

# Chapter 1

## Application

1.1 Application and purpose

Application

1.1.1 G There is no overall application provision for *MIFIDPRU*. Each chapter or section has its own application statement. However, *MIFIDPRU* broadly applies to the following:

- (1) *MIFIDPRU investment firms*;
- (2) *UK parent entities*; and
- (3) *parent undertakings* in an *investment firm group* that are incorporated in, or have their principal place of business in, the *United Kingdom*.

1.1.2 G (1) The definition of a *MIFIDPRU investment firm* includes a *collective portfolio management investment firm*. This means that a *collective portfolio management investment firm* must comply with the rules in *MIFIDPRU*, except to the extent that a provision of *MIFIDPRU* otherwise provides.

(2) A *collective portfolio management investment firm* is also subject to the prudential requirements in ■ *IPRU-INV 11* (Collective Portfolio Management Firms and Collective Portfolio Management Investment Firms). These *firms* should refer to ■ *IPRU-INV 11.6* for further *guidance* on how the requirements in *MIFIDPRU* interact with the requirements in ■ *IPRU-INV 11*.

(3) As explained in ■ *MIFIDPRU 1.1.5G*, many requirements in *MIFIDPRU* apply only in relation to the *MiFID business* of a *firm* and therefore will not apply to the collective portfolio management activities carried on by a *collective portfolio management investment firm*. However, some requirements in *MIFIDPRU* apply to the *firm* as a whole.

Application to overseas firms

1.1.3 G *MIFIDPRU* does not directly apply to an *undertaking* which is not incorporated in, and does not have its principal place of business in, the *United Kingdom*. However, *MIFIDPRU* imposes some obligations on *UK parent entities* and *responsible UK parents* relating to *undertakings* established in a *third country* that form part of the same *investment firm group*. ■ *MIFIDPRU 2* (Levels of application) contains additional *guidance* on the application of *MIFIDPRU* to *investment firm groups*.

## 1.1.4

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- (1) This *guidance* provision applies to a *third country MIFIDPRU investment firm*. It is without prejudice to the FCA's general approach to authorising *overseas firms*.
- (2) The FCA will not normally give a *Part 4A permission* to a *third country MIFIDPRU investment firm* unless the FCA is satisfied that the applicant will be subject to prudential regulation by a *regulatory body* in its home jurisdiction and the regulatory requirements are broadly equivalent to the requirements that would apply under *MIFIDPRU*.
- (3) When conducting the assessment in (2), the FCA will take into account the following non-exhaustive list of factors:
  - (a) whether the requirements of the jurisdiction are likely to achieve similar prudential outcomes to *MIFIDPRU*;
  - (b) how the overseas *regulatory body* supervises and enforces those requirements in practice;
  - (c) the broader legal framework applicable to the applicant in the jurisdiction; and
  - (d) whether there are adequate arrangements in place between the FCA and the overseas *regulatory body* to facilitate any necessary supervisory cooperation.
- (4) The FCA considers that the approach described in (2) and (3) is consistent with the following:
  - (a) The requirements in the *threshold conditions* including, in particular, the effective supervision *threshold condition* described in ■ COND 2.3, the appropriate resources *threshold condition* described in ■ COND 2.4 and the suitability *threshold condition* described in ■ COND 2.5.
  - (b) The need for the FCA to be able to apply effective supervision to a *third country MIFIDPRU investment firm* to ensure appropriate protection for *consumers* or potential *consumers*. This relies on cooperation between the FCA and the overseas *regulatory body* that supervises that *third country MIFIDPRU investment firm* and on the FCA being able to place appropriate reliance on the supervision applied by that overseas *regulatory body*.
- (5) If a *third country MIFIDPRU investment firm* is not subject to prudential regulation by a *regulatory body* in its home jurisdiction which is broadly equivalent to the requirements that would apply under *MIFIDPRU*, the FCA will normally expect it to establish a *subsidiary* in the *United Kingdom*. That *subsidiary* would need to be authorised as a *MIFIDPRU investment firm* and would then be directly subject to the requirements in *MIFIDPRU*. The *subsidiary* would need to demonstrate that it meets the *threshold conditions* to obtain *authorisation*.
- (6) Although a *third country MIFIDPRU investment firm* that is granted a *Part 4A permission* is not subject to *MIFIDPRU*, it must still comply with the requirements in the *threshold conditions* and *Principles* on an ongoing basis. This includes the obligation under *Principle 11* (Relations with regulators) to inform the FCA of anything of which the FCA would reasonably expect notice, which may include interactions between the *firm* and its overseas *regulatory body*.

