant disclosures by no later than the deadline that would have applied under <i>BIPRU 11</i> or Part Eight of the <i>UK CRR</i> (as applicable) if the <i>firm</i> had continued to be subject to those <i>rules</i> or that legislation in the form in which it stood immediately before 1 January 2022.
		(4)		A <i>firm</i> may comply with this <i>rule</i> by being included within disclosures made on a <i>consolidated basis</i> where that would have been permitted by <i>BIPRU 11</i> or Part Eight of the <i>UK CRR</i> (as applicable) in the form in which those <i>rules</i> or that legislation stood immediately before 1 January 2022.
12.5	G			The effect of <i>MIFIDPRU TP 12.4R</i> is that where a <i>firm</i> is required by <i>BIPRU 11</i> or Part Eight of the <i>UK CRR</i> to make disclosures with a reference date before 1 January 2022, it must still publish those disclosures even if the permitted deadline for publication falls on or after 1 January 2022. The deletion of <i>BIPRU 11</i> or the removal of <i>MIFIDPRU investment firms</i> from the scope of the <i>UK CRR</i> with effect from 1 January 2022 does not relieve the <i>firm</i> of its obligation to make those disclosures in accordance with the original deadline.
Disclosures under MIFIDPRU 8 with a reference date falling on or before 30 December 2022				
2.6	R	(1)		This <i>rule</i> applies to disclosures required under <i>MIFIDPRU 8</i> for which the reference date falls on or before 30 December 2022.
		(2)		Where this <i>rule</i> applies, a <i>firm</i> is not required to disclose the information required by the following:
		(a)		<i>MIFIDPRU 8.2</i> (Risk management objectives and policies);
		(b)		<i>MIFIDPRU 8.7</i> (Investment policy).
12.7	G	(1)		The effect of <i>MIFIDPRU TP 12.6R</i> is that for disclosures that have a reference date under <i>MIFIDPRU 8</i> that falls on or before 30 December 2022, a <i>firm</i> is not required to disclose the information about its risk management or its investment policy that would ordinarily be required by that chapter. The reference date under <i>MIFIDPRU 8</i> is the <i>firm's accounting reference date</i> .
		(2)		This means that for <i>firms</i> with an <i>accounting reference date</i> other than 31 December, their first disclosures under <i>MIFIDPRU 8</i> in respect of the ac

			counting year ending in 2022 do not need to include the information required under MIFIDPRU 8.2 or MIFIDPRU 8.7. Their disclosures for all subsequent accounting years must include all of the information required by MIFIDPRU 8.
		(3)	Conversely, for <i>firms</i> with an <i>accounting reference date</i> of 31 December, their first disclosures under MIFIDPRU 8 in respect of the accounting year ending on 31 December 2022 must include all of the information required by MIFIDPRU 8 (i.e. including the information required by MIFIDPRU 8.2 and MIFIDPRU 8.7), except for remuneration disclosures to which MIFIDPRU TP 12.8R applies. This is because MIFIDPRU will have been in force for an entire calendar year by that date and the <i>firm</i> should therefore have all of the information required to produce a complete disclosure reflecting the position as at 31 December 2022.
Remuneration disclosures that relate to a performance period that began before and ends after 1 January 2022			
12.8	R	(1)	This <i>rule</i> applies to remuneration disclosures required under either of the following, where the conditions in (2) are met:
			(a) BIPRU 11.5.18R to BIPRU 11.5.20R;
			(b) article 450 of the UK CRR.
		(2)	The conditions referred to in (1) are that:
			(a) the performance period to which the relevant disclosures in (1) relate;
			(i) began before 1 January 2022, and
			(ii) ends on or after 1 January 2022; and
			(b) as a result of one of the following, a <i>firm</i> is no longer required to publish the disclosures in (1):
			(i) the deletion of the BIPRU sourcebook with effect from 1 January 2022; or
			(ii) changes to the scope of the UK CRR that took effect on 1 January 2022.
		(3)	Where this <i>rule</i> applies, a <i>firm</i> :
			(a) is not required to publish the information specified in MIFIDPRU 8.6 for the performance period in (2)(a); and

