# Chapter 7

# Governance and risk management

## 7.6 ICARA process: assessing and monitoring the adequacy of own funds

**7.6.1** R This section applies to a *MIFIDPRU investment firm*.

**7.6.2** R As part of its *ICARA process*, a *firm* must produce a reasonable estimate of the *own funds* it needs to hold to address:

(1) any potential material harms that the *firm* has identified under ■ MIFIDPRU 7.4.13R and in relation to which it has not taken any measures to reduce the impact of the harms under ■ MIFIDPRU 7.4.9R; and

(2) any residual potential material harms that remain after the *firm* has taken measures to reduce the impact of the harms under ■ MIFIDPRU 7.4.9R.

**7.6.3** R (1) A *firm* must assess on the basis of its analysis under ■ MIFIDPRU 7.6.2R whether it should hold additional *own funds* in excess of its *own funds requirement* to comply with the *overall financial adequacy rule*.

(2) When carrying out the assessment in (1), a *firm* must not:

(a) determine that it needs a lower level of *own funds* for an activity or harm than is required by a *rule* in ■ MIFIDPRU 4 (Own funds requirements) or ■ MIFIDPRU 5 (Concentration risk); or

(b) use components of the *own funds requirement* to cover potential material harms that cannot reasonably be attributed to that component.

**7.6.4** G (1) The *overall financial adequacy rule* requires a *firm* to hold adequate *own funds* to ensure that:

(a) the *firm* is able to remain financially viable throughout the economic cycle, with the ability to address any potential material harms that may result from its ongoing activities; and

(b) the *firm's* business can be wound down in an orderly manner.

(2) To comply with the *overall financial adequacy rule*, a *firm* must therefore hold the higher of:

(a) the amount of *own funds* that the *firm* requires at any given point in time to *fund* its ongoing business operations, taking into

account potential periods of financial stress during the economic cycle; and

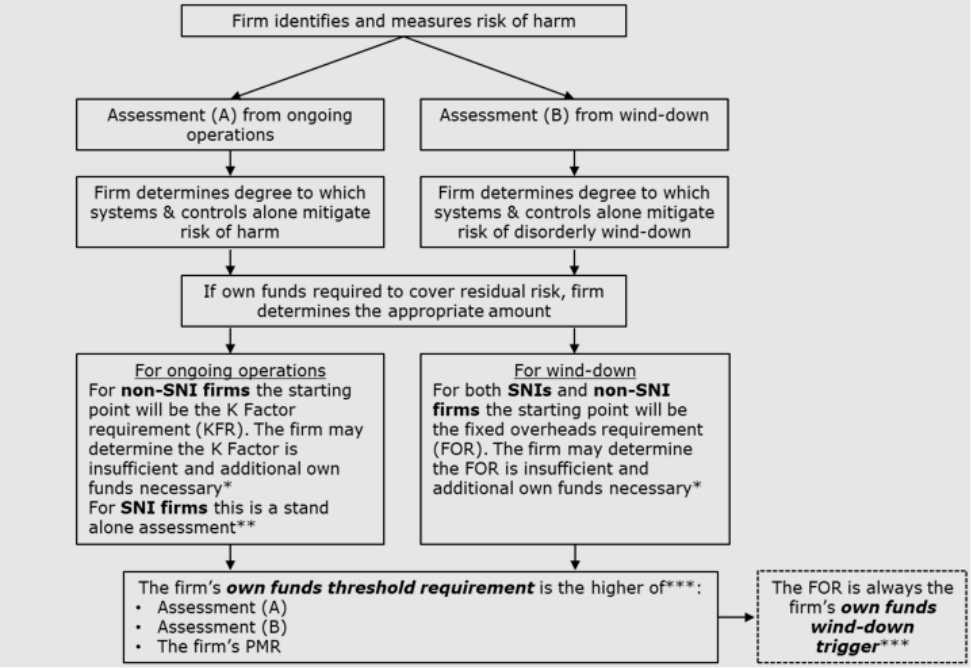
(b) the amount of *own funds* that a *firm* would need to hold to ensure that the *firm* can be wound down in an orderly manner.

(3) The *own funds threshold requirement* is the amount of *own funds* that a *firm* needs to hold at any given time to comply with the *overall financial adequacy rule*.

(4) The *firm's* analysis of potential material harms under ■ MIFIDPRU 7.6.2R is particularly relevant when it is considering the level of *own funds* that are necessary for the ongoing operation of its business. It is also be relevant when considering how the *firm* should address potential material harms as part of an orderly wind-down.