1.1.5

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**Purpose**

The purpose of *MIFIDPRU* is to set out the detailed prudential requirements that apply to a *MIFIDPRU investment firm*. *MIFIDPRU* does not apply to a *designated investment firm*, which is subject to prudential regulation by the *PRA*. Generally, the *rules* in *MIFIDPRU* are intended to cover the *MiFID business* undertaken by a *firm*, but certain requirements apply to a *firm* as a whole.

1.1.6

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The requirements in *MIFIDPRU* expand upon the basic requirements under the appropriate resources *threshold condition* referred to in ■ COND 2.4 and the requirement in *Principle 4* for a *firm* to maintain adequate financial resources.

1.1.7

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**Tied agents**

- (1) Certain provisions of *MIFIDPRU* refer to, or apply in relation to, *tied agents*. The definition of a *tied agent* refers to a *person* who, on behalf of an *investment firm* (including a *third country investment firm*):
  - (a) promotes *investment services* or *ancillary services* to *clients* or prospective *clients*;
  - (b) receives and transmits instructions or orders from the *client* in respect of *investment services* or *financial instruments*;
  - (c) places *financial instruments*; or
  - (d) provides advice to *clients* or prospective *clients* in respect of *investment services* or *financial instruments*.
- (2) The references in *MIFIDPRU* to *tied agents* do not include *appointed representatives* that do not meet the definition of a *tied agent* (for example, because the relevant *appointed representative* does not carry on its activities in relation to the *MiFID business* of its principal *firm*). However, a *firm's* potential responsibility for *appointed representatives* (whether or not they are also *tied agents*) will be a relevant factor for a *firm's* *ICARA process* under ■ MIFIDPRU 7 (Governance and risk management).

1.1.8

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**Voluntary application of stricter requirements**

No provision in *MIFIDPRU* prevents a *firm* from:

- (1) holding *own funds* (or components of *own funds*) or *liquid assets* that exceed those required by *MIFIDPRU*; or
- (2) applying other measures that are stricter than those required by *MIFIDPRU*.

1.1.9

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- (1) If a *firm* applies stricter measures than those required under *MIFIDPRU* in accordance with ■ MIFIDPRU 1.1.8R, the *firm* must still ensure that it meets the basic requirements of *MIFIDPRU*. This is illustrated by the following two examples:
  - (a) Example 1: A *firm* decides to hold *own funds* of 0.03% of its *average AUM*, rather than 0.02% as required under

■ MIFIDPRU 4.7.5R. This would be a stricter measure that still met the basic requirements of *MIFIDPRU* and therefore would be permitted under ■ MIFIDPRU 1.1.8R.

- (b) Example 2: A *firm* decides to hold a significant amount of additional *own funds* instead of applying the deductions from its *common equity tier 1 capital* required under ■ MIFIDPRU 3.3.6R. This is on the basis that the additional *own funds* far exceed the estimated value of the required deductions and the *firm* considers that the deduction calculations are too onerous. While the *firm* may consider that holding these additional *own funds* is a stricter measure, this approach would not meet the basic requirements of *MIFIDPRU*, which require the *firm* to calculate and apply the deductions. In addition, the failure to apply the correct deductions to *common equity tier 1 capital* may result in the *firm* incorrectly applying the *concentration risk* requirements and limits in ■ MIFIDPRU 5. This approach would therefore not be permitted under ■ MIFIDPRU 1.1.8R because it does not meet the basic requirements of *MIFIDPRU*.

