

Chapter 1

Application

1.1 Application

- 1.1.1** **G** There is no overall application statement for *BIPRU*. Each chapter or section has its own application statement. Broadly speaking however, *BIPRU* applies in the following manner:
- (1) [deleted]
 - (2) [deleted]
 - (3) to a *BIPRU firm*;
 - (3A) to an *IFPRU investment firm*, only ■ **BIPRU 12** (Liquidity standards); and
 - (4) in relation to groups containing such *firms*:
 - (a) only ■ **BIPRU 12** (Liquidity standards) applies to the group containing any of the *firms* in (3) and (3A); and
 - (b) *BIPRU* as a whole applies to the group containing only the *firms* in (3).
- 1.1.2** **R** *BIPRU* applies to a *firm* in relation to the whole of its business, except where a particular provision provides for a narrower scope.
- 1.1.2A** **G** *BIPRU* applies to a *collective portfolio management investment firm* that is a *BIPRU firm* in parallel with ■ **IPRUINV link 11** (see ■ **IPRUINV link 11.6**).
- 1.1.3** **G** In the main *BIPRU* only applies to a *collective portfolio management investment firm* in respect of *designated investment business* (excluding *managing an AIF* and *managing a UCITS*). However ■ **BIPRU 2.2** (Internal capital adequacy standards), ■ **BIPRU 2.3** (Interest rate risk in the non-trading book), ■ **BIPRU 8** (Group risk - consolidation) and ■ **BIPRU 11** (Disclosure) apply to the whole of its business.
- 1.1.4** **G** **Purpose**

 ■ **BIPRU 1.1** implements in part the third paragraph of article 95(2) of the *EU CRR* that permits the *FCA* to apply the *Banking Consolidation Directive* and the *Capital Adequacy Directive*.

The definition of a BIPRU firm

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None of the following is a *BIPRU firm*:

- (1) an *incoming EEA firm*;
- (2) an *incoming Treaty firm*;
- (3) any other *overseas firm*;
- (4) an *ELMI*;
- (5) an *insurer*; and
- (6) an *ICVC*.

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In summary, a *BIPRU firm*:

- (1) does not provide the *ancillary service* of safekeeping and administration of *financial instruments* for the account of *clients*, including custodianship and related services such as cash/collateral management, and is not authorised to do so;
- (2) is not authorised to provide the following *investment services*:
 - (a) to deal in any *financial instruments* for its own account;
 - (b) to underwrite issues of *financial instruments* on a firm commitment basis;
 - (c) to place *financial instruments* without a firm commitment basis; and
 - (d) to operate a *multilateral trading facility*;
- (3) is authorised to provide one or more of the following *investment services*:
 - (a) the execution of investors' orders for *financial instruments*; or
 - (b) the management of individual portfolios of investments in *financial instruments*;
- (4) may be authorised to provide one or more of the following *investment services*:
 - (a) reception and transmission of investors' orders for *financial instruments*; or
 - (b) investment advice; and
- (5) does not hold clients' money and/or securities and is not authorised to do so (it should have a *limitation* or *requirement* prohibiting the holding of client money and its permission should not include *safeguarding and administering investments*).

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- (1) This paragraph applies to an *undertaking* that would be a *third country BIPRU firm* if it were *authorised* under the *Act*.