(5) The following diagram summarises the process that a *firm* should undertake to determine its *own funds threshold requirement*:

Calculating the own funds threshold requirement




(6) ■ MIFIDPRU TP 2.25AR and ■ MIFIDPRU TP 2.25BG contain *rules* and *guidance* on the interaction between a firm's *own funds threshold requirement* and the alternative requirement for its *fixed overheads requirement*, *K-factor requirement* or *permanent minimum capital requirement*.

*The *own funds threshold requirement* cannot be lower than the *K-factor requirement* or the *fixed overheads requirement*.

**The *K-factor requirement* does not apply to *SNI MIFIDPRU investment firms* and the *permanent minimum capital requirement* (PMR) is not linked to harm.

***Unless otherwise specified by the *FCA*.

**7.6.5** R

(1) Unless (2) applies, a *firm* must meet its *own funds threshold requirement* with *own funds* that satisfy the following conditions:

(a) subject to (b), at least 75% of the *own funds threshold requirement* must be met with any combination of *common equity tier 1 capital* and *additional tier 1 capital*; and

(b) at least 56% of the *own funds threshold requirement* must be met with *common equity tier 1 capital*.

(2) The *FCA* may specify an alternative combination of *own funds* for the purpose of (1) in a requirement applied to a *firm*.

**7.6.6** G

(1) ■ MIFIDPRU 7.6.7G and ■ 7.6.8G explain the approach a *non-SNI MIFIDPRU investment firm* should apply to carry out the assessment in ■ MIFIDPRU 7.6.3R.

(2) ■ MIFIDPRU 7.6.9G explains the approach that an *SNI MIFIDPRU investment firm* should apply to carry out the assessment in ■ MIFIDPRU 7.6.3R.

(3) ■ MIFIDPRU G explains the approach that all *MIFIDPRU investment firms* should apply when assessing their *own funds threshold requirement*.

**7.6.7** G

(1) ■ MIFIDPRU 4 and ■ 5 explain how a *firm* must determine its *own funds requirement*. Where, as part of its *ICARA process*, a *firm* has identified potential material harms that cannot be fully mitigated, the *firm* should first consider the extent to which the impact of the residual harm on *own funds* is covered (wholly or partly) by the framework in ■ MIFIDPRU 4 and ■ 5.

(2) Example 1: If the potential material harm arises from the ordinary course of the *firm's portfolio management* business, a *non-SNI MIFIDPRU investment firm* should consider the potential impact of the harm by comparison with the *firm's K-AUM requirement*. If the harm is a harm that might typically arise from *portfolio management*, the *firm* may treat the harm as covered by the *K-AUM requirement*. However, if the harm is unusual in nature or might be particularly severe (for example, fraud or other irregularities), it would be unreasonable for the *firm* to treat the harm as fully covered by the *K-AUM requirement*. This is because the *K-AUM requirement* is designed to address typical harms from ordinary *portfolio management*, and not every conceivable material harm that might result from this activity.

(3) Example 2: If the potential material harm arises from the ordinary course of the *firm* investing its own proprietary capital in positions allocated to the *trading book*, a *non-SNI MIFIDPRU firm* should consider the nature of that harm. For example, if the harm relates to the ordinary operational aspects of *dealing on own account*, the *firm* may treat the harm as covered by the *K-DTF requirement*, unless the harm is unusual or particularly severe. If the harm arises from adverse market movements in relation to the *firm's trading book* positions, the *firm* may treat the harm as covered by the *K-NPR requirement* (or *K-CMG requirement* if the position arises in a *portfolio* for which the *firm* has received a *K-CMG permission*), unless the relevant positions

have particular features that mean the harm may be unusual or particularly severe.

(4) Example 3: Some components of the *K-factor requirement*, such as the *K-CON requirement*, reflect specific types of harm. In this case, the *firm* should consider the purpose of the relevant requirement. As the *K-CON requirement* is designed to address the potential harm arising from a *firm* having concentrated exposures to a counterparty or group of connected counterparties, a *non-SNI MIFIDPRU investment firm* should only compare a harm to the *K-CON requirement* where that harm arises from, or is connected to, these concentrated exposures.