- (2) If a *firm* wishes to apply a stricter measure but is unsure of whether that measure would meet the basic requirements of *MIFIDPRU*, it should discuss the proposal with the *FCA* before applying the measure.

### Notifications and applications under MIFIDPRU for which there is no dedicated form

#### 1.1.10

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This *rule* applies where:

a notification or an application for permission is required under a provision in (2); and

the provisions in *MIFIDPRU* do not specify that a particular notification or application form must be used for that purpose.

The relevant provisions in (1) are:

a *rule* in *MIFIDPRU*;

a provision of the *UK CRR* that is applied by *MIFIDPRU*; or

a provision in binding technical standards made for the purposes of the *UK CRR* where those binding technical standards are applied by *MIFIDPRU*.

Where this *rule* applies, a *firm*, *UK parent entity* or *GCT parent undertaking* that is subject to the relevant provision in (2) must:

where the provision requires a notification, complete the notification form in ■ MIFIDPRU 1 Annex 5R and submit it to the *FCA* using the *online notification and application system*; or

where the provision requires an application for permission, complete the application form in ■ MIFIDPRU 1 Annex 6R and submit it to the *FCA* using the *online notification and application system*.

## 1.2 SNI MIFIDPRU investment firms

### Basic conditions for classification as an SNI MIFIDPRU investment firm

#### 1.2.1



A MIFIDPRU investment firm is an SNI MIFIDPRU investment firm if it satisfies the following conditions:

- (1) its *average AUM*, as calculated in accordance with ■ MIFIDPRU 4.7.5R is less than £1.2 billion;
- (2) its *average COH*, as calculated in accordance with ■ MIFIDPRU 4.10.19R is less than:
  - (a) £100 million per *day* for *cash trades*; and
  - (b) £1 billion per *day* for *derivatives trades*;
- (3) its *average ASA*, as calculated in accordance with ■ MIFIDPRU 4.9.8R is zero;
- (4) its *average CMH*, as calculated in accordance with ■ MIFIDPRU 4.8.13R is zero;
- (5) it does not have *permission* for any of the following:
  - (a) *dealing on own account*; or
  - (b) underwriting of *financial instruments* and/or placing of *financial instruments* on a firm commitment basis;
- (6) its on- and off-balance sheet total is less than £100 million;
- (7) its total annual gross revenue from *investment services and/or activities* is less than £30 million, calculated as an average on the basis of the annual figures from the two-year period immediately preceding the given financial year;
- (8) it has not been classified as a *non-SNI MIFIDPRU investment firm* due to the effect of ■ MIFIDPRU 10.2 (Categorisation of clearing firms as non-SNI MIFIDPRU investment firms);
- (9) its *average DTF*, as calculated in accordance with ■ MIFIDPRU 4.15.4R, is zero; and
- (10) it is not appointed to act as a *depository* in accordance with ■ FUND 3.11.10R(2) or ■ COLL 6.6A.8R(3)(b)(i).

- 1.2.2** **G** The definitions of *ASA* and *CMH* relate to *client* assets and *client* money that are held in the course of *MiFID* business. As a result, a *firm* may hold *client* assets or *client* money in the course of business other than *MiFID* business (provided that it has the necessary *permissions* to do so) and still meet the conditions to be classified as an *SNI MIFIDPRU investment firm*. When determining whether *client* assets or *client* money are to be treated as held in the course of *MiFID* business for these purposes, *MIFIDPRU investment firms* should refer to the *rules* and *guidance* in ■ **MIFIDPRU 4.8** (K-CMH requirement) and ■ **4.9** (K-ASA requirement).