- (2) Except in exceptional circumstances, it is the *appropriate regulator's* policy that it will not give an overseas applicant a *Part 4A permission* unless the *appropriate regulator* is satisfied that the applicant will be subject to prudential regulation by its home state *regulatory body* that is broadly equivalent to that provided for in the *Handbook* and the applicable *EEA prudential sectoral legislation*. The *appropriate regulator* will take into account not only the requirements to which the *firm* is subject but how they are enforced. The *appropriate regulator* will also take into account the laws, regulations and administrative provisions to which it is subject in its home state. The reasons for that policy include:
- (a) it is unlikely that a *firm* that is not subject to equivalent supervision will be able to satisfy the *threshold conditions* (and in particular *threshold condition 5* (Suitability)) and it is unlikely that it will be possible to establish that the *firm* does satisfy them; and
 - (b) such a *firm* is likely to pose a threat to the interests of *consumers* and potential *consumers*, particularly as effective supervision of an *overseas firm* depends on cooperation between the *appropriate regulator* and the *regulatory body* that authorises the *firm* in its home country and on the *appropriate regulator* being able to place appropriate reliance on the supervision carried out by such *regulatory body*.
 - (c) [deleted]
- (3) If an *undertaking* is not subject to equivalent supervision in its home state and it wishes to carry on in the *United Kingdom regulated activities* coming within the scope of the activities that define a *BIPRU firm* it should establish a *subsidiary undertaking* in the *United Kingdom*. Such a *subsidiary undertaking* should be able to show, amongst other things, how it would comply with the *threshold conditions* (and in particular *threshold conditions 3* (Close links) and *5* (Suitability)).
- (4) If in exceptional circumstances the *appropriate regulator* does grant a *Part 4A permission* to an *undertaking* that is not subject to equivalent prudential regulation the *appropriate regulator* is likely to take measures under the *regulatory system* to compensate for the lack of equivalent supervision. These may include applying the prudential requirements for *BIPRU firms* to the *firm*.
- (5) An *overseas firm* that is subject to equivalent supervision is subject to the *threshold conditions* and the *Principles*. *BIPRU* and *GENPRU* do not generally apply. ■ *BIPRU 12* applies to a *credit institution* with respect to liquidity risk in relation to its *United Kingdom branch*.

Meaning of dealing on own account

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- (1) *Dealing on own account* means (for the purpose of *GENPRU* and *BIPRU*) the service of dealing in any *financial instruments* for own account as referred to in point 3 of Section A of Annex I to *MiFID*, subject to (2) and (3).
- (2) In accordance with article 5(2) of the *Capital Adequacy Directive* (Definition of dealing on own account), a *CAD investment firm* that executes investors' orders for *financial instruments* and holds such

financial instruments for its own account does not for that reason *deal on own account* if all of the following conditions are met:

- (a) such *position* only arises as a result of the *CAD investment firm's* failure to match investors' order precisely;
 - (b) the total market value of all such *positions* is no higher than 15% of the *CAD investment firm's initial capital*;
 - (c) (in the case of a *BIPRU firm*) it complies with the *main BIPRU firm Pillar 1 rules*;
 - (d) (in the case of a *CAD investment firm* that is an *EEA firm*) it complies with the *CRD implementation measures* of its *Home State* for Articles 18 and 20 (Minimum capital requirements) of the *Capital Adequacy Directive*;
 - (e) (in the case of any other *CAD investment firm*) it would comply with the *rules* in (2)(c) if it had been a *BIPRU firm* on the basis of the following assumptions:
 - (i) its head office had been in an *EEA State*; and
 - (ii) it had carried on all its business in the *EEA* and had obtained whatever authorisations for doing so as are required under *MiFID*; and
 - (f) such *positions* are incidental and provisional in nature and strictly limited to the time required to carry out the transaction in question.
- (3) In accordance with article 5(2) of the *Capital Adequacy Directive*, the holding of *non-trading book positions* in *financial instruments* in order to invest *capital resources* is not *dealing on own account* for the purposes referred to in article 4(1)(2)(c) of the *EU CRR* (see ■ BIPRU 1.1.7A G).

1.2 Definition of the trading book

Application

- 1.2.1 **R** This section applies to a *BIPRU firm*.

Purpose

- 1.2.2 **G** Pursuant to the third paragraph of article 95(2) of the *EU CRR*, the section implements certain provisions of the *Capital Adequacy Directive* and the *Banking Consolidation Directive* relating to the *trading book*. The precise provisions being implemented are listed as a note after each *rule*.

