

**CAPITAL REQUIREMENTS DIRECTIVE IV (CONSEQUENTIAL AMENDMENTS)
INSTRUMENT 2013**

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
 - (2) section 137B (FCA general rules: clients’ money, right to rescind etc);
 - (3) section 137T (General supplementary powers);
 - (4) section 138D (Actions for damages);
 - (5) section 139A (Power of the FCA to give guidance);
 - (6) section 213 (The compensation scheme); and
 - (7) paragraph 23 (Fees) of schedule 1ZA (The Financial Conduct Authority).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 January 2014.

Amendments to the FCA Handbook

- D. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes in this instrument listed in column (2) below.

(1)	(2)
Glossary of definitions	Annex A
Principles for Businesses (PRIN)	Annex B
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex C
General Provisions (GEN)	Annex D
Fees manual (FEES)	Annex E
Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)	Annex F
Prudential sourcebook for UCITS Firms (UPRU)	Annex G
Interim Prudential sourcebook for Friendly Societies (IPRU(FSOC))	Annex H
Interim Prudential sourcebook for Investment Businesses (IPRU(INV))	Annex I
Client Assets sourcebook (CASS)	Annex J
Market Conduct sourcebook (MAR)	Annex K
Supervision manual (SUP)	Annex L
Compensation sourcebook (COMP)	Annex M
Collective Investment Schemes sourcebook (COLL)	Annex N
Credit Unions sourcebook (CREDS)	Annex O

Investment Funds sourcebook (FUND)	Annex P
Regulated Covered Bonds sourcebook (RCB)	Annex Q
Prospectus Rules sourcebook (PR)	Annex R
Disclosure Rules and Transparency Rules sourcebook (DTR)	Annex S
Energy Market Participants Guide (EMPS)	Annex T
Oil Market Participants Guide (OMPS)	Annex U

Material outside the Handbook

- E. The Enforcement Guide (EG) is amended in accordance with Annex V to this instrument.
- F. The Perimeter Guidance manual (PERG) is amended in accordance with Annex W to this instrument.

Notes

- G. In the Annexes to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- H. This instrument may be cited as the Capital Requirements Directive IV (Consequential Amendments) Instrument 2013.

By order of the Board of the Financial Conduct Authority
12 December 2013

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Amend the following definitions as shown.

<i>approved credit institution</i>	a <i>credit institution</i> recognised or permitted under the law of an <i>EEA State</i> to carry on any of the activities set out in Annex 1 to the <i>Banking Consolidation Directive</i> <u><i>CRD</i></u> .
<i>branch</i>	<p>(a) (in relation to a <i>credit institution</i>):</p> <p>...</p> <p>(ii) for the purposes of the <i>Banking Consolidation Directive</i> <u><i>CRD</i></u> and in accordance with article 38 of the <u><i>CRD</i></u>, any number of places of business set up in the same <i>EEA State</i> by a <i>credit institution</i> with headquarters in another <i>EEA State</i> are to be regarded as a single <i>branch</i>;</p> <p>...</p>
<i>capital resources gearing rules</i>	<p>...</p> <p>(2) (in relation to a bank or building society) GENPRU 2.2.29R, GENPRU 2.2.30R, GENPRU 2.2.46R and GENPRU 2.2.49R. [deleted]</p> <p>(3) (in relation to a <i>BIPRU investment firm</i>) GENPRU 2.2.30R, GENPRU 2.2.46R and GENPRU 2.2.49R and GENPRU 2.2.50R.</p>
<i>capital resources table</i>	<p>(in relation to an <i>insurer</i> or <i>BIPRU firm</i>) the table specified in GENPRU 2.2.19R (Applicable capital resources calculation) which in summary is as follows:</p> <p>(1) (in the case of an <i>insurer</i>) GENPRU 2 Annex 1R; <u>and</u></p> <p>(2) (in the case of a bank) GENPRU 2 Annex 2R; [deleted]</p>

- (3) ~~(in the case of a *building society*) GENPRU 2 Annex 3R; and [deleted]~~
- (4) (in relation to a *BIPRU investment firm*) whichever of the tables in *GENPRU 2 Annex 4R*, *GENPRU 2 Annex 5R* or *GENPRU 2 Annex 6R* applies to the *firm* under *GENPRU 2.2.19R*.
- CCR internal model method permission* an *Article 129 implementing measure*, *Article 129 permission*, a requirement or a waiver that requires a *BIPRU firm* or ~~an *institution*~~ a *CAD investment firm* to use the *CCR internal model method*.
- common platform firm* a *firm* that is:
- (a) a *BIPRU firm*; or
 - (aa) a *bank*; or
 - (ab) a *building society*; or
 - (ac) a *designated investment firm*; or
 - (ad) an *IFPRU investment firm*; or
- ...
- consolidated requirement component* has the meaning in *BIPRU 8.7.11R* (Calculation of the consolidated requirement components), which in summary is one of the following:
- (c) the *consolidated market risk requirement*; ~~or~~ .
 - (d) ~~the *consolidated operational risk requirement*~~.
[deleted]
- consolidation group* (1) the following:
- (2) (for the purposes of *SUP 16*) the *undertakings included in the scope of prudential consolidation to the extent and in the manner prescribed in Part One, Title II, Chapter 2, Sections 2 and 3 of the EU CRR and IFPRU 8.1.3R to IFPRU 8.1.4R (Prudential consolidation)* for which the *FCA* is the *consolidating supervisor* under article 111 of the *CRD*.
- consumer* ...

(D) (for the purposes of (2A)(b)):

(a) “credit institution” means:

(i) a credit institution authorised under the ~~banking consolidation directive~~ CRD;
or

...

conversion factor

(in accordance with Article 4(28) of the *Banking Consolidation Directive* (Definitions) and for the purposes of *BIPRU*) the ratio of the currently undrawn amount of a commitment that will be drawn and outstanding at default to the currently undrawn amount of the commitment; the extent of the commitment is determined by the advised limit, unless the unadvised limit is higher.

counterparty credit risk

(1) (in accordance with Part 1 of Annex III of the *Banking Consolidation Directive* (Definitions) and for the purposes of *BIPRU*) the risk that the counterparty to a transaction could default before the final settlement of the transaction's cash flows.

(2) (other than in (1)) has the meaning as used in the *EU CRR*.

covered bond

...

(2) (in accordance with point 68 of Part 1 of Annex VI of the *Banking Consolidation Directive* (Exposures in the form of covered bonds) and for the purposes of the IRB approach or the *standardised approach* to credit risk in *BIPRU*) a covered bond as defined in (1) collateralised in accordance with *BIPRU* 3.4.107R (Exposures in the form of covered bonds).

...

CRD implementation measure

(in relation to a *person* and for the purposes of *GENPRU* and *BIPRU* (except in *GENPRU* 3 and *BIPRU* 12), a provision of the *Banking Consolidation Directive* or the *Capital Adequacy Directive* and an *EEA State* other than the *United Kingdom*) a measure implementing that provision of that Directive for that type of *person* in that *EEA State*.

credit enhancement

(in accordance with Article 4(43) of the *Banking Consolidation Directive* (Definitions) and for the purposes of *BIPRU*) a contractual arrangement whereby the credit quality of a *position* in a *securitisation* (within the meaning of paragraph (2) of the definition of *securitisation*) is improved

in relation to what it would have been if the enhancement had not been provided, including the enhancement provided by more junior *tranches* in the *securitisation* and other types of credit protection.

credit valuation adjustment (in accordance with Part 1 of Annex III of the *Banking Consolidation Directive* (Definitions) and for the purposes of *BIPRU*) an adjustment to the mid-market valuation of the portfolio of transactions with a counterparty; and so that this adjustment:

...

default (in relation to the *IRB approach* and for the purposes of *BIPRU*) has the meaning in *BIPRU* 4.3 (The IRB approach: Provisions common to different exposure classes).