(5) Example 4: When assessing harms that may occur during a wind-down of the *firm's* business, a *non-SNI MIFIDPRU investment firm* should consider the potential impact of the harm by comparison with its *fixed overheads requirement*. In this case, the *firm* should identify the likely costs of winding down the *firm* and the potential financial impact of any material harms that might occur while doing so and compare the aggregate amount with the *fixed overheads requirement*. This will allow a *firm* to determine whether they are holding sufficient *own funds* to ensure an orderly wind-down, as required by the *overall financial adequacy rule*.

**7.6.8** G

(1) Some harms may not fit within the *own funds requirement* framework in ■ MIFIDPRU 4 or ■ 5 because they cannot reasonably be attributed to the activities or risks that the *rules* in those chapters are designed to address. Where the harms are potentially material in nature, a *non-SNI MIFIDPRU investment firm* will need to assess their potential financial impact separately and cannot treat those harms as covered (either wholly or partly) by a requirement under ■ MIFIDPRU 4 or ■ 5. This includes potential material harms resulting from any *regulated activities* that are not *MiFID business* and from any *unregulated activities*.

(2) Example 1: A *non-SNI MIFIDPRU investment firm* undertakes significant amounts of *corporate finance business*. The *K-factor requirement* does not include any components which are designed to address the potential harms arising from this type of business, as none of the *K-factor metrics* relate to *corporate finance business*. If the *firm* identifies potential material harms that may arise from its corporate finance activities, it cannot therefore compare that harm to any part of the *K-factor requirement*. In this case, the *firm* will need to assess the potential financial impact of that harm and will need to hold additional *own funds* to cover that impact.

(3) Example 2: A *non-SNI MIFIDPRU investment firm* holds *client money* in connection with *designated investment business* that is not *MiFID business*. The *K-CMH requirement* applies only to *MiFID client money*. If the *firm* identifies potential material harms that result from holding *client money* for non-*MiFID business*, it will therefore need to assess the potential financial impact of that harm and hold additional *own funds* to cover that impact. Similarly, if there are material issues arising from currency mismatches in relation to *MiFID client money*, this may be a risk that is not adequately covered by the *K-CMH requirement*.

(4) A *firm* is not required to map the financial impact of every potential material harm to components of its *K-factor requirement*. In some circumstances, it may be impractical or disproportionate to allocate the potential financial impact of harms in this way. Alternatively, it may not be clear that a harm can be allocated to one or more components of the *K-factor requirement*. A *firm* may therefore hold an amount that is additional to its *K-factor requirement* to address a particular harm without determining whether that harm might already be partly covered by the *K-factor requirement*.

(5) Example 3: A *non-SNI MIFIDPRU investment firm* determines that there is a risk of material harm from a cyber incident affecting its IT systems. The *firm's* IT systems are used across all its business lines and the *firm* considers that it is impractical to allocate the financial impact of the cyber incident between particular components of the *K-factor requirement*. In this situation, the *firm* may hold an additional amount of *own funds* (i.e. over and above its *K-factor requirement*) to cover the potential financial impact of the cyber incident without mapping the impact of the harm to specific components of the *K-factor requirement*. However, the *firm* should clearly record the basis on which it has determined the amount of additional *own funds* that are required.

(6) Example 4: A *non-SNI MIFIDPRU investment firm* is appointed as a *depositary*. The *K-CMH requirement* and the *K-ASA requirement* apply only in relation to *MiFID business*, and therefore do not apply to its activities as a *depositary*. If the *firm* identifies a potential material harm that results from its activities as a *depositary*, it will need to assess the potential financial impact of that harm and hold additional *own funds* to cover that impact. A *firm* may have regard to the general methodology for calculating the *K-CMH requirement* and the *K-ASA requirement* when carrying out the assessment in MIFIDPRU 7.6.3R for its activities as a *depositary*.

**7.6.9** G

(1) An *SNI MIFIDPRU investment firm* is not subject to the *K-factor requirement*. In practice, this means that its *own funds requirement* is typically determined by the *fixed overheads requirement*, although for smaller *firms*, the *permanent minimum capital requirement* may be determinative.

(2) An *SNI MIFIDPRU investment firm* should therefore identify all relevant potential material harms from its ongoing business operations that cannot be mitigated by other means and estimate their impact on the *firm's own funds*. It should then compare the aggregate financial impact on *own funds* with the *firm's fixed overheads requirement* (or, if higher, the *permanent minimum capital requirement*).

