

The Prudential Sourcebook For Banks, Building Societies And Investment Firms

BIPRU TP 2 Capital floors for a firm using the IRB approach

			Application
2.1	R		Subject to <i>BIPRU</i> TP 2.2R, this section applies to a <i>BIPRU</i> firm that applies the <i>IRB</i> approach.
2.2	R		<i>BIPRU</i> TP 2.30R to <i>BIPRU</i> TP 2.34G apply to any firm to which <i>BIPRU</i> 8 (Group risk - consolidation) applies and which applies the <i>IRB</i> approach on a consolidated basis.
			Purpose
2.3	G		Pursuant to the third paragraph of article 95(2) of the <i>EU CRR</i> , this section in part implements Articles 152(1) - (7) of the <i>Banking Consolidation Directive</i> and Article 43 of the <i>Capital Adequacy Directive</i> .
2.4	G		The purpose of this section is to limit the amount of capital reduction arising from the implementation of the <i>Banking Consolidation Directive</i> and the <i>Capital Adequacy Directive</i> compared with the requirements arising from the previous versions of those Directives. As such it is effectively a comparison of the capital resource requirements arising from <i>BIPRU</i> with those arising from the appropriate <i>IPRU</i> sourcebook that would have applied as at 31 December 2006. However the effect of changes to the market risk requirements is removed by requiring <i>BIPRU</i> 7 (Market risk) to be used for both sides of the comparison.
			How to apply the capital floors
2.5	G		This section does not require a firm to continue to have capital resources equal to a fixed percentage of the capital requirement that applied to it as at 31 December 2006. Instead a firm should apply the requirements in this section to its business as it changes over time. So for example if a firm is calculating its capital requirements as at 31 December 2008 it will have two calculations. The first is carried out under <i>BIPRU</i> and <i>GENPRU</i> . The second is carried out under <i>IPRU</i> and this section. Both sets of requirements are applied to the firm's figures as at 31 December 2008.
2.6	G		The Directive provisions on which this section is based are written as a floor on a firm's capital resources requirement. This section however is written as a second capital resources requirement that sits beside the general capital resources requirements of <i>BIPRU</i> and <i>GENPRU</i> . The reason for

		<p>this is that a <i>firm</i> should meet the general capital resources requirements of <i>BIPRU</i> and <i>GENPRU</i> using <i>capital resources</i> calculated under <i>GENPRU</i> 2.2 (Capital resources). On the other hand a <i>firm</i> should meet the capital resources requirements of this section (which are based on <i>IPRU</i>) using the relevant <i>IPRU</i> definition. In practice the two sets of definitions of capital resources are similar apart from the provisions about <i>expected loss</i>. Therefore as shown by the example in <i>BIPRU</i> TP 2.12G and <i>BIPRU</i> TP 2.13G, in practice a <i>firm</i> is subject to a single capital resources requirement.</p>
2.7	G	[deleted]
2.8	R	<p>Capital floors: solo</p> <p>A <i>firm</i> calculating <i>risk weighted exposure amounts</i> in accordance with the <i>IRB approach</i> must during the following twelve-month periods after 31 December 2006 provide capital resources that equal or exceed the following amounts:</p> <ul style="list-style-type: none"> (1) for the first twelve-month period, 95%; (2) for the second twelve-month period, 90%; and (3) for the third and each subsequent twelve-month period, 80%; <p>of the solo capital resources requirement that applies to the <i>firm</i> under whichever part of <i>IPRU</i> applies under <i>BIPRU</i> TP 1.4R.</p>
2.9	R	[deleted]
2.10	R	<p>Capital resources: solo</p> <p>A <i>firm</i> must calculate its capital resources in accordance with whichever part of <i>IPRU</i> applies under <i>BIPRU</i> TP 1.4R.</p>
2.11	R	<p>Compliance with the requirements of this section must be on the basis of amounts of capital resources fully adjusted to reflect differences in the calculation of capital resources under <i>IPRU</i> and the calculation of <i>capital resources</i> under <i>GENPRU</i> and <i>BIPRU</i> deriving from the separate treatments of <i>expected loss</i> and <i>unexpected loss</i> under the <i>IRB approach</i>.</p>
2.11A	G	<p>Waiver from <i>IPRU</i> capital resources requirement</p> <p>Article 152(5d) and (5e) of the <i>Banking Consolidation Directive</i> allows the <i>appropriate regulator</i> to waive the capital floor calculation based on the <i>IPRU</i> capital resources requirement in <i>BIPRU</i> TP 2.8R(3) on a case-by-case basis only if a <i>firm</i> started to use the <i>IRB approach</i> on or after 1 January 2010. The <i>appropriate regulator</i> will consider an application for such a <i>waiver</i> in the light of the criteria in section 138A of the Act (Modification or waiver of rules).</p>
2.11B	R	<p>If a <i>firm</i> has a <i>waiver</i> referred to in <i>BIPRU</i> TP 2.11AG, it must provide <i>capital resources</i> that equal or exceed 80% of the <i>capital resources</i> re</p>