DGD claim a *claim*, in relation to a *protected deposit*, against a ~~BCD~~ CRD *credit institution*, whether established in the *United Kingdom* or in another *EEA State*.

DLG by default

...

For these purposes:

- (iii) *credit institution* has the meaning used in *SUP* 16 (Reporting requirements), namely either of the following:
 - (A) a credit institution authorised under the ~~*Banking Consolidation Directive*~~ CRD; or
 - (B) an institution which would satisfy the requirements for authorisation as a credit institution under the ~~*Banking Consolidation Directive*~~ CRD if it had its registered office (or if it does not have a registered office, its head office) in an *EEA State*; and

...

EEA bank an *incoming EEA firm* which is a ~~BCD~~ CRD *credit institution*.

EEA firm (in accordance with paragraph 5 of Schedule 3 to the *Act* (EEA Passport Rights)) any of the following, if it does not have its relevant office in the *United Kingdom*:

...

- (b) a *credit institution* (as defined in article 4(1)(1) of the

Banking Consolidation Directive EU CRR);

- (c) a financial institution (as defined in article 4(5)(1)(26) of the *Banking Consolidation Directive EU CRR*) which is a subsidiary of the kind mentioned in article 24 34 of the *CRD* and which fulfils the conditions in articles 23 33 and 24 34;

...

effective expected positive exposure

(in accordance with Part 1 of Annex III of the *Banking Consolidation Directive (Definitions)* and for the purpose of *BIPRU 13*) the weighted average over time of *effective expected exposure* over the first year, or, if all the contracts within the *netting set* mature before one year, over the time period of the longest maturity contract in the *netting set*, where the weights are the proportion that an individual *expected exposure* represents of the entire time interval.

eligible institution

(in *COLL*):

- (a) a ~~BCD~~ *CRD credit institution* authorised by its *Home State regulator*;

...

energy market participant

a *firm*:

...

- (b) which is not an *authorised professional firm, bank, BIPRU investment firm* (unless it is an *exempt BIPRU commodities firm*), *IFPRU investment firm* (unless it is an *exempt IFPRU commodities firm*), *building society, credit union, friendly society, ICVC, insurer, MiFID investment firm* (unless it is an *exempt BIPRU commodities firm or exempt IFPRU commodities firm*), *media firm, oil market participant, service company, insurance intermediary, home finance administrator, home finance provider, incoming EEA firm* (without a *top-up permission*), or *incoming Treaty firm* without a *top-up permission*).

fee-paying electronic money issuer

any of the following when they issue *electronic money*:

...

- (d) a *full credit institution*, including a branch of the *full credit institution* within the meaning of article 4(3) (17) of the ~~BCD~~ *EU CRR* which is situated within the *EEA* and which has its head office in a territory

outside the *EEA* in accordance with article 38 ~~47~~ of the *BCD EU CRR*;

...

financial derivative instrument

(for the purposes of *BIPRU*) has the meaning in *BIPRU* 13.3.3R (Definition of a financial derivative instrument); the definition is adjusted for the purposes of the definition of *counterparty risk capital component* in accordance with *BIPRU* 14.2.3 R (Credit derivatives).

fixed overheads requirement

(1) (except in *IPRU(INV)* and for the purposes of *GENPRU* (except in *GENPRU* 3) and *BIPRU* (except in *BIPRU* 12)) the part of the *capital resources requirement* calculated in accordance with *GENPRU* 2.1.53R (Calculation of the fixed overheads requirement).

...

free delivery

(for the purposes of *BIPRU*) a transaction of the type set out in *BIPRU* 14.4.2R (Requirement to hold capital resources with respect to free deliveries) which, in summary, is a transaction under which a *person*:

...

full ~~BCD~~ CRD credit institution

a ~~BCD~~ *CRD credit institution* that falls within paragraph (1)(a) of the definition of *credit institution*.

funded credit protection

in accordance with Article 4(31) of the *Banking Consolidation Directive* (Definitions) and for the purposes of *BIPRU*) a technique of *credit risk mitigation* where the reduction of the credit risk on the *exposure* of an undertaking derives from the right of the *undertaking*, in the event of the default of the counterparty or on the occurrence of other specified credit events relating to the counterparty, to liquidate, or to obtain transfer or appropriation of, or to retain certain assets or amounts, or to reduce the amount of the *exposure* to, or to replace it with, the amount of the difference between the amount of the *exposure* and the amount of a claim on the *undertaking*.

funds under management

...

(2) (in *IPRU(INV)* and ~~*GENPRU*~~) ...

funds under management requirement

...

(2) (~~in *GENPRU*~~) an amount of *own funds* that a *collective portfolio management investment firm*

must hold under ~~GENPRU 2.1.66R (Requirements for collective portfolio management investment firms)~~. [deleted]

<i>Home State</i>	(1) (in relation to a <i>credit institution</i>) the <i>EEA State</i> in which the <i>credit institution</i> has been authorised in accordance with the <i>Banking Consolidation Directive CRD</i> .
	...
<i>investment management firm</i>	(subject to <i>BIPRU TP 1.3R (Revised definition of investment management firm for certain transitional purposes)</i>), a <i>firm</i> whose <i>permitted activities</i> include <i>designated investment business</i> , which is not an <i>authorised professional firm</i> , <i>bank</i> , <i>BIPRU IFPRU investment firm</i> , <i>BIPRU firm</i> , <i>building society</i> , <i>collective portfolio management firm</i> , <i>credit union</i> , <i>energy market participant</i> , <i>friendly society</i> , <i>ICVC</i> , <i>insurer</i> , <i>media firm</i> , <i>oil market participant</i> , <i>service company</i> , <i>incoming EEA firm</i> (without a <i>top-up permission</i>), <i>incoming Treaty firm</i> (without a <i>top-up permission</i>), or <i>UCITS qualifier</i> (without a <i>top-up permission</i>), whose <i>permission</i> does not include a <i>requirement</i> that it comply with <i>IPRU(INV) 3</i> or <i>IPRU(INV) 13 (Personal investment firms)</i> and which is within (a), (b) or (c):
	...
<i>IRB permission</i>	an <i>Article 129 implementing measure</i> , a <i>requirement</i> or a <i>waiver</i> that requires a <i>BIPRU firm</i> or an <i>institution</i> a <u><i>CAD investment firm</i></u> to use the <i>IRB approach</i> .
<i>lending firm</i>	(in accordance with Article 90 of the <i>Banking Consolidation Directive (Credit risk mitigation)</i> and for the purposes of <i>rules in BIPRU about credit risk mitigation</i>) a <i>firm</i> that has an <i>exposure</i> , whether or not deriving from a loan.
<i>listed activity</i>	an activity listed in Annex 1 to the <i>Banking Consolidation Directive CRD</i> .
<i>main BIPRU firm Pillar 1 rules</i>	<i>GENPRU 2.1.40R (Variable capital requirement for BIPRU firms)</i> , <i>GENPRU 2.1.41R (Base capital resources requirement for BIPRU firms)</i> , <i>GENPRU 2.1.48R (Table: Base capital resources requirement for a BIPRU firm)</i> and, where applicable, <i>GENPRU 2.1.60 R (Calculation of base capital resources requirement for banks authorised before 1993)</i> .
<i>master netting agreement internal models approach permission</i>	a <i>requirement</i> or a <i>waiver</i> that requires a <u><i>BIPRU firm</i></u> to use the <i>master netting agreement internal models approach</i> on a solo basis or, if the context requires, a consolidated basis.