(3) Separately, an *SNI MIFIDPRU investment firm* should also identify the likely costs of winding down the *firm* and the potential financial impact of any material harms that might occur while doing so and should compare the aggregate amount with the *fixed overheads requirement*. This will allow the *firm* to determine if it is holding sufficient *own funds* to ensure an orderly wind-down, as required by the *overall financial adequacy rule*.

(4) Where an *SNI MIFIDPRU investment firm* is close to exceeding one or more of the thresholds in ■ MIFIDPRU 1.2.1R that would result in the *firm* being reclassified as a *non-SNI MIFIDPRU investment firm*, the *firm* should begin to compare its assessment of the *own funds* that it needs to comply with the *overall financial adequacy rule* with the *K-factor requirement* that would apply to the *firm* if it were a *non-SNI MIFIDPRU investment firm*. The *guidance* in ■ MIFIDPRU 7.6.7G and ■ 7.6.8G is relevant in these circumstances. Comparison with the future *K-factor requirement* will ensure that the *firm* is better prepared to comply with the additional obligations in ■ MIFIDPRU 4 and ■ 5, and that its *ICARA process* is calibrated appropriately, at the point at which the *firm* becomes a *non-SNI MIFIDPRU investment firm*.

**7.6.10** G

(1) ■ MIFIDPRU 7.6.7G to ■ MIFIDPRU 7.6.9G explain the approach that a *firm* should take to determine if a potential harm is covered by the *firm's own funds requirement*. Where a *firm* has identified potential harms that are not covered by its *own funds requirement*, or are covered only partly by its *own funds requirement*, the *firm* should aggregate the estimated financial impact of those harms to determine the overall additional amount of *own funds* (i.e. above its *own funds requirement*) that the *firm* needs to comply with the *overall financial adequacy rule*.

(2) Where the *FCA* disagrees with a *firm's* assessment of the amount of *own funds* that is required by the *overall financial adequacy rule*, the *FCA* may provide individual *guidance* to that *firm* about the amount of *own funds* that the *FCA* considers is necessary to comply with that *rule*. Alternatively, the *FCA* may apply a *requirement* to the *firm* that specifies an amount of *own funds* that the *firm* must hold for that purpose.

(3) The effect of ■ MIFIDPRU 7.6.3R(2) is that a *firm* must not:

(a) determine that it needs a lower level of *own funds* for an activity or harm than is required by a component of the *own funds requirement* that addresses that risk or harm; or

(b) use components of the *own funds requirement* to cover harms that cannot be attributed to that component.

This is illustrated by the example in (4).

(4) Example: A *non-SNI MIFIDPRU investment firm* carries on *portfolio management* and determines that its *K-AUM requirement* is £50,000. However, the *firm* estimates that the actual financial impact of potential harm that may result from its *portfolio management* activities is only £30,000. The *firm* also carries on corporate finance advisory business (which does not give rise to a *K-factor requirement*) and estimates that the financial impact of the potential harm arising from this business is £40,000. The *firm* should not conclude that its *own funds threshold requirement* is £70,000. This is because the *firm* is not permitted to:

(a) conclude that the amount of *own funds* that it holds in relation to its *portfolio management* activities is less than the *K-AUM requirement*. This means that the *firm* is not permitted to substitute its own estimate of £30,000 for the minimum *K-AUM requirement* of £50,000; or

(b) use part of the *K-AUM requirement* to cover potential material harms that do not arise in connection with *portfolio management*. This means that the *firm* cannot reallocate part of the *own funds* that should be held to cover the *K-AUM requirement* to cover risks arising from its corporate finance business.

(5) Instead, assuming that there are no other relevant potential materials harms to be taken into account, the *firm* should conclude that its *own funds threshold requirement* is £90,000, which is the sum of the *K-AUM requirement* and the *firm's* estimate of the potential financial impact of harms arising from its corporate finance business.

**7.6.10A** G

(1) Where a *MIFIDPRU investment firm* is also subject to another prudential regime for its non-*MiFID business*, its *own funds threshold requirement* can be no lower than the total financial resources requirement under that prudential regime. This is illustrated by the examples in (2) and (3).