			(b)	must publish the relevant disclosures that would have been required for that performance period under the rules in (1)(a) or (1)(b) (as applicable) if the <i>firm</i> had continued to be subject to those <i>rules</i> or that legislation in the form in which they stood immediately before 1 January 2022.
		(4)		A <i>firm</i> may comply with this <i>rule</i> by the remuneration disclosures required under (3)(b) being included within disclosures made on a <i>consolidated basis</i> where that would have been permitted by BIPRU 11 or article 450 of the UK CRR (as applicable) in the form in which those <i>rules</i> or that legislation stood immediately before 1 January 2022.
12.9	G	(1)		The effect of MIFIDPRU TP 12.8R is that for disclosures that relate to a remuneration performance period that begins before 1 January 2022 and ends on or after 1 January 2022, a <i>firm</i> is not required to disclose the information about its remuneration policies and practices that would ordinarily be required by MIFIDPRU 8.6. Instead, the <i>firm</i> must publish the remuneration information specified in the disclosure requirements that applied to the <i>firm</i> at the time at which the relevant performance period began (i.e. the remuneration information required either by BIPRU 11.5 or article 450 of the UK CRR, as applicable).
		(2)		For the first full performance period starting after 1 January 2022, a MIFIDPRU investment <i>firm</i> will be required to make its first disclosures under MIFIDPRU 8.6 (Remuneration policies and practices) on the next occasion following the end of the relevant performance period on which: <ul style="list-style-type: none"> <li>(a) the <i>firm</i> publishes its annual <i>financial statements</i>; or</li> <li>(b) where it does not publish annual <i>financial statements</i>, the date on which its annual solvency statement is submitted to the FCA in accordance with the requirements in SUP 16.12.</li> </ul>

# Prudential sourcebook for MiFID Investment Firms

## Schedule 1 Record-keeping requirements

### Sch 1 G

#### MIFIDPRU Sch 1.1 G

(1) The aim of the *guidance* in the following table is to provide an overview of the relevant record keeping requirements in *MIFIDPRU*.

(2) It is not a complete statement of those requirements and should not be relied on as if it were.

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
MIFIDPRU 4.7.5R	Currency conversion rate	The market rate chosen to convert <i>AUM</i> amounts in foreign currencies into the <i>firm's</i> functional currency	At the time of the relevant measurement	Not specified
MIFIDPRU 4.10.19R(3)(b)	Currency conversion rate	The market rate chosen to convert <i>COH</i> amounts in foreign currencies into the <i>firm's</i> functional currency	At the time of the relevant measurement	Not specified
MIFIDPRU 4.10.23R(4)	Basis on which <i>firm</i> has applied the alternative approach in MIFIDPRU 4.10.23R to determine the value of an order when measuring <i>COH</i>	The basis in MIFIDPRU 4.10.23R(3) on which the <i>firm</i> is applying the alternative approach in MIFIDPRU 4.10.23R to determine the value of an order when measuring <i>COH</i>	At the time that the firm decides to apply the alternative approach	Not specified
MIFIDPRU 4.15.4R	Currency conversion rate	The market rate chosen to convert <i>DTF</i> amounts in foreign currencies into the <i>firm's</i>	At the time of the relevant measurement	Not specified

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
MIFIDPRU 7.1.7R(4)	Currency conversion rate	functional currency The market rate chosen to convert the value of amounts in foreign currencies into pounds sterling for the purposes of determining the application of certain governance requirements under MIFIDPRU 7	At the time of the relevant measurement	Not specified
MIFIDPRU 7.8.10R	ICARA document approval	The firm's ICARA document and records of the governing body review and approval under MIFIDPRU 7.8.8R	At the time that the governing body approves the ICARA document under MIFIDPRU 7.8.8R	3 years from the date on which the governing body gave its approval under MIFIDPRU 7.8.8R

## MIFIDPRU Sch 1.2 G

MIFIDPRU investment firms are also reminded of the general record keeping obligations that apply under SYSC 9 (Record keeping).

# Prudential sourcebook for MiFID Investment Firms

## Schedule 2 Notification requirements

### Sch 2.1 G

- (1) The aim of the *guidance* in the following table is to provide an overview of the relevant notification requirements in *MIFIDPRU*.
- (2) It is not a complete statement of those requirements and should not be relied on as if it were.