<i>matched principal exemption conditions</i>	(for the purposes of <i>BIPRU</i>) the conditions set out in <i>BIPRU</i> 1.1.23R(2) (Meaning of dealing on own account).
<i>MiFID investment firm</i>	<p>...</p> <p>(in full) a <i>firm</i> which is:</p> <p>...</p> <p>(2) a <i>BCD CRD credit institution</i> (only when providing an <i>investment service or activity</i> in relation to the <i>rules</i> implementing the Articles referred to in Article 1(2) of <i>MiFID</i>);</p> <p>...</p>
<i>mixed-activity holding company</i>	<p>one of the following:</p> <p>(a) (in accordance with Article 4(20) of the <i>Banking Consolidation Directive (Definitions)</i>) a <i>parent undertaking</i>, other than a <i>financial holding company</i>, a <i>credit institution</i> or a <i>mixed financial holding company</i>, the <i>subsidiary undertakings</i> of which include at least one <i>credit institution</i>; or</p> <p>(b) (in accordance with Articles 2(2) and 37(1) of the <i>Capital Adequacy Directive (Supervision on a consolidated basis)</i> and in relation to a <i>banking and investment group</i> without any <i>credit institutions</i> in it) a <i>parent undertaking</i>, other than a <i>financial holding company</i>, an <i>investment firm</i> or a <i>mixed financial holding company</i>, the <i>subsidiary undertakings</i> of which include at least one <i>investment firm</i>.</p> <p><u>has the meaning given to the definition of “mixed activity holding company” in article 4(1)(22) of the <i>EU CRR</i>.</u></p>
<i>multilateral development bank</i>	<p>...</p> <p>(b) <u>(in <i>BIPRU</i>) for the purposes of the <i>standardised approach</i> to credit risk the following are considered to be a multilateral development bank:</u></p> <p>...</p>
<i>oil market participant</i>	<p>a <i>firm</i>:</p> <p>...</p> <p>(b) which is not an <i>authorised professional firm, bank,</i></p>

BIPRU investment firm, (unless it is an *exempt BIPRU commodities firm*), *IFPRU investment firm* (unless it is an *exempt IFPRU commodities firm*), *building society*, *credit union*, *friendly society*, *ICVC*, *insurer*, *MiFID investment firm* (unless it is an *exempt BIPRU commodities firm* or *exempt IFPRU commodities firm*), *media firm*, *service company*, *insurance intermediary*, *home finance administrator*, *mortgage intermediary*, *home finance provider*, *incoming EEA firm* (without a *top-up permission*), or *incoming Treaty firm* (without a *top-up permission*).

one-sided credit valuation adjustment

(in accordance with Part 1 of Annex III of the *Banking Consolidation Directive* (Definitions) and for the purposes of *BIPRU*) a *credit valuation adjustment* that reflects the market value of the credit risk of the counterparty to a *firm*, but does not reflect the market value of the credit risk of the *firm* to the counterparty.

option

...

but so that for the purposes of calculating capital requirements for *BIPRU firms* and *BIPRU 10* (~~Large exposures requirements~~) it also includes any of the items listed in the table in *BIPRU 7.6.18R* (Option PRR: methods for different types of option) and any cash settled option.

permanent interest bearing shares

any shares of a class defined as deferred shares for the purposes of section 119 of the Building Societies Act 1986 which are issued as permanent interest-bearing shares and on terms which qualify them as own funds for the purposes of the *Banking Consolidation Directive EU CRR*.

personal investment firm

(~~subject to *BIPRU TP 1* (Revised definition of personal investment firm for certain transitional purposes)~~) a *firm* whose *permitted activities* include *designated investment business*, which is not an *authorised professional firm*, *bank*, *BIPRU IFPRU investment firm*, *BIPRU firm*, *building society*, *collective portfolio management firm*, *credit union*, *energy market participant*, *ICVC*, *insurer*, *media firm*, *oil market participant*, *service company*, *incoming EEA firm* (without a *top-up permission*), *incoming Treaty firm* (without a *top-up permission*) or *UCITS qualifier* (without a *top-up permission*), whose *permission* does not include a *requirement* that it comply with *IPRU(INV) 3* (Securities and futures firms) or 5 (Investment management firms), and which is within (a), (b) or (c):

...

PII capital requirement

...

	(2) (in GENPRU) an amount of own funds that a collective portfolio management investment firm must hold in relation to its professional indemnity insurance policy to cover any defined excess (as set out in article 15 of the AIFMD level 2 regulation (professional indemnity insurance) (as replicated in GENPRU 2.1.71EU)) and exclusions to that policy (as set out in GENPRU 2.1.72R (Requirements for collective portfolio management investment firms)). [deleted]
<i>probability of default</i>	(in accordance with Article 4(25) of the <i>Banking Consolidation Directive</i> (Definitions) <u>and for the purpose of BIPRU</u>) the probability of default of a counterparty over a one year period; for the purposes of the <i>IRB approach</i> , default has the meaning in the definition of <i>default</i> .
<i>professional negligence capital requirement</i>	... (2) (in GENPRU) an amount of own funds that a collective portfolio management investment firm must hold for professional liability risks as set out in article 14 of the AIFMD level 2 regulation (additional own funds) (as replicated in GENPRU 2.1.70EU (Requirements for collective portfolio management investment firms)). [deleted]
<i>protection buyer</i>	<u>(in BIPRU)</u> (in relation to a credit derivative and in accordance with paragraph 8 of Annex I of the <i>Capital Adequacy Directive</i> (Calculating capital requirements for position risk)) the <i>person</i> who transfers credit risk.
<i>protection seller</i>	<u>(in BIPRU)</u> (in relation to a credit derivative and in accordance with paragraph 8 of Annex I of the <i>Capital Adequacy Directive</i> (Calculating capital requirements for position risk)) the <i>person</i> who assumes the credit risk.
<i>PRR item</i>	<u>(in BIPRU)</u> a <i>commodity</i> or a <i>CRD financial instrument</i> .
<i>public sector entity</i>	(in accordance with Article 4(18) of the <i>Banking Consolidation Directive</i> (Definitions) <u>and for the purposes of BIPRU</u>) any of the following: ...
<i>qualifying equity index</i>	<u>(in BIPRU)</u> an <i>equity index</i> falling into <u>in</u> <u>within</u> <i>BIPRU</i> 7.3.38R (Definition of a qualifying equity index).
<i>recognised third country credit institution</i>	a full BCD <u>CRD</u> <i>credit institution</i> that satisfies the following conditions:

...

- (b) it is authorised by a *third country competent authority* in the state or territory in which the credit institution's head office is located; and
- (c) that ~~third country competent authority is named in Part 1 of BIPRU 8 Annex 6R (Non-EEA banking regulator's requirements deemed CRD equivalent for individual risks); and~~ applies prudential and supervisory requirements to that credit institution that are at least equivalent to those applied in the EEA.
- ~~(d) there is a tick against that *third country competent authority* in each of the columns headed "Market risk", "Credit risk" and "Operational risk" in the table referred to in (c).~~

recognised third country investment firm

a *CAD investment firm* that satisfies the following conditions:

...