Definition of the trading book: General

- 1.2.3 **R** The *trading book* of a *firm* consists of all *position* in *CRD financial instrument* and *commodities* held either with trading intent or in order to hedge other elements of the *trading book* and which are either free of any restrictive covenants on their tradability or able to be hedged.

[Note: CAD Article 11(1)]

Definition of the trading book: Positions

- 1.2.4 **R** The term *position* includes proprietary positions and positions arising from client servicing and market making.

[Note: CAD Article 11(2) second sentence]

- 1.2.5 **G** *Positions* arising from client servicing include those arising out of contracts where a *firm* acts as principal (even in the context of activity described as 'broking' or 'customer business'). Such *positions* should be allocated to a *firm's trading book* if the intent is trading (see **■** BIPRU 1.2.10 R). This applies even if the nature of the business means that generally the only risks incurred by the *firm* are counterparty risks (i.e. no market risk charges apply). If the nature of the business means that generally the only risks incurred by the *firm* are counterparty risks, the *position* will generally still meet the trading intent requirement in **■** BIPRU 1.2.10 R if the *position* would meet the trading intent requirement if *position* risk did arise. The *appropriate regulator* understands that business carried out under International Uniform Brokerage Execution ("Give-Up") Agreements involve back to back trades as principal. Thus *positions* arising out of business carried out under such agreements should be allocated to a *firm's trading book*.

Definition of the trading book: Repos

- 1.2.6 **R** Term trading-related repo-style transactions that a *firm* accounts for in its *non-trading book* may be included in the *trading book* for capital requirement purposes so long as all such repo-style transactions are included. For this purpose, trading-related repo-style transactions are defined as those that meet the requirements of **■** BIPRU 1.2.4 R, **■** BIPRU 1.2.10 R and **■** BIPRU 1.2.12 R, and both legs are in the form of either cash or securities includable in the *trading book*. Regardless of where they are booked, all repo-style transactions are subject to a *non-trading book* counterparty credit risk charge.

[Note: CAD Annex VII Part D point 4]

- 1.2.6A **G** Capital requirements for term trading-related repo-style transactions are the same whether the risks arise in the *trading book* as counterparty credit risk or in the *non-trading book* as credit risk.

CRD financial instruments

- 1.2.7 **R** A *CRD financial instrument* means any contract that gives rise to both a financial asset of one party and a financial liability or equity instrument of another party.

[Note: CAD Article 3(1)(e)]

- 1.2.8 **R** *CRD financial instruments* include both primary *CRD financial instrument* or cash instruments, and derivative *CRD financial instruments* the value of which is derived from the price of an underlying *CRD financial instrument*, a rate, an index or the price of another underlying item and include as a minimum the instruments specified in Section C of Annex I to the *MIFID*.

[Note: CAD Article 3(1) last paragraph]

- 1.2.9 **G** Generally, for the purpose of the definition of *CRD financial instrument*:

- (1) a financial asset means cash, the right to receive cash or another financial asset, the contractual right to exchange financial assets on potentially favourable terms or an equity instrument; and
- (2) a financial liability means the contractual obligation to deliver cash or another financial asset or to exchange financial liabilities under conditions that are potentially unfavourable.

Trading intent

- 1.2.10 **R** *Positions* held with trading intent for the purpose of the definition of the *trading book* are those held intentionally for short-term resale and/or with the intention of benefiting from actual or expected short-term price differences between buying and selling prices, or from other price or interest rate variations.

[Note: CAD Article 11(2) first sentence]

1.2.11 **R** Trading intent must be evidenced on the basis of the strategies, policies and procedures set up by the *firm* to manage the *position* or portfolio in accordance with ■ BIPRU 1.2.12 R.