(2) Firm A is a *collective portfolio management investment firm* that is required under ■ IPRU-INV 11.6 to comply with the applicable requirements of *MIFIDPRU* in parallel with its requirements under ■ IPRU-INV 11. Firm A has an *own funds requirement* of £2,000,000 under *MIFIDPRU* 4 and, through its *ICARA process*, assesses that it needs £500,000 of additional *own funds* to cover potential material harms. However, Firm A also has a total requirement for *own funds* of £3,000,000 under ■ IPRU-INV 11.2. In this case, Firm A's *own funds threshold requirement* would be £3,000,000, because its *own funds threshold requirement* can be no lower than the total resources requirement under any other prudential regime that applies to it (■ IPRU-INV 11).

(3) Firm B is a *collective portfolio management investment firm* that is required under ■ IPRU-INV 11.6 to comply with the applicable requirements of *MIFIDPRU* in parallel with its requirements under ■ IPRU-INV 11. Firm B has an *own funds requirement* of £2,000,000 under ■ MIFIDPRU 4 and, through its *ICARA process*, assesses that it needs £1,500,000 of additional *own funds* to cover potential material harms. Firm B also has a total requirement for *own funds* of £3,000,000 under ■ IPRU-INV 11.2. In this case, Firm B's *own funds threshold requirement* would be £3,500,000. This is because Firm B's assessment of its *own funds threshold requirement* is higher than the total resources requirement under the other prudential regime that applies to it (■ IPRU-INV 11).

## Requirement to notify the FCA of certain levels of own funds

**7.6.11** R

(1) A *firm* must notify the *FCA* immediately in each case where its *own funds* fall below the level of the *firm's*:

*(a) early warning indicator*;

*(b) own funds threshold requirement*; or

*(c) own funds wind-down trigger*, or the *firm* considers that there is a reasonable likelihood that its *own funds* will fall below that level in the foreseeable future.

(2) A notification under (1) must include the following information:

(a) a clear statement of the current level of the *firm's own funds* in comparison to:

(i) its *own funds threshold requirement*; and

(ii) in the case of a notification under (1)(c), the *firm's own funds wind-down trigger*;

(b) an explanation of why the *firm's own funds* have reached the current level;

(c) in the case of a notification made under (1)(a), where the *firm* has identified that its *own funds* may fall below a level specified by the *firm* for the purposes of ■ MIFIDPRU 7.5.5R(1), the recovery actions that the *firm* intends to take, as identified under ■ MIFIDPRU 7.5.5R(2)(a) and ■ 7.5.6G;

(d) in the case of a notification made under (1)(a), confirmation of whether the *firm* expects that its *own funds* could fall below its *own funds threshold requirement* in the foreseeable future and an explanation of why the *firm* expects this to happen;

(e) in the case of a notification made under (1)(b), the recovery actions specified for the purposes of ■ MIFIDPRU 7.5.5R(2)(b) and ■ 7.5.6G that the *firm* has already taken or will take to restore compliance with its *own funds threshold requirement*; and

(f) in the case of a notification made under (1)(c), the *firm's* intentions in relation to activating its wind-down plan.

(3) A *firm* must submit the notification in (1) through the *online notification and application system* using the form in ■ MIFIDPRU 7 Annex 4R.

**7.6.12** G In appropriate cases, the *FCA* may consider that the *early warning indicator* should be set at a different level from 110% of a *firm's own funds threshold requirement*. In this case, the *FCA* may invite a *firm* to apply for a *requirement* in accordance with section 55L(5) of the *Act*, or may impose a *requirement* on the *FCA's* own initiative in accordance with section 55L(3) of the *Act*, to provide for notification to the *FCA* if the *firm's own funds* reach the alternative level.

**7.6.13** G (1) The notification requirement in ■ MIFIDPRU 7.6.11R does not replace a *firm's* obligations under:

(a) *Principle* 11 to disclose appropriately to the *FCA* anything relating to the *firm* of which the *FCA* would reasonably expect notice; or

(b) the general notification requirements in ■ SUP 15.3.

(2) Where a *firm* has submitted a notification under ■ MIFIDPRU 7.6.11R, the notification will generally discharge a *firm's* obligations under *Principle* 11 and the general notification requirements in ■ SUP 15.3 in relation to the matters contained in the notification. However, a *firm* must still consider whether the *FCA* should be notified of developments before any of the notification indicators in ■ MIFIDPRU 7.6.11R occur. In addition, *Principle* 11 and ■ SUP 15.3 may require a firm to notify the *FCA* of additional material information that is not specifically referenced in ■ MIFIDPRU 7.6.11R.