Handbook reference	Subject of notification	Trigger events	Time allowed
MIFIDPRU 1.2.4R(3)	Applying alternative calculation for <i>AUM</i> or <i>COH</i> for <i>SNI MIFIDPRU investment firm</i> criteria	Decision to apply alternative approach	Not applicable
MIFIDPRU 1.2.4R(4)	Ceasing to apply alternative calculation for <i>AUM</i> or <i>COH</i> for <i>SNI MIFIDPRU investment firm</i> criteria	Decision to cease applying alternative approach	Not applicable
MIFIDPRU 1.2.7R(2)	Use of end-of-day value for calculating <i>average CMH</i> for <i>SNI MIFIDPRU investment firm</i> criteria	Record-keeping or reconciliation error as described in MIFIDPRU 1.2.7R(1)	Immediate notification
MIFIDPRU 1.2.13R(2)(b)	<i>Non-SNI investment firm</i> meeting criteria to be classified as an <i>SNI MIFIDPRU investment firm</i>	Meeting <i>SNI MIFIDPRU investment firm</i> criteria for at least 6 months	Not applicable
MIFIDPRU 1.2.16R	<i>Firm</i> ceasing to meet one of the criteria to be classified as an <i>SNI MIFIDPRU investment firm</i>	Ceasing to meet one or more of the <i>SNI MIFIDPRU investment firm</i> criteria	Prompt notification
MIFIDPRU 2.5.17R(2)(f)	Application of proportional consolidation to a <i>participation</i> meeting the conditions in MIFIDPRU 2.5.17R	Decision to apply proportional consolidation	Not applicable

Handbook reference	Subject of notification	Trigger events	Time allowed
MIFIDPRU 3.3.3R(2)	Notification of subsequent issuance of capital instruments qualifying as <i>common equity tier 1 capital</i>	Proposed issuance of capital instruments of an existing class of <i>common equity tier 1 capital</i>	No fewer than 20 <i>business days</i> before the issuance
MIFIDPRU 3.6.3R	Notification of proposed reduction, repurchase, call or redemption of <i>own funds instruments</i> where conditions in MIFIDPRU 3.6.4R are met	Proposed redemption of <i>own funds instruments</i> where conditions in MIFIDPRU 3.6.4R are met	No later than the 20th <i>business day</i> before the <i>day</i> on which the reduction, repurchase, call or redemption will occur
MIFIDPRU 3.6.5R	Notification of proposed issuance of <i>additional tier 1 instruments</i> or <i>tier 2 instruments</i>	Proposed issuance of <i>additional tier 1 instruments</i> or <i>tier 2 instruments</i>	At least 20 <i>business days</i> before the intended issuance date
MIFIDPRU 4.12.7R	Notification of non-material change or non-material extension in use of an internal model for the <i>K-NPR requirement</i>	Proposal to implement a non-material change to a model or to extend the use of a model in a non-material manner	Not applicable
MIFIDPRU 4.12.10R	Use of own estimates for delta for standardised approach to market risk of options	Decision to apply own estimates for delta where conditions in MIFIDPRU 4.12.10R are met	Not applicable
MIFIDPRU 4.13.10R	Notification that conditions for use of <i>K-CMG permission</i> are no longer met	<i>Portfolio</i> ceasing to meet conditions in MIFIDPRU 4.13.9R for use of a <i>K-CMG permission</i>	Immediate notification
MIFIDPRU 4.13.20R	Notification that <i>firm</i> will calculate the <i>K-NPR requirement</i> for a <i>portfolio</i> for which it previously had a <i>K-CMG permission</i>	Decision to calculate the <i>K-NPR requirement</i> for a <i>portfolio</i> where conditions in MIFIDPRU 4.13.19R are met	Not applicable
MIFIDPRU 5.6.3R	Notification that <i>concentration risk soft limit</i> has been exceeded	Exceeding <i>concentration risk soft limit</i> for a <i>client</i> or <i>group of connected clients</i> as specified in MIFIDPRU 5.6.2R	Notification without delay
MIFIDPRU 5.9.3R	Notification that "hard" exposure limits in MIFIDPRU 5.9.1R have been exceeded	Exceeding limit in MIFIDPRU 5.9.1R	Notification without delay
MIFIDPRU 5.11.2R	Exemption from MIFIDPRU 5.2 to MIFIDPRU	Decision to apply exemption where condi-	Not applicable