[Note: CAD 11(3)]

1.2.12 **R** *Positions*/portfolios held with trading intent must comply with the following requirements:

- (1) there must be a clearly documented trading strategy for the *position*/instrument or portfolios, approved by senior management, which must include the expected holding horizon;
- (2) there must be clearly defined policies and procedures to monitor the *position* against the *firm's* trading strategy including the monitoring of turnover and stale *position* in the *firm's trading book*; and
- (3) there must be clearly defined policies and procedures for the active management of the *position*, which must include the following:
 - (a) *position* entered into on a trading desk;
 - (b) *position* limits are set and monitored for appropriateness;
 - (c) dealers have the autonomy to enter into/manage the *position* within agreed limits and according to the approved strategy;
 - (d) *positions* are reported to senior management as an integral part of the *firm's* risk management process; and
 - (e) *positions* are actively monitored with reference to market information sources and an assessment made of the marketability or hedge-ability of the *position* or its component risks, including the assessment of, the quality and availability of market inputs to the valuation process, level of market turnover, sizes of *positions* traded in the market.

[Note: CAD Annex VII Part A]

Internal hedges

1.2.13 **R** Internal hedges may be included in the *trading book*, in which case ■ BIPRU 1.2.14 R to ■ BIPRU 1.2.16 R apply.

[Note: CAD Article 11(5)]

1.2.14 **R**

- (1) An internal hedge is a *position* that materially or completely offsets the component risk element of a *non-trading book position* or a set of *position*. *Positions* arising from internal hedges are eligible for *trading book* capital treatment, provided that they are held with trading intent and that the general criteria on trading intent and prudent valuation specified in ■ BIPRU 1.2.12 R and the *trading book systems and controls rules*. In particular:
 - (a) internal hedges must not be primarily intended to avoid or reduce capital requirements;
 - (b) internal hedges must be properly documented and subject to particular internal approval and audit procedures;
 - (c) the internal transaction must be dealt with at market conditions;

(d) the bulk of the market risk that is generated by the internal hedge must be dynamically managed in the *trading book* within the authorised limits; and

(e) internal transactions must be carefully monitored.

(2) Monitoring must be ensured by adequate procedures.

[Note: CAD Annex VII Part C point 1]

1.2.15 **R** The treatment referred to in ■ BIPRU 1.2.14 R applies without prejudice to the capital requirements applicable to the "*non-trading book leg*" of the internal hedge.

[Note: CAD Annex VII Part C point 2]

1.2.16 **R** By way of derogation from ■ BIPRU 1.2.14 R to ■ BIPRU 1.2.15 R, when a *firm* hedges a *non-trading book* credit risk exposure using a credit derivative booked in its *trading book* (using an internal hedge), the *non-trading book* exposure is not deemed to be hedged for the purposes of calculating capital requirements unless the *firm* purchases from an eligible third party protection provider a credit derivative meeting the requirements set out in ■ BIPRU 5.7.13 R (Additional requirements for credit derivatives) with regard to the *non-trading book* exposure. Without prejudice to the second sentence of ■ BIPRU 14.2.10 R, where such third party protection is purchased and is recognised as a hedge of a *non-trading book* exposure for the purposes of calculating capital requirements, neither the internal nor external credit derivative hedge must be included in the *trading book* for the purposes of calculating capital requirements.

[Note: CAD Annex VII Part C point 3]

Size thresholds

1.2.17 **R**

(1) Subject to (3), a *firm* may calculate its capital requirements for its *trading book* business in accordance with the *standardised approach* to credit risk (or, if it has an *IRB permission*, the *IRB approach*) as it applies to the *non-trading book* where the size of the *trading book* business meets the following requirements:

(a) the *trading book* business of the *firm* does not normally exceed 5% of its total business;

(b) its total *trading book position* do not normally exceed €15 million; and

(c) the *trading book* business of the *firm* never exceeds 6% of its total business and its total *trading book positions* never exceed €20 million.