			<i>quirement</i> that the <i>firm</i> would be required to provide under the relevant sections of <i>BIPRU</i> applicable to it immediately before it started to use the <i>IRB approach</i> as those sections were in force on 31 December 2010.
2.12	G		[deleted]
2.13	G		[deleted]
			Adjustments to the calculation of capital resources
2.14	R		A <i>firm</i> may treat any <i>capital instrument</i> that complies with the requirements of GENPRU 2.2 (Capital resources) as complying with the corresponding requirements of <i>IPRU</i> .
2.15	G		An example of <i>BIPRU</i> TP 2.14R is that a <i>firm</i> may treat subordinated debt with a term of five years or over that qualifies as <i>lower tier two capital</i> for the purposes of <i>GENPRU</i> as complying with the corresponding provisions for five year subordinated debt under <i>IPRU</i> .
			Market risk
2.16	R		A <i>firm</i> must substitute the requirements in <i>BIPRU</i> for the calculation of the <i>market risk capital requirement</i> (excluding those provisions to the extent that they would involve using the <i>IRB approach</i>) for the corresponding provisions of <i>IPRU</i> .
2.17	G		BIPRU TP 4 to BIPRU TP 9 (Pre CRD capital requirements applying on a solo basis during 2007) explain which parts of <i>IPRU</i> correspond to the <i>market risk capital requirement</i> .
			CAD 1 model and VaR model
2.18	R		If a <i>firm</i> has a CAD 1 permission or a <i>VaR model permission</i> it must also use it for the purposes of the capital floor calculations in this section.
2.19	G		In applying <i>BIPRU</i> TP 2.18R, a <i>firm</i> should not adjust the CAD 1 permission approach or <i>VaR model approach</i> (including the scope of the CAD 1 permission or <i>VaR model permission</i>) so that it is consistent with Directive 93/6 (the Capital Adequacy Directive) as it stood on 31 December 2006.
			Individual capital guidance
2.20	R		[deleted]
2.21	G		Any further capital resource requirements that a <i>firm</i> is required to meet under GENPRU 1.2 (Adequacy of financial resources) (i.e. Pillar 2) should not be taken into account.
			How to apply IPRU
2.22	R		If the part of <i>IPRU</i> that applies to a <i>firm</i> applies different calculations to different types of <i>firm</i> the <i>firm</i> must use the calculations that it would have to use under BIPRU TP 3 (Pre CRD capital requirements applying on a solo basis during 2007) as applicable before its expiry.
2.23	R		If the part of <i>IPRU</i> that applies to a <i>firm</i> gives the <i>firm</i> a choice between methods of calculating capital resources or capital resources requirements it

			must exercise that choice consistently with the corresponding choices it makes in calculating <i>capital resources</i> or <i>capital resources requirement</i> under <i>GENPRU</i> and <i>BIPRU</i> .
2.24	G		BIPRU TP 4 to BIPRU TP 9 (Pre CRD capital requirements applying on a solo basis during 2007) as applicable before their expiry explain how concepts in <i>IPRU</i> and <i>GENPRU</i> map onto the ones in <i>IPRU</i> . This will enable a <i>firm</i> to decide which calculations it should use for the purposes of <i>BIPRU</i> TP 2.22R and <i>BIPRU</i> TP 2.23R.
2.25	G		[deleted]
2.26	R		[deleted]
2.27	G		[deleted]
2.28	R		The calculations under this section do not take into account the <i>base capital resources requirement</i> or the part of the <i>IPRU</i> solo capital resources requirement that corresponds to the <i>base capital resources requirement</i> .
			Solo consolidation
2.29	R		If a <i>firm</i> has a <i>solo consolidation waiver</i> it also applies for the purpose of this section in place of any corresponding provision of <i>IPRU</i> .
			Capital floors: consolidation
2.30	R		If a <i>firm</i> calculates <i>risk weighted exposure amounts</i> on a consolidated basis in accordance with the <i>IRB approach</i> on a consolidated basis, <i>BIPRU</i> TP 2.8R to <i>BIPRU</i> TP 2.27G apply on a consolidated basis in accordance with <i>BIPRU</i> TP 2.30R to <i>BIPRU</i> TP 2.31R.
2.31	R		A <i>firm</i> must calculate the consolidation requirements under <i>BIPRU</i> TP 2.30R for the group in question (the group in question is specified in <i>BIPRU</i> TP 2.32R) in accordance with the following:
		(1)	[deleted]
		(2)	[deleted]
		(3)	if the group is an investment firm group as defined in <i>BIPRU</i> TP 1.7R, chapter 14 of <i>IPRU(INV)</i> applies.
2.32	R		The scope of the consolidation under <i>BIPRU</i> TP 2.30R and any exemption from consolidation is determined in accordance with BIPRU 8 (Group