### Additional provisions relating to the calculation of conditions to be classified as an SNI MIFIDPRU investment firm

- 1.2.3** **R** Notwithstanding the calculation methodologies in ■ **MIFIDPRU 4**, the *firm* must use the following for the purposes of the conditions in ■ **MIFIDPRU 1.2.1R**:
- (1) end-of-day values to calculate:
    - (a) its *average AUM* under ■ **MIFIDPRU 1.2.1R(1)**;
    - (b) its *average COH* under ■ **MIFIDPRU 1.2.1R(2)**;
    - (c) its *average ASA* under ■ **MIFIDPRU 1.2.1R(3)**;
  - (2) intra-day values to assess its *average CMH* under ■ **MIFIDPRU 1.2.1R(4)**.
- 1.2.4** **R**
- (1) By way of derogation from ■ **MIFIDPRU 1.2.1R**, a *firm* may use the alternative approach in (2) to measure:
    - (a) its *average AUM* for the purposes of ■ **MIFIDPRU 1.2.1R(1)**; and/or
    - (b) its *average COH* for the purposes of ■ **MIFIDPRU 1.2.1R(2)**.
  - (2) The alternative approach is to apply the methodologies in ■ **MIFIDPRU 4** for measuring *average AUM* and *average COH*, but with the following modifications:
    - (a) the measurement must be performed over the immediately preceding 12 *months*; and
    - (b) the exclusion of the 3 most recently monthly values does not apply.
  - (3) If a *firm* uses the derogation in (1), it must:
    - notify the *FCA* by submitting the form in ■ **MIFIDPRU 1 Annex 1R** via the *online notification and application system*; and
    - apply the alternative approach for a continuous period of at least 12 *months* from the date specified in the *firm's* notice in (a).
  - (4) If a *firm* ceases to apply the derogation in (1), it must notify the *FCA* by submitting the form in ■ **MIFIDPRU 1 Annex 1R** via the *online notification and application system*.

- 1.2.5** **G** Where a *firm* relies on the derogation in ■ **MIFIDPRU 1.2.4R**, the alternative approach applies only for the purpose of determining whether the *firm* meets the requirements to be classified as an *SNI MIFIDPRU investment firm*.

It does not apply for the purpose of the *firm's* calculation of its *K-factor* requirement under ■ MIFIDPRU 4.

## 1.2.6

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- (1) Subject to (2), a *firm* must use the values recorded at the end of the last financial year for which accounts have been finalised and approved by its *management body* to assess each of the following conditions:
  - (a) its on- and off-balance sheet total under ■ MIFIDPRU 1.2.1R(6); and
  - (b) its total annual gross revenue under ■ MIFIDPRU 1.2.1R(7).
- (2) The *firm* must use provisional accounts where its accounts have not been finalised and approved after 6 *months* from the end of the last financial year.

## 1.2.7

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- (1) A *firm* may use the end-of-day value for *average CMH* instead of the intra-day value under ■ MIFIDPRU 1.2.3R(2) if:
  - (a) there is an error in record-keeping or in the reconciliation of accounts that incorrectly indicates that the *firm* has breached the zero threshold in ■ MIFIDPRU 1.2.1R(4); and
  - (b) the error is resolved before the end of the *business day* to which it relates.
- (2) If a *firm* uses an end-of-day value under (1), it must notify the *FCA* immediately of:
  - the error;
  - the reasons that the error occurred; and
  - how the error has been corrected.
- (3) The notification in (2) must be submitted via the *online notification and application system* using the form in ■ MIFIDPRU 1 Annex 2R.

## 1.2.8

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- (1) ■ MIFIDPRU 1.2.7R applies where a *firm* has incorrectly recorded an amount of *client money* as *CMH* and identifies the mistake before the end of the same *business day*. This could occur, for example, where there has been an error in data entry, or where a *firm* incorrectly records *client money* as meeting the *CMH* definition.
- (2) ■ MIFIDPRU 1.2.7R does not apply where a *firm* mistakenly accepts an amount that satisfies the *CMH* definition and subsequently returns that amount to the relevant *client*. In that case, the *firm* will have breached the zero threshold in ■ MIFIDPRU 1.2.1R(4) and the situation has not arisen due to an error in record-keeping or reconciliation. A *firm* that wishes to be classified as an *SNI investment firm* should therefore operate effective systems and controls that prevent it from mistakenly accepting *money* or assets that constitute *CMH* or *ASA*.