- (d) that ~~investment firm~~ *investment firm* is subject to and complies with prudential rules of or administered by that *third country competent authority* that are at least as stringent as those laid down in the ~~EEA prudential sectoral legislation for the investment services sector~~ *Banking Consolidation Directive* and the *Capital Adequacy Directive* as applied under the third paragraph of article 95(2) of the *EU CRR*.

regulatory system

the arrangements for regulating a *firm* or other *person* in or under the *Act*, including the *threshold conditions*, the *Principles* and other *rules*, the *Statements of Principle*, codes and *guidance* and including any relevant directly applicable provisions of a Directive or Regulation such as those contained in the *MiFID implementing Directive*, ~~and~~ the *MiFID Regulation* and the *EU CRR*.

remuneration

any form of remuneration, including salaries, *discretionary pension benefits* and benefits of any kind.

~~[Note: paragraph 23 of Annex V to the *Banking Consolidation Directive* article 92(2) of the *CRD*]~~

Remuneration Code staff

(for a *BIPRU CRR firm* and a ~~third country BIPRU firm~~ *an overseas firm in SYSC 19A1.1.1R(1)(f)*) has the meaning given in SYSC 19A.3.4 R.

repurchase transaction

(in accordance with Article 3(1)(m) of the *Capital Adequacy Directive* and Article 4(33) of the *Banking Consolidation*

Directive (Definitions) and for the purposes of BIPRU) any agreement in which an undertaking or its counterparty transfers securities or commodities or guaranteed rights relating to title to securities or commodities where that guarantee is issued by a designated investment exchange or recognised investment exchange which holds the rights to the securities or commodities and the agreement does not allow an undertaking to transfer or pledge a particular security or commodity to more than one counterparty at one time, subject to a commitment to repurchase them or substituted securities or commodities of the same description at a specified price on a future date specified, or to be specified, by the transferor, being a repurchase agreement for the undertaking selling the securities or commodities and a reverse repurchase agreement for the undertaking buying them.

risk capital requirement

(1) (in relation to the ~~appropriate regulator's~~ FCA's rules) one of the following:

...

(b) the *fixed overheads requirement*; or

(c) the *market risk capital requirement*; or

~~(d) the *operational risk capital requirement*; or~~

...

risk weight

(in relation to an *exposure* for the purposes of BIPRU) a degree of risk expressed as a percentage assigned to that *exposure* in accordance with whichever is applicable of the *standardised approach* to credit risk and the *IRB approach*, including (in relation to a *securitisation position*) under *BIPRU 9 (Securitisation)*.

risk weighted exposure amount

(in relation to an *exposure* for the purposes of BIPRU) the value of an *exposure* for the purposes of the calculation of the *credit risk capital component* after application of a *risk weight*.

secured lending transaction

(in accordance with point 2 of Part 1 of Annex VIII of the *Banking Consolidation Directive (Eligibility of credit risk mitigation) and for the purposes of BIPRU*) any transaction giving rise to an *exposure* secured by collateral which does not include a provision conferring upon the *person* with the *exposure* the right to receive margin frequently.

securities and futures firm

~~(subject to *BIPRU TP 1 (Revised definition of securities and futures firm for certain transitional purposes)*) a firm whose permitted activities include *designated investment business* or~~

bidding in emissions auctions, which is not an authorised professional firm, bank, BIPRU investment firm (unless it is an exempt BIPRU commodities firm), IFPRU investment firm (unless it is an exempt IFPRU investment firm), building society, collective portfolio management firm, credit union, friendly society, ICVC, insurer, media firm, service company, incoming EEA firm (without a top-up permission), incoming Treaty firm (without a top-up permission) or UCITS qualifier (without a top-up permission), whose permission does not include a requirement that it comply with IPRU(INV) 5 (Investment management firms) or 13 (Personal investment firms), and which is within (a), (b), (c), (d), (e), (f), (g), (ga) or (h):

...

(g) an exempt BIPRU commodities firm;

(ga) an exempt IFPRU commodities firm;

...

securities or commodities lending or borrowing transaction

(in accordance with Article 4(34) of the *Banking Consolidation Directive* and Article 3(1)(n) of the *Capital Adequacy Directive* (Definitions) and for the purposes of BIPRU) any transaction in which an *undertaking* or its counterparty transfers securities or *commodities* against appropriate collateral subject to a commitment that the borrower will return equivalent securities or *commodities* at some future date or when requested to do so by the transferor, that transaction being *securities or commodities lending* for the *undertaking* transferring the securities or *commodities* and being *securities or commodities borrowing* for the *undertaking* to which they are transferred.

...

securitisation special purpose entity

(in accordance with Article 4(44) of the *Banking Consolidation Directive* (Definitions) and for the purposes of BIPRU) a corporation, trust or other entity, other than a *credit institution*, organised for carrying on a *securitisation* or *securitisations* (within the meaning of paragraph (2) of the definition of *securitisation*), the activities of which are limited to those appropriate to accomplishing that objective, the structure of which is intended to isolate the obligations of the *SSPE* from those of the *originator*, and the holders of the beneficial interests in which have the right to pledge or exchange those interests without restriction.

securitised exposure

(for the purposes of *BIPRU*) an *exposure* in the pool of *exposures* that has been securitised, either via a *traditional*

	<i>securitisation</i> or a <i>synthetic securitisation</i> . The cash-flows generated by the securitised exposures are used to make payments to the <i>securitisation positions</i> .
<i>simple capital issuer</i>	a <i>BIPRU firm</i> that meets the following conditions: ... (d) it only includes <i>capital instruments</i> in its <i>tier one capital resources</i> consisting of ordinary <i>shares</i> , <i>PIBS</i> , perpetual non-cumulative preference <i>shares</i> or partnership or <i>limited liability partnership</i> capital accounts; ...
<i>Single Market Directives</i>	(a) the <i>Banking Consolidation Directive</i> (<u>to the extent it applies to <i>CAD investment firms</i></u>) (aa) <u>the <i>CRD</i></u> ; ...
<i>specific risk position risk adjustment</i>	<u>(in <i>BIPRU</i>)</u> a <i>position risk adjustment</i> for specific risk including any such <i>position risk adjustment</i> as applied under <i>BIPRU</i> 7.6.8R (Table: Appropriate position risk adjustment).
<i>standard market risk PRR rules</i>	<u>(in <i>BIPRU</i>)</u> the rules relating to the calculation of the <i>market risk capital requirement</i> excluding the <i>VaR model approach</i> and any <i>rules</i> modified so as to provide for the <i>CAD 1 model approach</i> .
<i>standardised approach</i>	<u>(for the purposes of <i>BIPRU</i>)</u> one of the following: ...
<i>stressed VaR</i>	<u>(in <i>BIPRU</i>)</u> The <u>the</u> stressed VaR measure in respect of <i>positions</i> coming within the scope of the <i>VaR model permission</i> , calculated in accordance with the <i>VaR model</i> , <i>BIPRU</i> 7.10 (Use of a Value at Risk Model) and any methodology set out in the <i>VaR model permission</i> based on a stressed historical period.
<i>synthetic securitisation</i>	(in accordance with Article 4(38) of the <i>Banking Consolidation Directive</i> (Definitions) <u>and for the purpose of <i>BIPRU</i></u>) a <i>securitisation</i> (within the meaning of paragraph (2) of the definition of securitisation) where the <i>tranching</i> is achieved by the use of credit derivatives or guarantees, and the pool of <i>exposures</i> is not removed from the balance sheet of the <i>originator</i> .

traditional securitisation (in accordance with Article 4(37) of the *Banking Consolidation Directive* (Definitions) and for the purpose of *BIPRU* a *securitisation* (within the meaning of paragraph (2) of the definition of securitisation) involving the economic transfer of the *exposures* being *securitised* to a *securitisation special purpose entity* which issues securities; and so that:

...

tranche (in accordance with Article 4(39) of the *Banking Consolidation Directive* (Definitions) and in relation to a *securitisation* within the meaning of paragraph (2) of the definition of securitisation and for the purposes of *BIPRU*) a contractually established segment of the credit risk associated with an *exposure* or number of *exposures*, where a position in the segment entails a risk of credit loss greater than or less than a position of the same amount in each other such segment, without taking account of credit protection provided by third parties directly to the holders of positions in the segment or in other segments.

