Chapter 10

Firms acting as clearing members and indirect clearing firms

10.3 Application of K-DTF requirement to clearing activities

10.3.1 R

(1) This *rule* applies to transactions in *financial instruments* in relation to which a *MIFIDPRU investment firm* provides clearing services in its capacity as a *clearing member* or an *indirect clearing firm*.

(2) Except where ■ MIFIDPRU 10.3.2R applies, a *firm* must include the transactions in (1) in its calculation of *DTF* for the purposes of the *K-DTF requirement* in accordance with the remainder of this *rule*.

(3) The transactions in (1) must be included in a *firm's DTF* on the following basis:

(a) where the order that gave rise to the clearing transaction was a *cash trade*, the clearing transaction must also be treated as if it were a *cash trade* (irrespective of whether it would otherwise meet that definition); and

(b) where the order that gave rise to the clearing transaction was a *derivatives trade*, the clearing transaction must also be treated as if it were a *derivatives trade* (irrespective of whether it would otherwise meet that definition).

10.3.2 R

(1) This *rule* applies where a *firm*:

(a) executes an order:

(i) in its own name (whether for its own account or on behalf of a *client*); or

(ii) in the name of a *client*; and

(b) also provides clearing services in its capacity as a *clearing member* or *indirect clearing firm* in relation to a transaction that results from the order in (a).

(2) Where this *rule* applies, the value of the relevant order in (1)(a) is not included in the *firm's* measurement of *DTF* attributable to clearing services under ■ MIFIDPRU 10.3.1R, provided that the value of the order has already been included in one of the following in relation to the *firm's* execution services:

(a) the calculation of the *firm's COH* under ■ MIFIDPRU 4.10 (K-COH requirement); or

(b) the calculation of the *firm's DTF* under ■ MIFIDPRU 4.15 (K-DTF requirement).

10.3.3 G

(1) ■ MIFIDPRU 10.3.1R requires a *MIFIDPRU investment firm* to calculate an additional *K-DTF requirement* for any clearing transactions it undertakes in relation to *financial instruments*.

(2) ■ MIFIDPRU 10.3.2R applies to a *MIFIDPRU investment firm* that both executes an order and subsequently provides clearing services in relation to the resulting transaction (including where the *firm* is acting as a self-clearing *firm*). In this case, the *firm* is not required to include the clearing transaction in its calculation of *DTF*, provided that the value of the original executed order has already been included in either the *firm's* measurement of its *DTF* or *COH*.

(3) The intention of ■ MIFIDPRU 10.3.2R is that a *firm* is not required to "double-count" the value of the original order and the resulting clearing transaction where the *firm* is involved in both executing and clearing the same trade.

10.3.4 R

Where prudential consolidation applies to a *UK parent entity* under ■ MIFIDPRU 2.5.7R, the *UK parent entity* must include within the calculation of its consolidated *K-DTF requirement* any transactions that are cleared by *clearing members* or *indirect clearing firms* that are included within its *consolidated situation*.