## 1.2.9

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A MIFIDPRU investment firm must assess the following conditions on the basis of the *firm's* individual situation:

- (1) *average ASA* under ■ MIFIDPRU 1.2.1R(3);



- (2) *average CMH* under ■ MIFIDPRU 1.2.1R(4);
- (3) *average DTF* under ■ MIFIDPRU 1.2.1R(9);
- (4) whether the *firm* has *permission to deal on own account*;
- (5) whether the *firm* is a *clearing member* or an *indirect clearing firm*; and
- (6) whether the *firm* is appointed to act as a *depository* in accordance with ■ FUND 3.11.10R(2) or ■ COLL 6.6A.8R(3)(b)(i).

## 1.2.10

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A MIFIDPRU investment firm must assess the conditions in (2) on the basis of the combined position of each of the following entities that form part of the same *group* as the *firm*;

*MIFIDPRU investment firms*;  
*designated investment firms*;  
*collective portfolio management investment firms*; and  
*third country investment firms* that carry on *investment services and/or activities* in the UK.

The relevant conditions are:

- (a) where a MIFIDPRU investment firm has metrics for *AUM*, *average AUM* under ■ MIFIDPRU 1.2.1R(1);
- (b) where a MIFIDPRU investment firm has metrics for *COH*, *average COH* under ■ MIFIDPRU 1.2.1R(2);
- (c) the on- and off-balance sheet total under ■ MIFIDPRU 1.2.1R(6); and
- (d) total annual gross revenue under ■ MIFIDPRU 1.2.1R(7).

When measuring the combined total annual gross revenue under (2)(d), the *firm* may exclude any double counting that arises in respect of gross revenues generated within the *group*.

When calculating the contribution of the following to the combined position of the *group*, the *firm* must:

- (a) for a *collective portfolio management investment firm*, include only amounts that are attributable to the *investment services and/or activities* that fall within ■ COLL 6.9.9R (4) to ■ COLL 6.9.9R (6) or ■ FUND 1.4.3R (3) to ■ FUND 1.4.3R (6); and
- (b) for a *third country investment firm*:
  - (i) include only amounts that are attributable to the *investment services and/or activities* that are carried on by the *third country investment firm* in the UK; and
  - (ii) apply the definitions of *AUM* and *COH* as if the references to "*MiFID business*" in those definitions included the *investment services and/or activities* in (i).

## 1.2.11

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- (1) ■ MIFIDPRU 1.2.10R applies to each individual MIFIDPRU investment firm by reference to the relevant entities that form part of that *firm's*

group. The purpose of the rule is to prevent a *MIFIDPRU investment firm* from dividing its business between separate *group* entities that may each carry-on *investment services and/or activities* in the UK in order to avoid being classified as a *non-SNI MIFIDPRU investment firm*. Where two or more *MIFIDPRU investment firms* exceed one or more of the relevant thresholds in ■ MIFIDPRU 1.2.10R on a combined basis, each of those *firms* will be treated as a *non-SNI MIFIDPRU investment firm*.

- (1A) (a) A *MIFIDPRU investment firm* that does not have metrics for *AUM* or *COH*, does not need to take into account the *AUM* or *COH* of other members of its group when calculating *average AUM* under ■ MIFIDPRU 1.2.1R(1) or *average COH* under ■ MIFIDPRU 1.2.1R(2). This is illustrated by the example in (b).
- (b) Firm A (a *MIFIDPRU investment firm* providing services for the execution of orders on behalf of clients, with no *AUM* itself) is part of the same *group* as Firm B and Firm C (both *MIFIDPRU investment firms* providing portfolio management services, each with *AUM* of £0.8 billion). As Firm A does not have any *AUM*, it does not need to take into account the *average AUM* of Firms B and C when considering the *average AUM* threshold in ■ MIFIDPRU 1.2.1R(1), and Firm A is therefore not a *non-SNI investment firm* under this particular metric. Firms B and C would both be *non-SNI MIFIDPRU investment firms* because they do have metrics for *AUM* and because their combined *average AUM* is more than the threshold in ■ MIFIDPRU 1.2.1R(1).
- (2) Where a *MIFIDPRU investment firm* forms part of an *investment firm group* to which consolidation applies under ■ MIFIDPRU 2.5, ■ MIFIDPRU 2.5.21R explains how ■ MIFIDPRU 1.2 applies to the consolidated situation of the relevant *UK parent entity*.

