

Chapter 3

Cross sector groups

3.2 Third-country groups

Application

3.2.1 **R** ■ GENPRU 3.2 applies to every *firm* that is a member of a *third-country group*. But it does not apply to:

- (1) an *incoming EEA firm*; or
- (2) an *incoming Treaty firm*; or
- (3) a *UCITS qualifier*; or
- (4) an *ICVC*; or
- (5) a *bank*; or
- (6) a *designated investment firm*; or
- (7) an *insurer*.

3.2.1A **R** ■ GENPRU 3.2.9R (Supervision by analogy: rules for third-country banking and investment groups) applies in relation to the following:

- (1) a *CAD investment firm*; and
- (2) an *investment firm* that falls within the definition of “investment firm” in article 4(1)(2) of the *EU CRR*.

Purpose

3.2.2 **G** ■ GENPRU 3.2 implements in part article 18 of the *Financial Groups Directive*, article 127 of the *CRD* and (in relation to *BIPRU firms*) article 143 of the *BCD*.

Equivalence

3.2.3 **G** The first question that must be asked about a *third-country financial group* is whether the *EEA regulated entities* in that *third-country group* are subject to supervision by a *third-country competent authority*, which is equivalent to that provided for by the *Financial Groups Directive* (in the case of a *financial conglomerate*) or the *EEA prudential sectoral legislation* for the *banking sector* or the *investment services sector* (in the case of a *banking and investment group*). Article 18(1) of the *Financial Groups Directive* sets out the process for establishing equivalence with respect to *third-country financial conglomerates* and article 127(1) and (2) of the *CRD* does so with respect to

third-country banking and investment groups, except where the investment firms in the group are CAD investment firms only, in which case article 143 of the BCD applies.

Other methods: General

3.2.4 **G** If the supervision of a *third-country group* by a *third-country competent authority* does not meet the equivalence test referred to in ■ GENPRU 3.2.3 G, the methods set out in the *CRD* and *EU CRR* will apply or *competent authorities* may apply other methods that ensure appropriate supervision of the *EEA regulated entities* in that *third-country group* in accordance with the aims of supplementary supervision under the *Financial Groups Directive* or consolidated supervision under the applicable *EEA prudential sectoral legislation*.

Supervision by analogy: introduction

3.2.5 **G** If the supervision of a *third-country group* by a *third-country competent authority* does not meet the equivalence test referred to in ■ GENPRU 3.2.3 G, a *competent authority* may, rather than take the measures described in ■ GENPRU 3.2.4 G, apply, by analogy, the provisions concerning supplementary supervision under the *Financial Groups Directive* or, as applicable, consolidated supervision under the applicable *EEA prudential sectoral legislation*, to the *EEA regulated entities* in the *banking sector*, *investment services sector* and (in the case of a *financial conglomerate*) *insurance sector*.

3.2.6 **G** The *FCA* believes that it will only be right to adopt the option in ■ GENPRU 3.2.5 G in response to very unusual group structures.

3.2.7 **G** ■ GENPRU 3.2.8 R and ■ GENPRU 3.2.9 R and ■ GENPRU 3 Annex 2 set out *rules* to deal with the situation covered in ■ GENPRU 3.2.5 G. Those *rules* do not apply automatically. Instead, they can only be applied with respect to a particular *third-country group* through the *Part 4A permission* of a in that *third-country group*.

Supervision by analogy: rules for third-country conglomerates

3.2.8 **R** If the *Part 4A permission* of a *firm* contains a *requirement* obliging it to comply with this *rule* with respect to a *third-country financial conglomerate* of which it is a member, it must comply, with respect to that *third-country financial conglomerate*, with the *rules* in Part 1 of ■ GENPRU 3 Annex 2, as adjusted by Part 3 of that annex.

Supervision by analogy: rules for third-country banking and investment groups

3.2.9 **R** If the *Part 4A permission* of a *firm* contains a *requirement* obliging it to comply with this *rule* with respect to a *third-country banking and investment group* of which it is a member, it must comply, with respect to that *third-country banking and investment group*, with the *rules* in Part 2 of ■ GENPRU 3 Annex 2, as adjusted by Part 3 of that annex.