(2) Subject to (3), if (1) applies, the following are disapplied:

(a) the *rules* relating to the *interest rate PRR*, the *equity PRR*, the *CIU PRR* and the *PRR* calculated under ■ BIPRU 7.11 (Credit derivatives in the trading book);

(b) the *rules* relating to the *option PRR* (but only in relation to *positions* which under ■ BIPRU 7.6.5 R (Table: Appropriate calculation for an option or warrant) may be subject to one of the other *PRR charges* listed in (2)(a) or which would be subject

to such a *PRR charge* if ■ BIPRU 7.6.5 R did not require an *option PRR* to be calculated);

- (c) ■ ■ BIPRU 7.10 (Use of a Value at Risk Model) so far as ■ BIPRU 7.10 relates to the risks covered by the requirements in (a) and (b); and
- (d) ■ BIPRU 14 (Capital requirements for settlement and counterparty risk).

(3) If (1) applies, the following continue to apply:

- (a) the *rules* relating to the *commodity PRR* and the *foreign currency PRR*;
- (b) the *rules* relating to the *option PRR* (so far as not disapplied under (2)(b));
- (c) ■ BIPRU 7.10 (so far as not disapplied under (2)(c));
- (d) ■ BIPRU 14.2.3 R to ■ BIPRU 14.2.8 R (Credit derivatives); and
- (e) ■ BIPRU 14.2.15 R to ■ BIPRU 14.2.16 R (Collateral for *repurchase transactions* and other products).

[Note: CAD Article 18(2)]

1.2.18 **R** In order to calculate the proportion that *trading book* business bears to total business for the purpose of ■ BIPRU 1.2.17 R (1)(a) to ■ BIPRU 1.2.17 R (1)(c) the *firm* must refer to the size of the combined on- and off-balance-sheet business. For this purpose, debt instruments must be valued at their market prices or their principal values, equities at their market prices and derivatives according to the nominal or market values of the instruments underlying them. Long *positions* and short *positions* must be summed regardless of their signs.

[Note: CAD Article 18(3)]

1.2.19 **R** If a *firm* should happen for more than a short period to exceed either or both of the limits imposed in ■ BIPRU 1.2.17 R (1)(a) and ■ BIPRU 1.2.17 R (1)(b) or either or both of the limits imposed in ■ BIPRU 1.2.17 R (1)(c):

- (1) ■ BIPRU 1.2.17 R ceases to apply; and
- (2) the *firm* must notify the *appropriate regulator*.

[Note: CAD Article 18(4)]

1.2.20 **G** As required by ■ BIPRU 8.7.21 R (Special rules for the consolidated market risk requirement), a *firm* should consider whether it meets the threshold conditions in ■ BIPRU 1.2.17 R on both an unconsolidated (or solo) basis and a consolidated basis. If a *firm's* trading activities on both an unconsolidated (or solo) basis and a consolidated basis are below the threshold size, it may be appropriate for the *firm* not to adopt the *trading book* treatment. However, even if the *firm* does not apply the *trading book* treatment it should still adopt a *trading book policy statement*. That statement may be restricted to identifying the activities the *firm* normally considers to be trading and that would constitute part of its *trading book*. The *firm* should use this policy statement to help it to decide whether or not adopting the *trading book* treatment is appropriate.

