

Chapter 14

Chapter 14 Consolidated Supervision for Investment Businesses

14.1 APPLICATION

14.1.1 **R** Subject to rule 14.1.2, *consolidated supervision* and this chapter apply to a *firm* which is a member of a group if:

(1) It is:

- (i) a *securities and futures firm*, subject to the financial rules in Chapter 3, which is a *broad scope firm* but not a *venture capital firm*; and
- (ii) [deleted]
- (iii) [deleted]

(2) It is neither a *BIPRU firm* nor an *IFPRU investment firm*.

(3) [Deleted]

(4) [Deleted]

(5) [Deleted]

Cases where consolidated supervision under this chapter will not apply

14.1.2 **R** A *firm* is not subject to *consolidated supervision* under the rules in this Chapter where any of the following conditions are fulfilled:

- (1) the *firm* is included in the supervision on a consolidated basis of the group of which it is a member by a *competent authority* other than the *FCA*; or
- (2) the *firm* is a member of a *UK consolidation group* already included in the supervision on a consolidated basis of the group of which it is a member by the *FCA* under ■ BIPRU 8; or
- (3) the *firm* is a member of a group already included in the supervision on a consolidated basis of the group of which it is a member by the appropriate regulator under Part One, Title II, Chapter 2 of the *EU CRR*.

14.1.3 **G** (1) [Deleted]

(2) [Deleted]

- (3) Where there is more than one authorised *firm* in the group, subject to the rules of this chapter, one consolidated supervision return may be submitted on behalf of all the *firms* in the group in accordance with ■ SUP 16.3.25G.

Exemption from consolidated supervision

14.1.4

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A *firm* need not meet the requirements in rules 14.3.1 and 14.3.2 if:

- (1) there is no *credit institution* in the group;
- (2) no *firm* in the group *deals in investments as principal*, except where it is dealing solely as a result of its activity of operating a *collective investment scheme*, or where the *firm's* positions fulfil the *CAD Article 5* exempting criteria;
- (3) [Deleted]
- (4) the *firm* notifies the *FCA* of any serious risk that could undermine the financial stability of the group as soon as it becomes aware of that risk;
- (5) the *firm* reports to the *FCA* all group *large exposures* as at the end of each quarter, and within the period specified in ■ SUP 16;
- (6) the *firm* meets the conditions in rule 14.1.5; and
- (7) the *firm* has first notified the *FCA* in writing that it intends to rely on this rule.

14.1.5

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If the *firm* notifies the *FCA* under rule 14.1.4 that it will not apply the rules in this section, it must:

- (1) submit to *FCA* a consolidated supervision return within the time period specified by ■ SUP 16, together with a consolidated profit and loss account;
- (2) ensure that each *firm* in the group deducts from its solo financial resources any quantifiable *contingent liability* in respect of other group entities;
- (3) ensure that the solo financial resources requirement of each *firm* in the group incorporates the full value of the expenditures of the *firm* wherever they are incurred on behalf of the *firm*; and
- (4) make a note in its audited financial statements that it is not subject to regulatory consolidated capital requirements.

14.1.6

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- (1) [Deleted]
- (2) The conditions in rule 14.1.5 aim to ensure that the *firm* is protected from weaknesses in other group entities.
- (3) In rule 14.1.5(2), *contingent liabilities* includes direct and indirect guarantees.

- (4) 14.1.5(3) aims to ensure that the expenditure-based requirement incorporates the *firm's* actual ongoing annual expenditures (including any share of depreciation on fixed assets) where these have been met by another group entity.
- (5) The *FCA* may require further information from the *firm* if it considers that the *firm's* consolidated financial position raises undue risks to consumers. It may also seek reassurance that the *firm* has sufficiently robust *client money* and *asset controls* - for example, it may require a *skilled person's* report. The *FCA* may also use its own initiative power to impose conditions on the *firm*. This could include raising additional capital or further limitations on the *firm's* intra-group exposures.
- (6) *Rule 14.1.4(5)* refers to *large exposures*, which should be measured against group consolidated own funds or (if this would result in all *exposures* being classified as *large exposures*) by aggregating all the *exposures* of the individual entities in the group and measuring them against the own funds of the individual *firm* giving rise to the consolidated supervision requirement. If there is more than one *firm* in the group giving rise to the consolidated supervision requirement, the group *large exposures* should be measured against the *firm* with the smallest own funds.