(3) A *MIFIDPRU investment firm* should notify the *FCA* at an early stage of any significant event which creates a material risk of a *firm* ceasing to hold adequate financial resources, even if the impact of that event has not yet fully materialised.

## FCA approach to intervention in relation to own funds

**7.6.14** G

(1) The table in ■ MIFIDPRU 7.6.15G explains the interventions that the *FCA* would generally expect to make where there is evidence that a *MIFIDPRU investment firm* may be at risk of breaching the requirements that apply to its *own funds*. The table sets out the points at which the *FCA* would normally intervene and what actions it would normally take.

(2) The *FCA* would generally expect that the interventions in the table would be cumulative – i.e. in a declining prudential situation, as the *firm* hits each intervention point in turn, the *FCA* would take some or all of the actions associated with that particular point. The actions are intended to be proportionate and progressively stronger responses to address the prudential concerns raised by each intervention point.

(3) However, if a *firm* experiences a sudden adverse event which causes the *firm* to hit multiple intervention points simultaneously, the *FCA* may immediately take the actions associated with the most severe point.

(4) The actions specified in the table do not prevent the *FCA* from taking alternative or additional actions in appropriate cases. The purpose of the table is to provide greater clarity for *firms* on the *FCA's* general expectations and approach to interventions, to assist *firms*' own planning and responses.

**7.6.15** G This table belongs to ■ MIFIDPRU 7.6.14G.

| Intervention point | Purpose | Potential FCA supervisory actions |
|---|---|---|
| **Early warning indicator:**<br>When the *early warning indicator* is triggered, the *firm* must notify the *FCA* under MIFIDPRU 7.6.11R(1)(a) | This is intended as an early warning to the *FCA* that the *firm* may be at risk of breaching its *own funds threshold requirement*.<br>This will allow the *firm* and the *FCA* to consider any preventative action that may be appropriate. | Where the notification is not the expected result of planned action by the *firm*, the *FCA* would normally expect the following to occur:<br>(a) a dialogue between the *FCA* and the *firm* |

| Intervention point | Purpose | Potential FCA supervisory actions |
|---|---|---|
| | | based on the information provided in the notification to understand the reason for the decline in the *firm's own funds* and the *firm's* future plans; and |
| | | (b) enhanced monitoring and supervision of the *firm* by the *FCA*. |
| | | After having considered the information provided by the *firm* about its proposed actions, if the *FCA* reasonably considers that the *firm* may breach its *own funds threshold requirement* in the foreseeable future, the *FCA* may consider the following additional actions: |
| | | (c) requesting that the *firm* cease making discretionary distributions of capital, loans to affiliated entities, payments of dividends or payments of variable remuneration; |
| | | (d) requesting that the *firm* take some or all of the recovery actions identified by the *firm* under MIFIDPRU 7.5.5R(2) and 7.5.6G; |
| | | (e) requesting that the *firm* report additional information to the *FCA*; |
| | | (f) requesting that the *firm* improve its internal risk management and systems and controls; |

| Intervention point | Purpose | Potential FCA supervisory actions |
|---|---|---|
| | | (g) requesting that the *firm* cease making acquisitions; or<br>(h) where appropriate, inviting the *firm* to apply for a requirement under section 55L(5) of the *Act*, or imposing a *requirement* on the *FCA's* own initiative under section 55L(3) of the *Act*, in relation to (c) – (g) above. |
| **Threshold requirement notification**:<br>*Firm* holding insufficient *own funds* to meet its *own funds threshold requirement* | In the *FCA's* view, where a *firm* is failing to hold sufficient *own funds* to comply with its *own funds threshold requirement*, the *firm* will be failing to meet the appropriate resources *threshold condition*.<br>This trigger is intended to prompt the *firm* and the *FCA* to address the breach of *threshold conditions* in a timely manner.<br>Where appropriate, the focus should be on recovery of the *firm* (unless the *firm* chooses to exit the market by voluntarily winding down). However, any proposed actions for recovery must be credible and achievable within a reasonable and | The *FCA* would normally expect that:<br>(a) the *firm* will have taken any relevant recovery actions identified by the *firm* under MIFIDPRU 7.5.5R(2)(a) and 7.5.6G before breaching its *own funds threshold requirement* and will be preparing to take, or will have taken, any relevant recovery actions identified under MIFIDPRU 7.5.5R(2)(b); and<br>(b) the *firm* will cease making discretionary distributions of capital, loans to affiliated entities, payments of dividends or payments of variable remuneration.<br>After having considered the information provided by the *firm* about its proposed actions, if the *FCA* reasonably considers that the *firm* may fail to restore its *own funds* to the level required by the |