UK consolidation group (B) (in the *FCA Handbook*):

(1) (for the purposes of *SYSC* as it applies to a *CRR firm*) the group of undertakings which are included in the consolidated situation of a parent institution in a Member State, an EEA parent institution, an EEA parent financial holding company or an EEA parent mixed financial holding company (including any undertaking which is included in that consolidation because of a consolidation article 12(1) relationship, article 18(5) relationship or article 18(6) relationship).

(2) (for the purposes of *BIPRU* and *SYSC* as it applies to a *BIPRU firm*) has the meaning in *BIPRU* 8.2.4R (Definition of UK consolidation group), which is in summary the group that is identified as a *UK consolidation group* in accordance with the decision tree in *BIPRU* 8 Annex 1R (Decision tree identifying a UK consolidation group); in each case only persons included under *BIPRU* 8.5 (Basis of consolidation) are included in the *UK consolidation group*.

UK lead regulated firm ...

For the purposes of this definition:

- (c) Consolidated supervision of a group of *persons* means supervision of the adequacy of financial and other resources of that group on a ~~consolidated basis~~ *consolidated basis*. ~~For example, this includes supervision under BIPRU 8 (Group risk consolidation).~~
- (d) It is not relevant whether or not any supervision by another *regulatory body* has been assessed as equivalent under the *CRD* and *EU CRR* or the *Financial Groups Directive*.
- (e) If the group is a ~~UK~~ *consolidation group* or *financial conglomerate* of which the *FCA* or the *PRA* is lead regulator that is headed by an *undertaking* that is not itself the *subsidiary undertaking* of another *undertaking* the *firm* is a 'UK lead regulated firm'.

...

value at risk (in relation to risk modelling or estimation for the purposes of *BIPRU*) the measure of risk described in *BIPRU* 7.10.146R (Requirement to use value at risk methodology).

VaR measure (in *BIPRU*) an estimate by a *VaR model* of the worst expected loss on a portfolio resulting from market movements over a period of time with a given confidence level.

VaR model permission an *Article 129 implementing measure*, a *requirement* or a *waiver* that requires a *BIPRU firm* or ~~an institution~~ a *CAD investment firm* to use the *VaR model approach* on a solo basis or, if the context requires, a consolidated basis.

Amend the following definitions and re-position them in the appropriate alphabetical position.

~~BCD~~ *CRD credit institution* a *credit institution* that has its registered office (or, if it has no registered office, its head office) in an *EEA State*, excluding an *institution* to which the ~~BCD~~ *CRD* does not apply under article 2 of the ~~BCD~~ *CRD* (see also *full BCD CRD credit institution*).

~~CAD~~ *CRD bank* a *bank* which uses the ~~Capital Adequacy Directive~~ *EU CRR* to measure the capital requirement on its trading book.

Delete the following definitions altogether. The deleted text is not shown.

advanced measurement approach

AMA permission

CNCOM

concentration risk capital component

consolidated operational risk requirement

consolidation UK integrated group

consolidation wider integrated group

connected lending of a capital nature

group of connected clients

individual CNCOM

individual counterparty CNCOM

operational risk capital requirement

ORCR

total exposure

trading book concentration risk excess

Annex B

Amendments to the Principles for Business (PRIN)

In this Annex, underlining indicates new text and striking through indicates deleted text.

3 Rules about application

3.1 Who?

3.1.1 R *PRIN* applies to every *firm*, except that:

...

- (2) for an *incoming EEA firm* which is a ~~BCD~~ CRD *credit institution* without a *top-up permission*, *Principle 4* applies only in relation to the liquidity of a *branch* established in the *United Kingdom*;

...

...

3.1.3 G *PRIN* 3.1.1R(2) reflects article ~~41~~ 156 of the ~~*Banking Consolidation Directive*~~ CRD which provides that the *Host State regulator* retains responsibility in cooperation with the *Home State regulator* for the supervision of the liquidity of a *branch* of a ~~BCD~~ CRD *credit institution*.

Annex C

Amendments to the Senior Management, Systems and Controls sourcebook (SYSC)

In this Annex, underlining indicates new text and striking through indicates deleted text.

4 General Organisational Requirements

4.1 General requirements

...

Business continuity

...

4.1.7 R ...

[Note: article 5(3) of the *MiFID implementing Directive*, annex V paragraph 13 of the *Banking Consolidation Directive*, ~~and~~ article 4(3) of the *UCITS implementing Directive* and article 85(2) of the *CRD*]

...

4.2 Persons who effectively direct the business

4.2.1 R ...

[Note: article 9(1) of *MiFID*, article 7(1)(b) of the *UCITS Directive*, article 8(1)(c) of *AIFMD*, ~~and~~ article 11(1) second paragraph of the *Banking Consolidation Directive* and article 13(1) of the *CRD*]

...

5 Employees, agents and other relevant persons

5.1 Skills, knowledge and expertise

...

Segregation of functions

...

5.1.7 R The *senior personnel* of a *common platform firm* must define arrangements concerning the segregation of duties within the *firm* and the prevention of conflicts of interest.

[**Note:** article 88 of the *CRD* and annex V paragraph 1 of the *Banking Consolidation Directive*]

...

6 Compliance, internal audit and financial crime

6.1 Compliance

...

6.1.4-A G In setting the method of determining the *remuneration of relevant persons* involved in the compliance function;

(1) *firms that SYSC 19A applies to will also need to comply with the Remuneration Code; and*

(2) *BIPRU firms will also need to comply with the BIPRU Remuneration Code.*

...

10 Conflicts of interest

10.1 Application

...

Corporate finance

...

10.1.15 G Measures that a *firm* might wish to consider in drawing up its *conflicts of interest policy* in relation to the management of an offering of *securities* include:

...

[**Note:** The provisions in SYSC 10.1 also implement articles 74(1) and 88 of the CRD and as applied under the discretion in the third paragraph of article 95(2) of the EU CRR, BCD Article 22 and BCD Annex V paragraph 1]

...

20 Reverse Stress Testing

20.1 Application and purpose

...

Purpose

...

- 20.1.4A G The reverse stress testing requirements are an integral component of a *firm's* business planning and risk management under *SYSC*. For *BIPRU firms* as referred to in *SYSC* 20.1.1R(1)(a) and *IFPRU investment firms* as referred to in *SYSC* 20.1.1AR(1)(a), this chapter amplifies *SYSC* 7.1.1G to *SYSC* 7.1.8G on risk control.

...

21 Risk control: additional guidance

21.1 Risk control: guidance on governance arrangements

...

- 21.1.2 G (1) A Chief Risk Officer should:

...