			<p>risk - consolidation) rather than <i>IPRU</i>. In particular, the following adjustments apply:</p> <p>(1) if a <i>firm</i> is a member of a <i>UK consolidation group</i> and applies the <i>IRB approach</i> with respect to that <i>UK consolidation group</i>, <i>BIPRU TP 2.30R</i> applies with respect to that <i>UK consolidation group</i>; and</p> <p>(2) if a <i>firm</i> is a member of a <i>non-EEA sub-group</i> and applies the <i>IRB approach</i> with respect to that <i>non-EEA sub-group</i>, <i>BIPRU TP 2.30R</i> applies with respect to that <i>non-EEA sub-group</i>.</p>
2.33	G		<p>If for example the consolidation <i>rules</i> that apply for the purposes of this section are those in chapter 14 of <i>IPRU(INV)</i> (Consolidated supervision of <i>investment firms</i>) then <i>IPRU(INV)</i> 14.1 (Application) and 14.2 (Scope of consolidation) do not apply. <i>BIPRU 8.2</i> (Scope and basic consolidation requirements for UK consolidation groups), <i>BIPRU 8.3</i> (Scope and basic consolidation requirements for non-EEA sub-groups), <i>BIPRU 8.4</i> (CAD Article 22 groups and investment firm consolidation waiver) and <i>BIPRU 8.5</i> (Basis of consolidation) apply instead.</p>
2.34	G		<p>Capital floors: waiver from consolidation</p> <p>If a <i>firm</i> has an <i>investment firm consolidation waiver</i> and it is applying the <i>IRB approach</i>, the <i>waiver</i> will explain how the <i>investment firm consolidation waiver</i> applies for the purpose of this section.</p>

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BIPRU TP 15 Commodities firm transitionals: Exemption from capital requirements

		Application
15.1	R	<p>Subject to <i>BIPRU</i> TP 15.2R, <i>BIPRU</i> TP 15 applies to a <i>BIPRU</i> firm:</p> <p>(1) whose main business consists exclusively of the provision of investment services or investment activities in relation to the financial instruments set out in points 5, 6, 7, 9 and 10 of Section C of Annex I to the <i>MIFID</i>; and</p> <p>(2) to whom the <i>ISD</i> would not have applied if it had remained in force in the form it was in on 31 December 2006.</p>
15.2	R	<p><i>BIPRU</i> TP 15.13R to <i>BIPRU</i> TP 15.14G apply to any firm to which <i>BIPRU</i> 8 (Group risk - consolidation) applies.</p> <p>Purpose</p>
15.3	G	<p><i>BIPRU</i> TP 15 implements Article 48(1) of the <i>Capital Adequacy Directive</i> as applied pursuant to the discretion in the third paragraph of article 95(2) of the <i>EU CRR</i>.</p> <p>Duration of exemption</p>
15.4	R	<p><i>BIPRU</i> TP 15 applies until the entry into force of any amendments to <i>BIPRU</i> TP 15 under any legislative amendments to <i>CRD</i> and <i>EU CRR</i> following from the Commission's report under article 508(3) of the <i>EU CRR</i> on an appropriate prudential regime for the prudential supervision of investment firms and firms referred to in article 4(1)(2)(b) and (c) of the <i>EU CRR</i>.</p>
15.5	G	[deleted]
15.6	R	<p>Exemption</p> <p>The provisions of <i>GENPRU</i> and <i>BIPRU</i> on capital requirements and <i>GENPRU</i> 1.2 (Adequacy of financial resources) do not apply to a firm to which <i>BIPRU</i> TP 15 applies.</p>
15.7	G	[deleted]
15.8	G	<p>An exempt <i>BIPRU</i> commodities firm (which is the name in the <i>Glossary</i> given to a firm with the benefit of the exemption in <i>BIPRU</i> TP 15.6R) may be subject to the requirements of Chapter 3 of <i>IPRU(INV)</i>. Details of which exempt <i>BIPRU</i> commodities firm are subject to those requirements can be found in Chapter 3 of <i>IPRU(INV)</i>.</p>