14.2 SCOPE OF CONSOLIDATION

- 14.2.1** **R** For the purposes of the rules in this chapter, a *firm's* group means the *firm* and:
- (1) any *EEA parent* in the group which is a *financial holding company*, a *credit institution*, or an *investment firm*;
 - (2) any *credit institution*, *investment firm* or *financial institution* which is a *subsidiary* either of the *firm* or of the *firm's EEA parent* as defined in (1); and
 - (3) any *credit institution*, *investment firm* or *financial institution* in which the *firm* or one of the entities in (1) or (2) holds a *participation*.
- 14.2.2** **R** If a group exists under rule 14.2.1, the *firm* must also include in the scope of consolidation any *ancillary services undertaking* and *asset management company* in the group.
- 14.2.3** **G** Rule 14.1.1 states what type of *firm* may be subject to consolidated supervision (trigger firm). Rule 14.2.1 states what type of relationship triggers the existence of a group for consolidated supervision purposes. Rules 14.2.1 and 14.2.2 specify what entities should be included in the scope of consolidated supervision.
- 14.2.4** **G**
- (1) A *firm's parent* is a *financial holding company* if it is either a *financial institution* or a *securities and futures firm* that is subject to the financial rules in Chapter 3 and that is a *broad scope firm* (but not a *venture capital firm*) and if its *subsidiary undertakings* carry out mainly *listed activities*, activities of a *credit institution* or activities undertaken by a Chapter 3 *broad scope firm*. For this purpose the FCA interprets the phrases 'mainly' or 'main business' to mean where the balance of business is over 40% of the relevant group or sub-group's balance sheet (measured on the basis of total assets) or profit and loss statement (measured on the basis of gross income). In addition, if the *firm's parent* has significant holdings in *insurance undertakings* or *reinsurance undertakings*, it is a *mixed financial holding company*, and the *firm* is subject to the rules in GENPRU 3.1 instead of the rules in this chapter. This is because a *parent* cannot be a *financial holding company* and a *mixed financial holding company* at the same time. GENPRU 3.1 sets out what constitutes significant insurance holdings (broadly more than 10% of the financial sector activities of the group). A *firm's parent* is a *financial holding company* and not regarded as a *mixed financial holding company* unless:

- (a) the parent has been notified by its *coordinator* that the *group* it heads is a financial conglomerate (in accordance with Article 4(2) of the *Financial Groups Directive*); and
 - (b) it has not been notified that the *coordinator* and the relevant competent authorities have agreed not to treat the group as a *financial conglomerate* in accordance with Article 3(3) of the *Financial Groups Directive*.
- (2) A *firm* with an ultimate non-EEA parent may also be subject to the provisions in GENPRU 3.2.
- (3) In the case where undertakings are linked to the domain of consolidation by a relationship within the meaning of article 12(1) of Directive (83/349/EEC), the *FCA* will determine how consolidation is to be carried out.

Exclusions

14.2.5

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A *firm* may, having first notified the *FCA* in writing, exclude from its group the following:

- (1) any entity the total assets of which are less than the smaller of the following two amounts:
 - (a) 10 million euros; or
 - (b) 1% of the total assets of the group's parent or the undertaking that holds the *participation*;provided that the total assets of such entities do not collectively *breach* these limits.
- (2) any entity the inclusion of which within the group would be misleading or inappropriate for the purposes of *consolidated supervision*.

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- (1) The *FCA* may require a *firm* to provide information about the position in the group of any undertaking excluded from the consolidation under rule 14.2.5.
- (2) An exclusion under rule 14.2.5(2) would normally be appropriate when an entity would be excluded from the scope of consolidation under the relevant *UK* generally accepted accounting principles.



14.3 CONSOLIDATED SUPERVISION REQUIREMENT

- 14.3.1 **R** A *firm* must at all times ensure that its group maintains group *financial resources* in excess of its *group financial resources requirement*.
- 14.3.2 **R** A *firm*, other than one which is defined in rule 14.1.1(1), must at all times comply with *large exposures* limits applied on a group basis.