- (j) provide risk-focused advice and information into the setting and individual application of the *firm's remuneration policy*. (~~Where the *Remuneration Code* applies, see in particular *SYSC* 19A.3.15E. Where the *BIPRU Remuneration Code* applies, see in particular *SYSC* 19C.3.15E.~~);

Annex D

Amendments to the General Provisions (GEN)

In this Annex, underlining indicates new text and striking through indicates deleted text.

2 Interpreting the Handbook

...

2.2 Interpreting the Handbook

...

2.2.25 G Examples of rules being interpreted as cut back by *GEN 2.2.23R* include the following:

(1) ~~*BIPRU 4* imposes capital requirements that, for a *PRA-authorised person* such as a *bank*, are the exclusive responsibility of the *PRA*; accordingly this section is not applied by the *FCA* to a *PRA-authorised person*.~~[deleted]

(2) *SYSC 6.1.1R* requires a *firm* to maintain adequate policies and procedures to ensure compliance with its obligations under the *regulatory system*; *SYSC 6.1.1R* should be interpreted:

...

(b) as applied by the *PRA* in respect of a *PRA-authorised person's* compliance with those regulatory obligations that are the responsibility of the *PRA* (for example, in respect of a *bank* maintaining policies and procedures to ensure compliance with financial resources requirements in *BIPRU* the *PRA* Rulebook and the *EU CRR*).

...

Annex E

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

3.2 Obligation to pay fees

...

3.2.7 R Table of application, notification and vetting fees payable to the FCA

(1) Fee payer	(2) Fee payable	(3) Due date
...		
<p>(o) Either <u>In relation to a BIPRU firm, either:</u></p> <p>(i) a <i>firm</i> applying to the appropriate regulator <u>FCA</u> for permission to use one of the <i>advanced prudential calculation approaches</i> listed in <i>FEES 3 Annex 6R</i> (or <i>guidance</i> on its availability), including any future proposed amendments to those approaches or (in the case of any application being made for such permission to the appropriate regulator <u>FCA</u>http://fshandbook.info/FS/glossary-html/handbook/Glossary/A?definition=G2972 as <i>EEA consolidated supervisor under the Capital Requirements Regulations 2006 (transposing parts of the BCD and CAD, as applicable under article 95(2) of the EU CRR)</i>)</p>	<p>(1) Unless (2) applies, <i>FEES 3 Annex 6R</i>.</p> <p>(2) (a) Unless (b) applies a <i>firm</i> submitting a second application for the permission or <i>guidance</i> described in column (1) within 12 months of the first application (where the fee was paid in accordance with (1)) must pay 50% of the fee applicable to it under <i>FEES 3 Annex 6R</i>, but only in respect of that second application.</p> <p>(b) No fee is payable by a <i>firm</i> in relation to a successful application for a permission based on a minded to grant decision in respect of the same matter following a complete application for <i>guidance</i> in accordance with prescribed submission requirements.</p> <p>(c) No fee is payable where the <i>Home State regulator</i> has requested the assistance</p>	<p>Where the <i>firm</i> has made an application directly to the appropriate regulator <u>FCA</u>, on or before the date the application is made, otherwise within 30 days after the appropriate regulator <u>FCA</u> notifies the <i>firm</i> that its <i>EEA parent's Home State regulator</i> has requested assistance.</p>

<p>any <i>firm</i> making such an application; or</p> <p>(ii) in the case of an application to a <i>Home State regulator</i> other than the <i>appropriate regulator</i> <i>FCA</i> for the use of the Internal Ratings Based approach and the <i>Home State regulator</i> requesting the <i>appropriate regulator's</i> <i>FCA's</i> assistance in accordance with the <i>Capital Requirements Regulations 2006</i> (transposing parts of the <i>BCD</i> and <i>CAD</i>, as applicable under article 95(2) of the <i>EU CRR</i>), any <i>firm</i> to which the <i>appropriate regulator</i> <i>FCA</i> would have to apply any decision to permit the use of that approach.</p>	<p>described in paragraph (o)(ii) of column 1 except in the cases specified in <i>FEES 3 Annex 6R</i>.</p>	
<p>(oa) Either:</p> <p>(i) <u>a <i>firm</i> applying to the <i>appropriate regulator</i> for permission to use one of the internal approaches listed in <i>FEES 3 Annex 6AR</i> (or <i>guidance</i> on its availability), including any future proposed amendments to those approaches or (in the case of any application being made for such permission to the <i>appropriate regulator</i> as consolidating supervisor under the <i>EU CRR</i>) any <i>firm</i> making such an application; or</u></p> <p>(ii) <u>in the case of an application to the consolidating supervisor other than the</u></p>	<p>(1) Unless (2) applies, <i>FEES 3 Annex 6AR</i>.</p> <p>(2) (a) Unless (b) applies a <i>firm</i> submitting a second application for the permission or <i>guidance</i> described in column (1) within 12 months of the first application (where the fee was paid in accordance with (1)) must pay 50% of the fee applicable to it under <i>FEES 3 Annex 6AR</i>, but only in respect of that second application.</p> <p>(b) No fee is payable by a <i>firm</i> in relation to a successful application for a permission based on a minded to grant decision in respect of the same matter following a complete application for <i>guidance</i> in accordance with</p>	<p>Where the <i>firm</i> has made an application directly to the <i>appropriate regulator</i>, on or before the date the application is made, otherwise within 30 days after the <i>appropriate regulator</i> notifies the <i>firm</i> that its <i>EEA</i> parent's consolidating supervisor has requested assistance.</p>

<p><u>appropriate regulator</u> for the use of the IRB approach and the consolidating supervisor requesting the <u>appropriate regulator's assistance in accordance with the</u> http://fshandbook.info/FS/glossary-definition=G2350EU CRR, any firm to which the <u>appropriate regulator would have to apply any decision to permit the use of that approach.</u></p>	<p><u>prescribed submission requirements.</u></p> <p>(c) <u>No fee is payable where the consolidating supervisor has requested the assistance described in paragraph (oa)(ii) of column 1 except in the cases specified in FEES 3 Annex 6AR.</u></p>	
...		

...

3 Annex 6R Fees payable by a BIPRU firm for a permission or guidance on its availability in connection with the ~~Basel Capital Accord~~ BCD and/or CAD

Part 1

In relation to a BIPRU firm, Fees fees payable other than in relation to the counterparty credit risk internal model method

(1) Paragraphs (2) and (3) deal with an application made to the ~~appropriate regulator FCA~~ rather than a request for assistance under the Capital Requirements Regulations 2006 (transposing parts of the BCD and CAD, as applicable under article 95(2) of the EU CRR).

...

(4) ~~Where a request for assistance regarding an Advanced or Foundation IRB application under the Capital Requirements Regulations 2006 has been made to the appropriate regulator as detailed in FEES 3.2.7R(o) or FEES 3.2.7AR(f), the fees in Table 1 and Table 2 are applicable if any firm referred to in FEES 3.2.7R(o)(ii) and FEES 3.2.7AR(f)(ii) meets the following conditions:~~

~~(i) it is a UK domestic firm and has permission to accept deposits; and~~

~~(ii) the firm does not fall within Group 4 as defined in Table 2. [deleted]~~

...

(5) ~~If however the application or request for assistance under the Capital Requirements Regulations 2006 (transposing parts of the BCD and CAD, as applicable under article 95(2) of the EU CRR) is in relation to the use of the advanced IRB approach and the appropriate regulator FCA (in the case of (2) or~~

(3)) or the relevant ~~Home State regulator~~ *regulator* (in the case of (4)) has already granted permission for the use of the *foundation IRB approach* at the time of the application then Table 3 applies.

(6) All fees are shown in £.