Systems and controls for the trading book

- 1.2.21 **R** A *firm* must implement policies and processes for the measurement and management of all material sources and effects of market risks.
[Note: BCD Annex V, Part 7 point 10]
- 1.2.22 **R** A *firm* must establish and maintain systems and controls to manage its *trading book*, in accordance with the *trading book systems and controls rules*, ■ BIPRU 1.2.6 R (Definition of the trading book: Repos) and the *overall financial adequacy rule* to ■ BIPRU 1.2.27 R (Trading book policy statements).
[Note: CAD Article 11(4)]
- 1.2.23 **R** A *firm* must establish and maintain systems and controls sufficient to provide prudent and reliable valuation estimates.
[Note: CAD Annex VII Part B point 1]
- 1.2.24 **R** Systems and controls must include at least the following elements:
- (1) documented policies and procedures for the process of valuation (including clearly defined responsibilities of the various areas involved in the determination of the valuation, sources of market information and review of their appropriateness, frequency of independent valuation, timing of closing prices, procedures for adjusting valuations, month end and ad-hoc verification procedures); and
 - (2) reporting lines for the department accountable for the valuation process that are clear and independent of the front office.
- [Note: CAD Annex VII Part B point 2]
- 1.2.25 **R** The reporting line in relation to the matters covered by ■ BIPRU 1.2.21 R to ■ BIPRU 1.2.24 R must ultimately be to an executive *director* on the *firm's governing body*.
[Note: CAD Annex VII Part B point 2 (last sentence)]

Trading book policy statements

- 1.2.26 **R** A *firm* must have clearly defined policies and procedures for determining which *positions* to include in the *trading book* for the purposes of calculating its capital requirements, consistent with the criteria set out in ■ BIPRU 1.2.3 R to ■ BIPRU 1.2.4 R, ■ BIPRU 1.2.10 R to ■ BIPRU 1.2.11 R, ■ BIPRU 1.1.13 R and ■ BIPRU 1.2.22 R and taking into account the *firm's* risk management capabilities and practices. Compliance with these policies and procedures must be fully documented and subject to periodic internal audit.
[Note: CAD Annex VII Part D point 1]
- 1.2.27 **R** A *firm* must have clearly defined policies and procedures for overall management of the *trading book*. At a minimum these policies and procedures must address:

- (1) the activities the *firm* considers to be trading and as constituting part of the *trading book* for capital requirement purposes;
- (2) the extent to which a *position* can be marked-to-market daily by reference to an active, liquid two-way market;
- (3) for *positions* that are marked-to-model, the extent to which the *firm* can:
 - (a) identify all material risks of the *position*;
 - (b) hedge all material risks of the *position* with instruments for which an active, liquid two-way market exists; and
 - (c) derive reliable estimates for the key assumptions and parameters used in the model;
- (4) the extent to which the *firm* can, and is required to, generate valuations for the *position* that can be validated externally in a consistent manner;
- (5) the extent to which legal restrictions or other operational requirements would impede the *firm's* ability to effect a liquidation or hedge of the *position* in the short term;
- (6) the extent to which the *firm* can, and is required to, actively risk manage the *position* within its trading operation; and
- (7) the extent to which the *firm* may transfer risk or *positions* between the *non-trading book* and *trading book* and the criteria for such transfers.

[Note: CAD Annex VII Part D point 2]

1.2.28 **G** The policies and procedures referred to in ■ BIPRU 1.2.27 R (1) should cover:

- (1) the *CRD financial instrument* and *commodities* that the *firm* proposes to trade in, including the currencies, maturities, issuers and quality of issues; and
- (2) any instruments to be excluded from its *trading book*.

1.2.29 **R** (1) The policies and procedures referred to in the *overall financial adequacy rule* and ■ BIPRU 1.2.27 R must be recorded in a single written document. A *firm* may record those policies and procedures in more than one written document if the *firm* has a single written document that identifies:

- (a) all those other documents; and
- (b) the parts of those documents that record those policies and procedures.

(2) A *trading book policy statement* means the single document referred to in this *rule*.

1.2.30 **R** (1) A *firm* must notify the *appropriate regulator* as soon as is reasonably practicable when it adopts a *trading book policy statement*.

(2) A firm must notify the appropriate regulator as soon as is reasonably practicable if the *trading book policy statement* is subject to significant changes.

1.2.31 **G** A significant change for the purpose of the *overall Pillar 2 rule* includes new types of customers or business requiring different funding or provisioning.