Summary of conditions for classification as an SNI MIFIDPRU investment firm and associated calculation requirements

1.2.12

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The following table summarises the effect of ■ MIFIDPRU 1.2.1R to ■ 1.2.10R.

Measure	Measurement of relevant values	Threshold to be classified as an SNI MIFIDPRU investment firm	Application of threshold on an individual basis or combined basis of investment firms within a group (see MIFIDPRU 1.2.9R and 1.2.10R)	
Average AUM	End-of-day	Less than £1.2 billion	Combined	See Note 1
Average COH (cash trades)	End-of-day	Less than £100 million per day	Combined	See Note 1

Measure	Measurement of relevant values	Threshold to be classified as an SNI MIFIDPRU investment firm	Application of threshold on an individual basis or combined basis of investment firms within a group (see MIFIDPRU 1.2.9R and 1.2.10R)	
Average COH (derivatives)	End-of-day	Less than £1 billion per day	Combined	See Note 1
Average ASA	End-of-day	Zero	Individual	
Average CMH	Intra-day	Zero	Individual	See Note 2
Average DTF	End-of-day	Zero	Individual	
NPR	<i>Firm must not have permission to deal on own account, so these measures must always be zero</i>		Individual	
CMG			Individual	
TCD			Individual	
On- and off-balance sheet total	End of last financial year for which accounts finalised by management body	Less than £100 million	Combined	See Note 3
Total annual gross revenue from investment services and/or activities	End of last financial year for which accounts finalised by management body	Less than £30 million, based on an average of annual figures for the two-year period immediately preceding the given financial year	Combined	See Notes 3 and 4
Whether firm is a clearing member or indirect clearing firm under MIFIDPRU 10.2	<i>Firm must not be a clearing member or indirect clearing firm</i>		Individual	
Whether the firm has been appointed to act as a depositary in accordance with FUND 3.11.10R(2) or COLL 6.6A.8R(3)(b)(i)	<i>Firm must not be appointed as a depositary under the relevant FUND and COLL provisions</i>		Individual	

Measure	Measurement of relevant values	Threshold to be classified as an SNI MIFIDPRU investment firm	Application of threshold on an individual basis or combined basis of investment firms within a group (see MIFIDPRU 1.2.9R and 1.2.10R)
<b>Notes</b>			
Note 1:	Under MIFIDPRU 1.2.4R, the <i>firm</i> can choose to calculate the relevant values for these measures by applying the applicable methodologies in MIFIDPRU 4 to the most recent 12 <i>months</i> without excluding the three most recent monthly values.		
Note 2:	Under MIFIDPRU 1.2.7R, the <i>firm</i> may use the end-of-day value if there has been an error in record keeping or in reconciliation of accounts that incorrectly indicates the <i>firm</i> has breached the zero threshold for <i>average CMH</i> , provided that the error is corrected before the end of the <i>business day</i> to which it relates.		
Note 3:	Under MIFIDPRU 1.2.6R, the <i>firm</i> must use provisional accounts where the relevant accounts have not been finalised and approved after 6 <i>months</i> from the end of the last financial year.		
Note 4:	Under MIFIDPRU 1.2.10R, the <i>firm</i> may exclude any double counting that arises in respect of gross revenues generated within the <i>group</i> .		