Handbook reference	Subject of notification	Trigger events	Time allowed
MIFIDPRU 7.1.9R	5.10 for <i>commodity and emission allowance dealers</i> Notification that <i>firm</i> has met necessary conditions to fall within either MIFIDPRU 7.1.4R(1)(a) or (b) for a continuous period of at least 6 <i>months</i>	Conditions in MIFIDPRU 5.11.1R are met Meeting conditions in either MIFIDPRU 7.1.4R(1)(a) or (b) for a continuous period of at least 6 <i>months</i>	Not applicable
MIFIDPRU 7.1.12R	Notification that <i>firm</i> no longer meets the conditions necessary to fall within MIFIDPRU 7.1.4R(1)(a) or (b)	No longer meeting conditions in No longer meeting conditions in MIFIDPRU 7.1.4R(1)(a) or (b) when the firm previously did so when the firm previously did so	Prompt notification
MIFIDPRU 7.6.11R	Notification where <i>own funds</i> fall below certain specified levels	<i>Own funds</i> falling below levels specified in MIFIDPRU 7.6.11R	Immediate notification
MIFIDPRU 7.7.14R	Notification where <i>liquid assets</i> fall below certain specified levels	<i>Liquid assets</i> falling below levels specified in MIFIDPRU 7.7.14R	Immediate notification
MIFIDPRU 7.8.4R	<i>Firm's</i> choice of submission date(s) or change of submission date(s) for <i>data item</i> MIF007 (ICARA assessment questionnaire)	Initial choice of submission date or change of submission date for data item MIF007	Not applicable
MIFIDPRU TP 1.8R	Notification of <i>firm's</i> intentions in relation to <i>additional tier 1 instruments</i> issued before 1 January 2022	<i>Firm</i> has outstanding <i>additional tier 1 instruments</i> on 1 January 2022	By no later than 1 January 2022
MIFIDPRU TP 7.4R	Notification to treat capital instruments issued before 1 January 2022 as <i>own funds</i> under MIFIDPRU 3	<i>Firm</i> has issued capital instruments before 1 January 2022 that it wishes to treat as <i>own funds</i> under MIFIDPRU 3	By no later than 1 January 2022



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## Prudential sourcebook for MiFID Investment Firms

### Schedule 3 Fees and other payment requirements

#### Sch 3.1 G

*MIFIDPRU* does not contain any *rules* that directly impose fees or other payments. However, ■ MIFIDPRU 9.1.2R(2)(c) applies the administrative fee in ■ SUP 16.3.14R for failure to submit reports by their due date to the late submission of any reports that are required under ■ MIFIDPRU 9.



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## Schedule 4 Rights of action for damages

### Sch 4.1 G

- (1) The table below sets out the *rules* in *MIFIDPRU*, contravention of which by an *authorised person* may be actionable under section 138D of the *Act* (Actions for damages) by a *person* who suffers loss a result of the contravention.
- (2) If “Yes” appears in the column headed “For private person”, the *rule* may be actionable by a *private person* under section 138D (or, in certain circumstances, that *person’s* fiduciary or representative: see regulation 6(2) and 6(3)(c) of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 (SI 2001/2256)). If “Yes” appears in the column headed “Removed”, this indicates that the *FCA* has removed the right of action under section 138D(3) of the *Act*. If so, a reference to the *rule* in which the right of action is removed is also given.
- (3) The column headed “For other person” indicates whether the *rule* may be actionable by a *person* other than a *private person* (or that *person’s* fiduciary or representative) under article 6(2) and (3) of those Regulations. If so, an indication of the type of *person* by whom the *rule* may be actionable is given.

Chapter/Appendix	Rights of action under section 138D of the <i>Act</i>		
	For private person	Removed	For other person
All <i>rules</i> in <i>MIFIDPRU</i>	No	Yes – MIFIDPRU 1.3.1R	No



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### Schedule 5 Rules that can be waived or modified

#### Sch 5.1 G

The *rules* in *MIFIDPRU* may be waived or modified by the *FCA* under section 138A of the *Act* (Modification or waiver of rules) where the conditions in that section are met.





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## List of Part 9C rules

### Schedule 6 List of Part 9C rules

#### Sch 6.1 G

This schedule contains a list of Part 9C rules (as defined in section 143F(1) of the Act) for the purposes of section 143F(2) of the Act.

#### Sch 6.2 G

(1) Except as specified in (2), each of the following is a Part 9C rule:

- (a) every *rule* in *MIFIDPRU*; and
- (b) every *rule* in ■ SYSC 19G (MIFIDPRU Remuneration Code).

(2) The following provisions are not Part 9C rules:

- (a) ■ MIFIDPRU 4.4.1R(3);
- (b) ■ MIFIDPRU 4.4.3R(2)(c);
- (c) ■ MIFIDPRU 4.4.4R(2)(c); and
- (d) ■ MIFIDPRU 4.4.6R.