...

Table 2

Application group	Description of group		Application fee		
	Modified eligible liabilities (m)	Number of traders as at 31 December prior to the <i>appropriate regulator's FCA's fee year</i> in which the fee is payable	Advanced IRB ('000)	Foundation IRB ('000)	AMA ('000)
...

...

Table 3 (Advanced IRB approach where the ~~appropriate regulator~~ FCA or Home State regulator has already given permission to use foundation IRB approach)

...	...
-----	-----

...

Insert the following new annex after FEES 3 Annex 6R. The text is all new and not underlined.

3 Annex 6AR Fees payable for a permission or guidance on its availability in connection with the EU CRR

Part 1

Fees payable in relation to *internal approaches* that require permission under Part Three of the *EU CRR* other than the internal model method for counterparty credit risk.

(1) Subject to (3), for applications made to the *appropriate regulator* to authorise a new *internal approach*:

(i) where the application relates to *CRR firms* and to five or more significant overseas entities within the same group (Group 1) and the application is for a permission to use one of the internal approaches in Tables 1 or 2 or guidance on the availability of such a permission, the fees in Table 1 are applicable; and

(ii) for all other *CRR firms* the fees in Table 2 are applicable.

(2) Subject to (3), for applications made to the consolidating supervisor other than the *appropriate regulator* for a joint decision under article 20 of the *EU CRR* on the use of one of the *internal approaches* in Tables 1 or 2 and where the *appropriate regulator* is requested to assist the consolidating supervisor, the fees in Table 1 and Table 2 are applicable if the *CRR firm* concerned meets the following conditions :

(i) it is a *CRD credit institution*; and

(ii) the *firm* does not fall within Group 4 as defined in Table 2.

(3) If however the application or request for assistance is in relation to the use of the Advanced IRB approach and the *appropriate regulator* (in the case of (1)) or the relevant consolidating supervisor (in the case of (2)) has already granted permission for the use of the Foundation IRB approach then table 3 applies.

(4) References to the *internal approaches* in Tables 1, 2 and 3 are to be construed as follows:

(i) Foundation IRB means the internal approach for credit risk referred to in article 143(1) of the *EU CRR*;

(ii) Advanced IRB means the internal approach for credit risk referred to in article 151(4) and (9) of the *EU CRR*; and

(iii) AMA means the internal approach for operational risk referred to in article 312(2) of the *EU CRR*.

(5) All fees are shown in £.

Table 1

Application group	Description of group	Application fee		
		Advanced IRB ('000)	Foundation IRB ('000)	AMA ('000)
Group 1	Five or more significant overseas entities as described in more detail in the definition of Group 1 in the introduction to	268	232	181

	Part 1 of this Annex			
--	----------------------	--	--	--

Table 2

Application group	Description of Group		Application fee		
	Modified eligible liabilities (m)	Number of traders as at 31 December prior to the <i>appropriate regulator's</i> fee year in which the fee is payable	Advanced IRB ('000)	Foundation IRB ('000)	AMA ('000)
Group 2	>40,000	>200	232	198	146
Group 3	>5,000 – 40,000	26 - 200	94	72	51
Group 4	0-5,000	0 - 25	42	30	24

- (1) For the purposes of Table 2, a *firm's* A.1 or A10 tariff data for the relevant period will be used to provide the value of modified eligible liabilities or number of traders.

Table 3 (Advanced IRB approach where the <i>appropriate regulator</i> or consolidating supervisor has already given permission to use Foundation IRB)	
Application group	Advanced IRB Application fee
Group 1	67,000
Group 2	58,000
Group 3	23,500
Group 4	10,500
The four application groups have the same meaning as they do in Tables 1 and 2.	

Part 2

Fees payable in relation to the application for a permission to use the internal model method for counterparty credit risk under article 283 of the *EU CRR*:
54,000

Amend the following as shown.

6 Financial Services Compensation Scheme Funding

...

6.6 Incoming EEA firms

- 6.6.1 R If an *incoming EEA firm*, which is a ~~BCD~~ CRD *credit institution*, an *IMD insurance intermediary* or *MiFID investment firm*, is a *participant firm*, the *FSCS* must give the *firm* such discount (if any) as is appropriate on the share of any levy it would otherwise be required to pay, taking account of the nature of the levy and the extent of the compensation coverage provided by the firm's *Home State* scheme.

Annex F

Amendments to the Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text.

4.2 Capital resources requirements

...

Capital resources requirement: firms carrying on regulated activities including designated investment business

- 4.2.5 R The capital resources requirement for a *firm* (other than a *credit union*) carrying on *regulated activities*, including *designated investment business*, is the higher of:

...

- (2) the financial resource requirement which is applied by the Interim Prudential sourcebook for investment businesses, the Prudential sourcebook for Investment Firms and the *EU CRR* or the General Prudential sourcebook and the Prudential sourcebook for Banks, Building Societies and Investment Firms.

...

4.4 Calculation of capital resources

The calculation of a firm's capital resources

- 4.4.1 R ...

- (2) If the *firm* is subject to the Interim Prudential sourcebook for investment businesses, the Prudential sourcebook for Investment Firms and the *EU CRR*, the General Prudential sourcebook, the Prudential sourcebook for Banks, Building Societies and Investment Firms or the Credit Unions sourcebook, the capital resources are the higher of:

- (a) the amount calculated under (1); and
- (b) the financial resources calculated under those sourcebooks and regulations.

Annex G

Amendments to the Prudential sourcebook for UCITS Firms (UPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1 UCITS firms

1.1 Introduction

...

1.1.3 G This sourcebook only applies to *UCITS firms*. *UCITS investment firms* ~~are~~ may be either:

- (1) *BIPRU limited licence firms* (see *BIPRU 1.1.7AG*) and the prudential requirements for those *firms* are set out in:
 - (a) the Prudential sourcebook for ~~banks, building societies and investment firms~~ Banks, Building Societies and Investment Firms and the General ~~prudential~~ Prudential sourcebook; and
 - (b) the Interim Prudential sourcebook for Investment Businesses;
or
- (2) *IFPRU limited licence firms* and the prudential requirements for those *firms* are set out in the Prudential sourcebook for Investment Firms and the EU CRR.

The difference between the two types of *UCITS management companies* is that a *UCITS investment firm* in addition to carrying on the activities permitted by Article 6(2) of the *UCITS Directive* (scheme management), may also carry on the activities permitted by Article 6(3) such as portfolio management.

Annex H

Amendments to the Interim Prudential sourcebook for Friendly Societies (IPRU(FSOC))

In this Annex, underlining indicates new text and striking through indicates deleted text.

7 Chapter 7: Definitions

PART I DEFINITIONS

7.1 In this Part of the *IPRU(FSOC)*, unless the contrary intention appears, the following definitions apply.

...
<i>approved credit institution</i> means an institution recognised or permitted under the law of an <i>EEA State</i> to carry on any of the activities set out in Annex 1 to the <i>Banking Consolidation Directive</i> <u>CRD</u> ;
...

Annex I

Amendments to the Interim Prudential sourcebook for Investment Businesses (IPRU(INV))

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

1 Chapter 1: Application and General Provisions

1.1 PURPOSE

1.1.1 Before 1 January 2007, the Interim Prudential Sourcebook for Investment Businesses (~~IPRU(INV)~~) was the part of the *Handbook* that dealt with capital requirements for *investment firms* subject to the position risk requirements of the previous version of the *Capital Adequacy Directive*. Now, however, *investment firms* which are subject to the risk-based capital requirements of the *Capital Adequacy Directive* are subject to the General Prudential sourcebook (*GENPRU*) and the Prudential sourcebook for Banks, Building Societies and Investment Firms (*BIPRU*). ~~[deleted]~~

...

