

Chapter 2

Authorised professional firms

2.1 APPLICATION

2.1.1

R

- (1) This chapter applies to an *authorised professional firm* in accordance with ■ IPRU-INV 2.1.2R and ■ IPRU-INV 2.1.3R.
- (2) The definitions in the *Glossary* apply to this Chapter.

2.1.2

G

- (1) An *authorised professional firm* of a kind falling within (2) must comply with such of ■ IPRU-INV 3, ■ 5 or ■ 13 which in accordance with ■ IPRU-INV 2.1.4R, most appropriately correlates to the type and scale of the business which it conducts.
- (2) The type of *authorised professional firm* to which (1) applies is one:
 - (a) [deleted]
 - (b) which acts as a *market maker*;
 - (c) which acts as a *stabilising manager*;
 - (da) which acts as a *small authorised UK AIFM* or a *residual CIS operator*;
 - (db) which acts as a *depository*;
 - () which acts as a *broker fund adviser* or otherwise participates in a *broker fund* arrangement;
 - () whose main business, having regard to (3), is not the practice of its profession or professions;
 - () whose *permission* includes a requirement that it acts in conformity with the financial resources *rules* applicable to another type of *firm*; or
 - () whose *permission* includes *establishing, operating or winding up a personal pension scheme*.
- (3) For the purposes of (2)(f), a *firm's* professional business practice is not the "main business" of the *firm* unless the proportion of income it derives from *professional fees* is, during its annual accounting period, at least 50% of the *firm's* total income (a temporary variation of not more than 5% may be disregarded for this purpose).
- (4) An *authorised professional firm* which, in accordance with (1), is required to comply with ■ IPRU-INV 3, ■ 5 or ■ 13 must immediately give notification of that fact to the *FCA* in accordance with ■ SUP 15.7 (Forms and method of notification).

2.1.3 **R** An authorised professional firm which does not fall within **IPRU-INV 2.1.2R** must comply with sections 2.2, 2.3 and 2.4 of this chapter.

2.1.4 **G** This table belongs to **IPRU-INV 2.1.1R**

TYPE OF BUSINESS ACTIVITY	CHAPTER OF SOURCEBOOK
(i) <i>managing investments</i> other than for retail clients; or	<i>Investment management firm - IPRU-INV 5</i>
(ii) <i>OPS activity</i> ; or	
(iii) [deleted]	
(iv) [deleted]	
(iva) <i>acting as trustee or depositary of a UK UCITS</i> ; or	
(ivb) <i>managing an AIF</i> ; or	<i>Personal investment firm - IPRU-INV 13</i>
(ivc) <i>acting as trustee or depositary of an AIF</i> ; or	
(v) acting as a <i>residual CIS operator</i> ; or	
(va) <i>establishing, operating or winding up a personal pension scheme</i> ; or	
(vi) <i>safeguarding and administering investments</i> ;	
(i) advising on, or <i>arranging deals in, packaged products</i> ; or	<i>Securities and futures firm (which is not a MiFID investment firm) - IPRU-INV 3</i>
(ii) <i>managing investments for retail clients</i> ;	
(i) a <i>regulated activity</i> carried on as a member of an exchange; or	
(ii) acting as a <i>market maker in securities or derivatives</i> ; or	
(iii) <i>corporate finance business</i> ; or	
(iv) <i>dealing or arranging deals in securities or derivatives, other than interprofessional investments</i> ; or	
(v) the provision of clearing services as a <i>clearing firm</i> ; or	
(vi) spread betting;	

2.1.5 **G** An authorised professional firm will be a *MiFID investment firm* if its business activities include the provision of *investment services and/or activities* for a third party. An authorised professional firm will not however be a *MiFID investment firm* if it falls within one of the exclusions contained in Article 2

of *MiFID*. Article 2(1)(c) provides an exclusion for an *authorised professional firm* which provides *investment services and/or activities* in an incidental manner in the course of a professional activity and that activity is regulated by the *firm's designated professional body*.

2.1.6

G

The *FCA* considers the scope of this exclusion cannot be precisely defined. Ultimately questions of interpretation are for the Court to determine. The *FCA* considers that to satisfy the exclusion the services cannot be the major part of the practice of the *firm*. The *FCA* also considers the following factors to be among those that are relevant:

- (1) the scale of *regulated activity* in proportion to other professional services provided;
- (2) whether and to what extent activities that are *regulated activities* are held out as separate services;
- (3) the impression given as to how the *firm* provides *regulated activities*, for example through its advertising or other promotions of its service.

2.1.7

G

The activities that a *full-scope UK AIFM* and a *UCITS management company* are allowed to perform are restricted by ■ [COLL 6.9.9R](#) and ■ [FUND 1.4.3R](#) (as applicable). As such, an *authorised professional firm* cannot be a *collective portfolio management firm* or a *collective portfolio management investment firm*.