15.9	G	The table in <i>BIPRU</i> TP 15.10G provides an indication of which parts of <i>GENPRU</i> and <i>BIPRU</i> generally apply to an exempt <i>BIPRU</i> commodities firm and which parts in general do not apply. If a section is shown as not in general applying the table also identifies any significant aspects of that section that do apply.
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15.10	G	Table: Parts of <i>GENPRU</i> and <i>BIPRU</i> that apply to exempt <i>BIPRU</i> commodities firms This table belongs to <i>BIPRU</i> TP 15.9G
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<i>GENPRU</i> and <i>BIPRU</i> provisions	A Y denotes that the provision generally does apply An N denotes that generally it does not apply	Remarks
<i>GENPRU</i> TP (Transitional provisions)	Y	
<i>GENPRU</i> 1.1 (Application and scope)	Y	
<i>GENPRU</i> 1.2 (Adequacy of financial resources)	N	
<i>GENPRU</i> 1.3 (Valuation)	Y	
<i>GENPRU</i> 1.4 (Actions for damages)	Y	
<i>GENPRU</i> 1.5 (Application of <i>GENPRU</i> 1 to Lloyd's)	Not applicable as does not apply to <i>BIPRU</i> firms	
<i>GENPRU</i> 2.1 (Calculation of capital resources requirements)	N	
<i>GENPRU</i> 2.2 (Capital resources)	N	
<i>GENPRU</i> 2.3 (Application of <i>GENPRU</i> 2 to Lloyd's)	Not applicable as does not apply to <i>BIPRU</i> firms	
<i>GENPRU</i> 3.1 (Cross sector groups)	Y	Only applies if the <i>firm</i> is a member of a <i>financial conglomerate</i>
<i>GENPRU</i> 3.2 (Third-country groups)	Y	Provisions about <i>financial conglomerate</i> only apply if the <i>firm</i> is a member of a <i>financial conglomerate</i> See remarks on <i>BIPRU</i> 8 for provisions about a <i>third-country banking and investment group</i>
<i>BIPRU</i> TP (Transitional provisions)	Y	
<i>BIPRU</i> 1.1 (Application and scope)	Y	
<i>BIPRU</i> 1.2 (Definition of the trading book)	Y	
<i>BIPRU</i> 1.3 (Application for advanced approaches)	N	Provisions about <i>BIPRU</i> 2.1 and <i>BIPRU</i> 8 apply to the extent those parts of <i>BIPRU</i> apply. Otherwise does not apply.
<i>BIPRU</i> 1.4 (Actions for damages)	Y	
<i>BIPRU</i> 2.1 (Solo consolidation)	N	

GENPRU and BIPRU provisions		A Y denotes that the provision generally does apply An N denotes that generally it does not apply	Remarks
BIPRU 2.2 (Adequacy of financial resources)		N	
BIPRU 2.3 (Interest rate risk in the non-trading book)		N	
BIPRU 3 (Standardised approach to credit risk)		N	
BIPRU 4 (The IRB approach)		N	
BIPRU 5 (Credit risk mitigation)		N	
BIPRU 6 (Operational risk)		N	
BIPRU 7 (Market risk)		N	BIPRU 7.8.38 R and BIPRU 7.3.39 R (Risk management systems and controls) apply in theory although it is unlikely that a <i>firm</i> will be able to carry out these activities without losing the exemption in BIPRU TP 15.
BIPRU 8 (Group risk - consolidation)		Y	See BIPRU TP 15.13R to BIPRU TP 15.14G
BIPRU 9 (Securitisation)		N	BIPRU 9.1.6R to BIPRU 9.1.8G (Risk systems) apply
BIPRU 11 (Disclosure)		Y	
BIPRU 12			Chapter does not yet exist
BIPRU 13 (Financial derivatives, SFTs and long settlement transactions)		N	
BIPRU 14 (Capital requirements for settlement and counterparty risk)		N	
15.11	G		SYSC applies to an exempt BIPRU commodities firm. Definitions
15.12	R		The terms financial instrument, investment services and investment activities have the same meaning as they do in the MIFID. Consolidation
15.13	R		BIPRU TP 15 does not apply for the purposes of BIPRU 8 with respect to a <i>firm's UK consolidation group</i> or, as the case may be, <i>non-EEA sub-group</i> unless the following conditions are satisfied: (1) there is no <i>credit institution</i> in that group; (2) each CAD investment firm in the group meets the conditions in BIPRU TP 15.1R(1); (3) each CAD investment firm whose head office is in an <i>EEA State</i> satisfies the conditions in BIPRU TP 15.1R(2); and