| Intervention point | Purpose | Potential FCA supervisory actions |
|---|---|---|
| | realistic timeframe. | *own funds threshold requirement* within a reasonable timeframe, the *FCA* may consider the following additional actions:<br>(c) requesting that the *firm* cease taking on new business;<br>(d) requesting that the *firm* report additional information to the *FCA*;<br>(e) requesting that the *firm's parent undertaking* provides additional *own funds* for the *firm*;<br>(f) where appropriate, inviting the *firm* or its *parent undertaking* to apply for a *requirement* under section 55L(5) or section 143K(1) of the *Act*, or imposing a requirement on the *FCA's* own initiative under section 55L(3) or section 143K(2) of the *Act*, in relation to (a) – (e) above; or<br>(g) where appropriate, inviting the *firm* to apply for variation or cancellation of *permission* under section 55H of the *Act*, or varying or cancelling the *firm's permission* on the *FCA's* own initiative under section 55J of the *Act*.<br>The *FCA* would also expect the *firm* to consider whether it is appropriate to trigger the *firm's* wind-down plan under MIFIDPRU 7.5.7R to ensure |

| Intervention point | Purpose | Potential FCA supervisory actions |
|---|---|---|
| | | an orderly wind-down of its business. This may be the case where the *firm's* identified wind-down actions will require a reasonable length of time to execute, such as where the *firm* will need to transfer customers or close out its own positions. |
| **Wind-down trigger notification:**<br>*Firm's own funds* fall below its *own funds wind-down trigger* | The *own funds wind-down trigger* is intended to specify a level of *own funds* that is sufficient to ensure an orderly wind-down of the *firm*.<br>Where the *firm's own funds requirement* is determined by the *fixed overheads requirement* and the *firm* has not identified that it needs to hold additional *own funds* to comply with the *overall financial adequacy rule*, the *own funds wind-down trigger* may be equal to the *firm's own funds threshold requirement*. In that case, the *FCA* may proceed directly to applying the interventions in this row, rather than those specified for a breach of the *own funds threshold requirement* above.<br>In order to | The *FCA* would normally expect the following to occur:<br>(a) the *firm's governing body* will make a formal decision to initiate the *firm's* wind-down plan, unless the *governing body* has a reasonable basis for determining that there is an imminent and credible likelihood of the *firm's* recovery; and<br>(b) where the *firm* decides to initiate its wind-down plan, the *FCA* will invite the *firm* to apply for a *requirement* under section 55L(5) of the *Act*, or will impose a *requirement* on the *FCA's* own initiative under section 55L(3) of the *Act*, that prevents the *firm* from taking on any new business.<br>The *FCA* may consider the following additional actions if it has concerns |

| Intervention point | Purpose | Potential FCA supervisory actions |
|---|---|---|
| | maximise the potential for an orderly wind-down, the *FCA* expects that *firms* that breach this trigger should normally commence winding down immediately, unless the *firm's governing body* and the *FCA* determine that there is an imminent and credible likelihood of recovery. | that without such actions, the potential risk of harm to consumers or the markets is likely to increase:<br>(c) taking appropriate action to protect any *client money* or *client assets*, including, where appropriate, inviting the *firm* to apply for a *requirement* under section 55L(5) of the *Act*, or imposing a *requirement* on the *FCA's* own initiative under section 55L(3) of the *Act*, to achieve any necessary protection; and<br>(d) where appropriate, inviting the *firm* to apply for variation or cancellation of *permission* under section 55H of the *Act*, or varying or cancelling the *firm's permission* on the *FCA's* own initiative under section 55J of the *Act*.<br>If a *firm* refuses to commence an orderly wind-down despite its *governing body* or the *FCA* having concluded that there is no imminent and credible likelihood of recovery, the *FCA* will consider the full range of its supervisory powers. In particular, the *FCA* may use a combination of its own initiative powers under section 55L(3) and section 55J of the *Act* to:<br>(e) prevent the *firm* from continuing to carry on any *regulated activities*; and |

| Intervention point | Purpose | Potential FCA supervisory actions | |
|---|---|---|---|
| | | (f) | require the *firm* to take appropriate actions to ensure the fair treatment and appropriate protection of *clients* and counterparties during any run-off period for its existing regulated business. |