14.4 GROUP FINANCIAL RESOURCES

- 14.4.1** **R** A *firm* must calculate its *group financial resources* on the basis of the consolidated accounts of the relevant group, subject to the adjustments in rule 14.4.2 and on the basis specified in rule 14.4.3.
- 14.4.2** **R**
- (1) If more than one *firm* in the group is subject to the rules of this chapter, *group financial resources* are defined according to the relevant rules applicable to the main *firm* in the group to which this chapter applies, with Tier 1 minority interests being allowed as Group Tier 1 capital and Tier 2 minority interests being allowed as Group Tier 2 capital.
 - (2) In calculating the *group financial resources*, deductions should be made for intangible assets, material unaudited losses incurred since the balance sheet date and investments in own shares.
 - (3) *Material holdings* and *material insurance holdings* must be recalculated on a group basis and deducted in arriving at the *group financial resources*.
- 14.4.3** **R** Financial resources will be defined based upon the main *firm* in the group to which this chapter applies as follows:
- (1) if a *broad scope securities and futures firm* (excluding a *venture capital firm*), Table 3-61R;
 - (2) [Deleted]
 - (3) [Deleted]
 - (4) [deleted]
 - (5) [deleted]
- 14.4.4** **G**
- (1) The *FCA* interprets 'main' by reference to the share of the *firm's* business in the group, its contribution to the group's balance sheet (measured on the basis of total assets) or profit and loss statement (measured on the basis of gross income).

- (2) The form in SUP 16 Ann 19 R, together with the guidance in
 - SUP 16 Ann 20 G, shows the mechanics of the calculation.

14.4.5

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A firm may apply for a *waiver of rule 14.4.1* to permit an aggregation approach to determine *group financial resources*. Any *waiver* application should guarantee future compliance with any relevant own funds limit.

14.5 GROUP FINANCIAL RESOURCES REQUIREMENT

14.5.1 **R** A *firm* must calculate its *group financial resources requirement* as the aggregate of:

- (1) the sum of the financial resources requirements of all group entities within the scope of consolidation calculated in accordance with rule 14.5.2, except that:
 - (a) requirements in respect of intra-group balances with other entities within the scope of consolidation should be excluded; and
 - (b) [deleted]
- (2) the sum of any adjustments that are made to each *firm's* financial resources, calculated on a solo basis in accordance with rule 14.4.3, in order to arrive at the amount of financial resources used to meet its solo financial resources requirement. These adjustments must exclude deductions in respect of the investment in and other relationships with other entities that are included within the scope of consolidation.
- (3) [deleted]

The financial resources requirements of entities in which the group holds a *participation* must be included proportionately.

14.5.2 **R** Financial resources requirements for individual entities in the group are:

- (1) for *firms* regulated by the *FCA*, their regulatory capital requirement under *FCA* rules;
- (2) for entities regulated by an *EEA regulator* and which is subject to the local regulatory capital requirement of that regulator, that local regulatory capital requirement;
- (2A) for entities that are *recognised third country credit institutions* or *recognised third country investment firms* and which is subject to the local regulatory capital requirement of that regulator, that local regulatory capital requirement;
- (2B) for entities not in (2A) that are regulated by a third country competent authority named in the table in BIPRU 8 Annex 3R and which is subject to the local regulatory capital requirement of that regulator, that local regulatory capital requirement; and

- 14.5.3 **G**
- (3) for other entities in the group, a notional financial resources requirement calculated as if the entity were regulated by the *FCA*.
- (1) For the purposes of rule 14.5.2(3) the notional financial resources requirements of group entities should normally be calculated as if the entities were subject to the financial rules in IPRU-INV relevant to the main *firm* in the group. The interpretation of 'main' given in 14.4.4 G applies here.
- (2) For the purposes of calculating an expenditure-based requirement, no account should be taken of expenses that have been recharged to another entity included in the scope of consolidation. For example, in calculating the notional requirement for a service company, the expenditure-based requirement should be calculated net of recharged expenses. This is to avoid double counting of the expenses.
- (3) [deleted]
- 14.5.4 **G**
- A *firm* may apply for a *waiver* of rule 14.5.1R, to permit a line-by-line approach to determine its *group financial resources requirement*. A *firm* should also demonstrate that calculating its *requirement* in this way does not result in a distortion of the *group financial resources requirement*.