**Non-SNI MIFIDPRU investment firms that subsequently satisfy the conditions to be an SNI MIFIDPRU investment firm**

1.2.13 R

- (1) This *rule* applies to a *non-SNI MIFIDPRU investment firm* that subsequently satisfies all the conditions in ■ MIFIDPRU 1.2.1R.
- (2) The *firm* in (1) shall be reclassified as an *SNI MIFIDPRU investment firm* only if:
  - (a) the *firm* satisfies the relevant conditions for a continuous period of at least 6 *months* (or any longer period that has elapsed before the *firm* submits the notification in (b)); and
  - (b) the *firm* notifies the *FCA* that it satisfies the conditions in (a).
- (3) The notification in (2)(b) must be submitted via the *online notification and application system* using the form in ■ MIFIDPRU 1 Annex 3R.

**Ceasing to meet the conditions to be an SNI MIFIDPRU investment firm**

1.2.14 R

Where a *MIFIDPRU investment firm* no longer satisfies all the conditions set out in ■ MIFIDPRU 1.2.1R, it ceases to be an *SNI MIFIDPRU investment firm* with immediate effect, except where ■ MIFIDPRU 1.2.15R applies.

- 1.2.15** **R**
- (1) Where a *MIFIDPRU investment firm* exceeds one or more of the thresholds in (2), but continues to satisfy all other conditions in ■ MIFIDPRU 1.2.1R, it ceases to be an *SNI MIFIDPRU investment firm* 3 months after the date on which it first exceeded the relevant threshold.
  - (2) The relevant thresholds are:
    - (a) the average *AUM* threshold in ■ MIFIDPRU 1.2.1R(1);
    - (b) either or both of the average *COH* thresholds in ■ MIFIDPRU 1.2.1R(2);
    - (c) the on- and off-balance sheet total threshold in ■ MIFIDPRU 1.2.1R(6); and
    - (d) the total annual gross revenue threshold in ■ MIFIDPRU 1.2.1R(7).
- 1.2.16** **R**
- (1) If a *MIFIDPRU investment firm* ceases to satisfy one of the conditions in ■ MIFIDPRU 1.2.1R, it must promptly notify the *FCA*.
  - (2) The notification in (1) must be submitted via the *online notification and application system* using the form in ■ MIFIDPRU 1 Annex 4R.
- 1.2.17** **G**
- Where a *firm* ceases to satisfy one of the conditions in ■ MIFIDPRU 1.2.15R, but subsequently satisfies that condition within the three-month period referred to in that rule, the *firm* will still be reclassified as a *non-SNI MIFIDPRU investment firm* 3 months after the date on which it first ceased to satisfy that condition. The *firm* will only be reclassified as an *SNI MIFIDPRU investment firm* if it satisfies the conditions in, and requirements of, ■ MIFIDPRU 1.2.13R.
- Application of senior management, remuneration and systems and controls requirements to SNI MIFIDPRU investment firms**
- 1.2.18** **R**
- (1) Subject to (2) and (3), the following provisions do not apply to an *SNI MIFIDPRU investment firm*:
    - (a) ■ MIFIDPRU 7.3 (Risk, remuneration and nomination committees);
    - (b) the provisions in ■ SYSC 19G (MIFIDPRU Remuneration Code) which are not listed in ■ SYSC 19G.1.6R(2).
  - (2) Subject to (4) and (5), if a *non-SNI MIFIDPRU investment firm* satisfies the conditions in ■ MIFIDPRU 1.2.1R to be classified as an *SNI MIFIDPRU investment firm*, the provisions in (1) will cease to apply only:
    - (a) 6 months after the date on which the *firm* first satisfied those conditions (or after any longer period that has elapsed before the *firm* submits the notification in (b)(ii)); and
    - (b) provided that the *firm*:
      - (i) continued to satisfy the conditions throughout the period in (a); and
      - (ii) has notified the *FCA* under ■ MIFIDPRU 1.2.13R(2)(b).

