

Chapter 4

Own funds requirements

4.11 Trading book and dealing on own account: general provisions

- 4.11.1** G References to *trading book* positions in *MIFIDPRU* include all *trading book* positions of the *firm*, including positions in:
- (1) equity instruments;
 - (2) debt instruments (including securitisation instruments);
 - (3) collective investment undertakings;
 - (4) foreign exchange;
 - (5) gold; and
 - (6) commodities and emissions allowances.
- 4.11.2** G
- (1) For the purposes of the definition of a *position held with trading intent* in relation to the *trading book*, positions arising from client servicing include those arising out of contracts in relation to which a *firm* is acting as principal (even in the context of activity described as 'broking' or 'customer business'). This applies even if the nature of the business means that the only risks incurred by the *firm* are counterparty risks (i.e. no market risk charges apply).
 - (2) If the nature of the business means that the only risks incurred by the *firm* are counterparty risks, the position will generally still be a *position held with trading intent*.
 - (3) The *FCA* understands that business carried out under International Uniform Brokerage Execution ("Give-Up") Agreements involve back to back trades as principal. If so, positions arising out of business carried out under such agreements should be allocated to a *firm's trading book*.
- 4.11.3** R
- (1) A *MIFIDPRU investment firm* must manage its *trading book* in accordance with Chapter 3 of Title I of Part Three of the *UK CRR* in the form in which it stood at 31 December 2021, with the following modifications:
 - (a) if a *firm* is unsure whether a position is a *position held with trading intent* or is held to hedge a *position held with trading intent*, the *firm* must include that position within its *trading book*;

- (b) the following provisions of the *UK CRR* do not apply:
 - (i) article 102(1);
 - (ii) article 102(4);
 - (iii) article 104(2)(g); and
 - (iv) article 106;
- (c) the reference in article 104(1) of the *UK CRR* to “policies and procedures for determining which position to include in the trading book” is a reference to “policies and procedures for identifying which positions form part of the trading book”.

(2) Any reference to the *UK CRR* in this *rule* is to the *UK CRR* as applied and modified by (1).

4.11.4 **R** The following requirements only apply to a *firm* that *deals on own account*, whether on its own behalf or on behalf of its *clients*:

- (1) the *K-NPR requirement*;
- (2) the *K-CMG requirement*; and
- (3) the *K-TCD requirement*.

4.11.5 **R** The *K-DTF requirement* applies to a *firm* that:

- (1) *deals on own account*; or
- (2) *executes orders on behalf of clients* in the *firm’s* own name.

4.11.6 **G** A *MIFIDPRU investment firm* that *deals on own account* is also subject to the *K-CON requirement* in accordance with **■ MIFIDPRU 5**.

4.11.7 **G** A *MIFIDPRU investment firm* that has *permission to operate an organised trading facility* may rely on that *permission* to:

- (1) carry out *matched principal trading* in certain types of *financial instruments* with *client* consent, in accordance with **■ MAR 5A.3.5R(1)**; and
- (2) *deal on own account* in illiquid *sovereign debt* instruments in accordance with **■ MAR 5A.3.5R(2)**.

In either case, the *firm* will be *dealing on own account* and is therefore subject to the requirements in **■ MIFIDPRU 4.11.4R** and **■ MIFIDPRU 4.11.5R** to the extent relevant to the transactions it undertakes. **■ MIFIDPRU 5** explains how the *K-CON requirement* applies to such *firms*.

4.11.8 **R** A *firm* to which **■ MIFIDPRU 4.11.4R** applies is required to calculate its *K-NPR requirement* and *K-CMG requirement* only in relation to:

- (1) *trading book* positions; and

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- (2) positions other than *trading book* positions where the positions give rise to foreign exchange risk or commodity risk.
- (1) This *rule* applies where a *firm* has deliberately taken a position to hedge against the adverse impact of a foreign exchange rate on:
- (a) the *firm's own funds requirement*; or
 - (b) an item which the *firm* has deducted from its *own funds*.
- (2) A *firm* may exclude a position in (1) from its net open currency positions for the purpose of article 352 of the *UK CRR* (as applied by ■ MIFIDPRU 4.12.2R) if the *firm* has prior permission from the *FCA*.
- (3) To obtain the permission in (2), a *firm* must:
- (a) complete the application form in ■ MIFIDPRU 4 Annex 1R and submit it to the *FCA* using the *online notification and application system*;
 - (b) in the application, demonstrate to the satisfaction of the *FCA* that the position is:
 - (i) used for one of the hedging purposes in (1)(a) or (1)(b); and
 - (ii) of a non-trading or structural nature.
- (4) This *rule* replaces article 352(2) *UK CRR* where that article would otherwise apply under ■ MIFIDPRU 4.12.2R.

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A *firm* to which ■ MIFIDPRU 4.11.4R applies is required to calculate its *K-TCD requirement* only in relation to the following:

- (1) transactions that form part of its *trading book*; and
- (2) transactions specified in ■ MIFIDPRU 4.14.3R(7).