1.2.32 **G** There is likely to be an overlap between what the *trading book policy statement* should contain and other documents such as dealing or treasury manuals. A cross reference to the latter in the *trading book policy statement* is adequate and material in other documents need not be set out again in the *trading book policy statement*. However where this is the case the matters required to be included in the *trading book policy statement* should be readily identifiable.

1.2.33 **G** The *trading book policy statement* may be prepared on either a consolidated or a solo (or solo-consolidated) basis. It should be prepared on a consolidated basis when a group either manages its trading risk centrally or employs the same risk management techniques in each group member. A *trading book policy statement* prepared on a consolidated basis should set out how it applies to each firm in the group and should be approved by each such firm's governing body.

Treatments common to the trading book and the non-trading book

1.2.34 **G** Capital requirements for *foreign currency risk* and *commodity position risk* are the same whether the risk arises in the *trading book* or the *non-trading book*. The calculation of capital requirements for *foreign currency risk* is set out in ■ BIPRU 7.5. The calculation of capital requirements for *commodity position risk* is set out in ■ BIPRU 7.4.

Trading book treatments

1.2.35 **G** All *positions* that are in a firm's *trading book* require capital to cover *position risk* and may require capital to cover counterparty credit risk. Counterparty credit risk in the *trading book* is dealt with by ■ BIPRU 14.

Non-trading book treatments

1.2.36 **G** All *positions* that are not in a firm's *trading book* are included in its *non-trading book* and subject capital requirements for the *non-trading book* unless they are deducted from *capital resources* under GENPRU 2.2 (Capital resources).

1.3 Applications for advanced approaches and waivers

Application

- 1.3.1 **R** This section of the *Handbook* applies to every *BIPRU firm* that wishes to apply for a permission to use any of the approaches set out in **■ BIPRU 1.3.2 G**.

Purpose

- 1.3.2 **G**
- (1) A *firm* may apply for an *Article 129 permission* or a *waiver* in respect of:
- (a) the *IRB approach*;
 - (b) [deleted]
 - (c) the *CCR internal model method*; and
 - (d) the *VaR model approach*.
- (2) A *firm* should apply for a *waiver* if it wants to:
- (a) apply the *CAD 1 model approach*; or
 - (b) apply the *master netting agreement internal models approach*; or
 - (c) disapply consolidated supervision under **■ BIPRU 8** for its *UK consolidation group* or *non-EEA sub-group*; or
 - (d) apply the treatment in **■ BIPRU 2.1** (Solo-consolidation waiver); or
 - (da) apply the treatment for a *core UK group* in **■ BIPRU 3.2.25 R** (Zero risk-weighting for intra-group exposures).
 - (e) [deleted]
 - (f) [deleted]

Article 129

- 1.3.3 **G** An *EEA parent institution* and its *subsidiary undertakings* or the *subsidiary undertakings* of its *EEA parent financial holding company* or the *subsidiary undertakings* of its *EEA parent mixed financial holding company* that wish to use any of the approaches listed in **■ BIPRU 1.3.2 G (1)** in respect of its group, including members of its group that are *BIPRU firms*, may apply for an *Article 129 permission*.
- 1.3.4 **G** The *Article 129 procedure* allows an *EEA parent institution* and its *subsidiary undertakings* or the *subsidiary undertakings* of its *EEA parent financial holding company* or the *subsidiary undertakings* of its *EEA parent mixed*

financial holding company to apply for permission to use the approaches in ■ BIPRU 1.3.2 G (1) without making separate applications to the *competent authority* of each *EEA State* where members of a *firm's* group are authorised.

1.3.5 G The *Capital Requirements Regulations 2006* set out the *Article 129 procedure*.

1.3.6 G Where a *firm* or its group has been granted an *Article 129 permission*, each *competent authority*, including the lead *competent authority*, will need to take action to apply that *Article 129 permission* to the *institutions* that they authorise. Part 3 of the *Capital Requirements Regulations 2006* governs how the *appropriate regulator* will take that action, whether or not the *appropriate regulator* is the lead *competent authority*.