- (3) Subject to (4) and (5), if an *SNI MIFIDPRU investment firm* no longer satisfies the conditions in ■ MIFIDPRU 1.2.1R to be classified as an *SNI MIFIDPRU investment firm*, it must:
  - (a) notify the *FCA* immediately in accordance with ■ MIFIDPRU 1.2.16R of the date on which it ceased to satisfy the conditions; and
  - (b) comply with the provisions in (1) within 12 *months* from the date on which the *firm* ceased to satisfy the conditions.
- (4) ■ MIFIDPRU 7.3 (Risk, remuneration and nomination committees) does not apply to a *non-SNI MIFIDPRU investment firm* if the *firm* meets the conditions in ■ MIFIDPRU 7.1.4R.
- (5) The provisions listed in ■ SYSC 19G.1.1R(4) do not apply to a *non-SNI MIFIDPRU investment firm* if the *firm* meets the conditions in ■ SYSC 19G.1.1R(2).

## 1.2.19

**G** Under the Capital Requirements (Country-by-Country Reporting) Regulations 2013 (SI 2013/3118) as amended, *non-SNI MIFIDPRU investment firms* may be required to disclose information relating to their branches or subsidiaries outside the *UK*. The Regulations also set out how the country-by-country reporting obligations apply when a *MIFIDPRU investment firm* is reclassified as an *SNI MIFIDPRU investment firm* or a *non-SNI MIFIDPRU investment firm*.

## 1.3 Actions for damages

### 1.3.1

**R**

A contravention of any *rule* in *MIFIDPRU* 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).





## Notification under MIFIDPRU 1.2.4R in respect of the use of the alternative approach to measure AUM and/or COH for the purpose of determining if a firm can be classified as an SNI investment firm

1

*[Editor's note: The form can be found at this address: [https://www.handbook.fca.org.uk/form/MIFIDPRU 1 Annex 1R Notification under MIFIDPRU 1.2.4R .pdf](https://www.handbook.fca.org.uk/form/MIFIDPRU%201%20Annex%201R%20Notification%20under%20MIFIDPRU%201.2.4R.pdf)*



## Notification under MIFIDPRU 1.2.7R(2) of the use of an end-of-day value for CMH as a result of a qualifying error

1

[Editor's note: The form can be found at this address: [https://www.handbook.fca.org.uk/form/MIFIDPRU 1 Annex 2R Notification under MIFIDPRU 1.2.7R\(2\) of the use of an end-of-day value for CMH.pdf](https://www.handbook.fca.org.uk/form/MIFIDPRU%201%20Annex%202R%20Notification%20under%20MIFIDPRU%201.2.7R(2)%20of%20the%20use%20of%20an%20end-of-day%20value%20for%20CMH.pdf)



## Notification under MIFIDPRU 1.2.13R(2)(b) that a non-SNI investment firm qualifies to be reclassified as an SNI investment firm

1

[*Editor's note:* The form can be found at this address: [https://www.handbook.fca.org.uk/form/MIFIDPRU 1 Annex 3R Notification under MIFIDPRU 1.2.13R\(2\)\(b\).pdf](https://www.handbook.fca.org.uk/form/MIFIDPRU%201%20Annex%203R%20Notification%20under%20MIFIDPRU%201.2.13R(2)(b).pdf)]



## Notification under MIFIDPRU 1.2.16R that a firm no longer qualifies to be classified as an SNI investment firm

1

MIFIDPRU 1 Annex 4R Notification under MIFIDPRU 1.2.16R that a firm.group no longer qualifies.pdf





## Application for a permission under MIFIDPRU for which there is no dedicated application form

1

*Editor's note:* The form can be found at this address:[https://www.handbook.fca.org.uk/form/mifidpru/MIFIDPRU1\\_Annex5R\\_20220101.pdf](https://www.handbook.fca.org.uk/form/mifidpru/MIFIDPRU1_Annex5R_20220101.pdf)



## Notification under MIFIDPRU for which there is no dedicated notification form

1

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