		(4)	any CAD investment firm whose head office is outside the <i>EEA</i> would have fallen into <i>BIPRU</i> TP 15.1R(2) if: (a) its head office had been in an <i>EEA State</i> ; and (b) it had carried on all its business in the <i>EEA</i> and had obtained whatever authorisations for doing so were required under the <i>ISD</i> in the form that Directive was in on 31 December 2006.
15.14	G		If an <i>exempt BIPRU commodities firm</i> is a member of a group that meets the conditions in <i>BIPRU</i> TP 15.13R, <i>BIPRU</i> 8 will not apply to the group. Chapter 14 of <i>IPRU</i> (INV) (Consolidation) applies instead.

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BIPRU TP 21 Close substitutes for commodities

21.1	R	Application This section applies to a <i>BIPRU firm</i> that on 31 December 2006 was applying the approach referred to in the first column of the table in <i>BIPRU TP 21.3R</i> with respect to particular grades or brands of the same <i>commodity-class</i> .
21.2	R	Commodities: close substitutes A notice given under the <i>IPRU</i> provision in the second column of the table in <i>BIPRU TP 21.3R</i> is treated as having been given under <i>BIPRU 7.4.23 R</i> (Notice to the <i>appropriate regulator</i> about treatment of different grades or brands of the same <i>commodity</i>) for the purposes of <i>BIPRU 7.4.22 R</i> (Treatment of different grades or brands of the same <i>commodity</i>) with respect to the <i>commodity</i> grades or brands referred to in <i>BIPRU TP 21.1R</i> .
21.3	R	Table: Commodity treatments under <i>IPRU</i> This table belongs to <i>BIPRU TP 21.2R</i>
<i>IPRU</i> provisions setting out <i>commodity</i> approach Paragraph 22(2) of appendix 6 of chapter 10 of <i>IPRU(INV)</i> [deleted]		<i>IPRU</i> provisions under which notice given Paragraph 23 of appendix 6 of chapter 10 of <i>IPRU(INV)</i>
21.4	G	Explanation <i>BIPRU 7.4.22 R (1)(b)</i> says that a <i>firm</i> should treat <i>positions</i> in different grades or brands of the same <i>commodity-class</i> as different <i>commodities</i> unless they are close substitutes and have price movements which have exhibited a stable correlation coefficient of at least 0.9 over the last

12 months. BIPRU 7.4.23 R says that a *firm* should notify the FCA in writing at least 20 *business days* prior to the date the *firm* starts relying on this treatment. The purpose of this section is to allow a notice given under the corresponding provisions of chapter 10 of *IPRU(INV)* to continue to have effect without the *firm* having to serve a new notice under BIPRU 7.4.23 R.

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BIPRU TP 29

Liquid assets buffer scalar: simplified ILAS BIPRU firms

Application

29.1 R [deleted]

Duration of transitional provisions

29.2 R [deleted]

Transitional provisions

29.3 R [deleted]

29.4 G [deleted]

29.5 G [deleted]

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Schedule 3 Fees and other requirement payments

Sch 3 G

There are no requirements for fees or other payments in *BIPRU*.

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Schedule 4 Powers exercised

4.1 G
[deleted]

Sch 4.2 G
[deleted]

Sch 4.3 G
[deleted]

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Schedule 5 Rights of action for damages

Sch 5 G

1. The table below sets out the rules in *BIPRU* 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 as a result of the contravention.

2. If a "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, his fiduciary or representative; see article 6(2) and (3)(c) of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 (SI 2001/2256)). A "Yes" in the column headed "Removed" indicates that the *appropriate regulator* has removed the right of action under section 138D(3) of the *Act*. If so, a reference to the rule in which it 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 his 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	Section/Annex	Right of action under section 138D		
		For private person	Removed	For other person
All rules in <i>BIPRU</i>		No	Yes - BIPRU 1.4.1 R	No

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Schedule 6 Rules than can be waived

Sch 6 G

The rules in *BIPRU* may be waived by the *appropriate regulator* under section 138A of the *Act* (Modification or waiver of rules). However, if the *rules* incorporate requirements laid down in European directives, it will not be possible for the *appropriate regulator* to grant a *waiver* that would be incompatible with the *United Kingdom's* responsibilities under those directives. It therefore follows that if a *rule* in *BIPRU* contains provisions which derive partly from a directive, and partly not, the *appropriate regulator* will be able to consider a *waiver* of the latter requirements only, unless the directive provisions are optional rather than mandatory.