Article 129 permissions and waivers - specific conditions

1.3.7 D [deleted]

1.3.8 D [deleted]

1.3.9 D [deleted]

Waiver - general

1.3.10 G As explained in ■ SUP 8, under section 138A of the *Act*, the *appropriate regulator* may not grant a *waiver* to a *firm* unless it is satisfied that:

- (1) compliance by the *firm* with the *rules*, or with the *rules* as modified, would be unduly burdensome or would not achieve the purpose for which the *rules* were made; and
- (2) the *waiver* would not adversely affect the advancement of any of the *appropriate regulator's* objectives.

1.3.11 G The conditions relating to the use of an approach listed in ■ BIPRU 1.3.2 G referred to in the relevant chapter of *BIPRU* are minimum standards. Satisfaction of those conditions does not automatically mean the *appropriate regulator* will grant a *waiver* referred to in those paragraphs. The *appropriate regulator* will in addition also apply the tests in section 138A of the *Act*.

1.3.12 G In the *appropriate regulator's* view, if the minimum standards referred to in ■ BIPRU 1.3.11 G are satisfied, the conditions referred to in ■ BIPRU 1.3.10 G (1) will generally be met.

Forms and method of application

1.3.13 D Subject to ■ BIPRU 1.3.14 D to ■ BIPRU 1.3.20 D, if a *firm* wishes to apply for a *waiver* to apply an approach set out in ■ BIPRU 1.3.2 G, it must comply with ■ SUP 8.3.3 D.

- 1.3.14 **D** [deleted]
- 1.3.15 **D** If a *firm* wishes to apply for a *waiver* or an *Article 129 permission* to use the *IRB approach*, it must complete and submit the form in ■ BIPRU 1 Annex 2D D.
- 1.3.16 **D** If a *firm* wishes to apply for a *waiver* or an *Article 129 permission* to use the *CCR internal model method*, it must complete and submit the form in ■ BIPRU 1 Annex 3D D.
- 1.3.17 **D** Where a *firm* makes an application in accordance with ■ BIPRU 1.3.14 D, ■ BIPRU 1.3.15 D or ■ BIPRU 1.3.16 D, the *firm* must state on the application whether it is making an application for a *waiver* or an *Article 129 permission*.
- 1.3.18 **D** Where a *firm* applies for a *VaR model permission*, the *firm* must state whether it is making an application for a *waiver* or an *Article 129 permission*.
- 1.3.19 **G** In respect of the application for *waivers* to apply the approaches set out in ■ BIPRU 1.3.2 G (1), the *appropriate regulator* will aim to give decisions on applications as soon as practicable. However, the *appropriate regulator* expects that it will take a significant period to determine and give a decision due to the complexity of the issues raised by the applications. Details of timelines for applications for *waivers* to use advanced approaches and under the *Article 129 procedure* are set out on the *appropriate regulator* website.
- 1.3.20 **D** Where a *firm* applies for a *solo consolidation waiver*, it must demonstrate how each of the conditions set out in ■ BIPRU 2.1.20 R to ■ BIPRU 2.1.24 R are met and address the criteria set out in the *guidance* in ■ BIPRU 2.1.25 G as part of its application in accordance with ■ BIPRU 1.3.13 D.
- 1.3.21 **G** Before sending in an application for a *waiver* or *Article 129 permission*, a *firm* may find it helpful to discuss the application with its usual supervisory

contact at the *appropriate regulator*. However, the *firm* should still ensure that all relevant information is included in the application.

1.4 Actions for damages

1.4.1

R

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

Application form to apply the advanced measurement approach

[deleted]

Application form to apply the IRB approach

This annex consists only of one or more forms.

Forms

Application form to apply the CCR internal model method approach

1

This annex consists only of one or more forms.

Forms