1.1.3A This sourcebook does not apply to *BIPRU investment firms* firms except as follows:

- (1) it does apply to certain exempt *BIPRU commodities firms*; ~~and,~~
- (2) ~~chapter TP of *BIPRU* applies parts of *IPRU(INV)* to certain *BIPRU investment firms* on a transitional basis. [deleted]~~

1.1.3B This sourcebook does not apply to *IFPRU investment firms* except it does apply to exempt *IFPRU commodities firms*.

...

1.2 APPLICATION

...

1.2.2 R (1) ...

(2) ~~IPRU(INV)~~ IPRU(INV) does not apply to:

...

(b) a *media firm*; or

- (c) a ~~BIPRU investment~~ *firm* (unless it is an *exempt BIPRU commodities firm*); or
- (d) an IFPRU investment firm (unless it is an *exempt IFPRU commodities firm*).

1.2.3 G For the avoidance of doubt, IPRU(INV) does not apply to any of the following:

...

(b) ...

(ba) a designated investment firm; or

...

...

1.2.5 R Table

This table belongs to IPRU(INV) 1.2.4R

...	
<i>Securities and futures firm</i> (which is an <i>exempt BIPRU commodities firm</i> or an <i>exempt IFPRU commodities firm</i>)	Chapters 1 and 3
...	

...

3 Chapter 3: Financial resources for Securities and Futures Firms which are not MiFID Investment Firms or which are Exempt BIPRU Commodities Firms or Exempt IFPRU Commodities Firms

...

3-1 R This chapter applies to a *securities and futures firm* which:

(a) ...

(b) is an *exempt CAD firm* that carries on any *regulated activity* other than *MiFID business*; ~~or~~

(c) is an ~~exempt~~ *exempt BIPRU commodities firm; or*

(d) *is an exempt IFPRU commodities firm.*

G An *exempt BIPRU commodities firm* is subject to the non-capital

requirements of *GENPRU* and *BIPRU* as indicated in *BIPRU* TP 15. An exempt *IFPRU* commodities firm is subject to the non-capital requirements of *IFPRU* and the *EU CRR*.

...

- 3-1B R The provisions on concentrated risk in this chapter: ~~do not apply~~
- (a) apply to an exempt *BIPRU* commodities firm if it satisfies the conditions in *BIPRU* TP 16 (Commodities firm transitionals: large exposures) in the version as at 31 December 2013; and
- (b) do not apply to an exempt *IFPRU* commodities firm which applies the large exposure requirements in ~~*BIPRU* 10~~ Part Four (articles 387 to 403) of the *EU CRR*.
- G ~~*BIPRU* 10 applies to an exempt *BIPRU* commodities firm unless it qualifies for exemption under *BIPRU* TP 16. Part Four (articles 387 to 403) of the *EU CRR* applies to an exempt *IFPRU* commodities firm, unless it qualifies for exemption under article 493(1) of the *EU CRR*.~~
- 3-1C G The table in *IPRU(INV)* 3-1DG sets out the parts of the *Handbook* and the *EU CRR* containing provisions on large exposure or concentrated risk which apply to a securities and futures firm.
- 3-1D G Table

Applicability of the provisions to securities and futures firms

This table belongs to *IPRU(INV)* 3-1CG

(1)	(2)	(3)
Type of securities and futures firm	Whether conditions in <i>BIPRU</i> TP 16 article 493(1) of the <i>EU CRR</i> are satisfied	Part of Handbook and <i>EU CRR</i> applicable for large exposure or concentrated risk requirements
<i>Energy market participant</i> (which is an exempt <i>BIPRU</i> commodities firm exempt <i>IFPRU</i> commodities firm) with a waiver from <i>IPRU(INV)</i> 3	...	...
	No	<i>BIPRU</i> 10 Part Four (articles 387 to 403) of the <i>EU CRR</i> applies
<i>Energy market participant</i> (which is an exempt <i>BIPRU</i> commodities firm exempt <i>IFPRU</i> commodities firm) to	...	...
	No	<i>BIPRU</i> 10 Part Four (articles 387 to 403) of the

which <i>IPRU(INV)</i> 3 applies		<u>EU CRR</u> applies
<i>Oil market participant</i> (which is an <i>exempt BIPRU commodities firm</i> <u><i>exempt IFPRU commodities firm</i></u>) if it is a member of a <i>recognised investment exchange</i> or a <i>designated investment exchange</i> which is, under the rules of that exchange, entitled to trade with other members to which <i>IPRU(INV)</i> 3 applies	...	...
	No	<u><i>BIPRU 10 Part Four</i></u> (articles 387 to 403) of the <u>EU CRR</u> applies
<i>Other</i> <u><i>Other</i></u> <i>oil market participant</i> (which is an <i>exempt BIPRU commodities firm</i> <u><i>exempt IFPRU commodities firm</i></u>) to which <i>IPRU(INV)</i> 3 does not apply	...	...
	No	<u><i>BIPRU 10 Part Four</i></u> (articles 387 to 403) of the <u>EU CRR</u> applies
<i>Exempt BIPRU commodities firm</i> <u><i>Exempt IFPRU commodities firm</i></u> which is not an <i>energy market participant</i> or <i>oil market participant</i>	...	...
	No	<u><i>BIPRU 10 Part Four</i></u> (articles 387 to 403) of the <u>EU CRR</u> applies
...		

...

3-60 FIRMS TO WHICH RULES 3-61 TO 3-182 APPLY

...

Exempt IFPRU commodities firm

3-60(10) **G** An *exempt IFPRU commodities firm* should determine whether it is a *broad scope firm* or one of the other categories in this rule.

...

3-166 GENERAL RULE

...

3-166(3) **R** (a) Positions which are purely ~~stock financing~~ stock financing may be omitted from the calculation of *PRR* on commodities positions under rule 3-166 and a *firm* may net notional long and short government

securities arising from *swaps*, *FRAs*, *futures* and *options* on interest rates and debt *securities*, cash borrowings, *qualifying deposits*, the cash legs of “repurchase or similar agreements”, forward foreign exchange and foreign currency futures against each other, provided:

...

- G ~~Stock financing is defined under the *Capital Adequacy Directive*. Where physical stock has been sold forward, the cost of funding must be locked in until the date of the forward sale. [deleted]~~

...

4 Chapter 4: Lloyd’s firms

...

4.2 Purpose

...

- 4.2.4 G A *members’* adviser is not regulated by the *Society* and accordingly this chapter specifies the financial resource and accounting requirements to be met. *Firms* which fall within the scope of this chapter will be *firms* with *permission* only to advise persons on *syndicate* participation at Lloyd’s. The nature of that advisory business is akin to corporate finance advice and so the applicable requirements are those in *IPRU(INV)* 3 relevant to *firms* giving corporate finance advice. *Firms* with other permissions will fall within the scope of other chapters of *IPRU(INV)*, *GENPRU*, *BIPRU*, *IFPRU* (and the *EU CRR*) or *INSPRU*.

...

5 Chapter 5: Financial Resources

...

Appendix 1: Interpretation

...

~~*recognised third country investment firm* means an *investment firm* which is authorised in a country other than a *member state* and which is subject to and complies with prudential rules equivalent to the requirements of the *Capital Adequacy Directive*.~~

~~**Note:** A *recognised third country investment firm* is not necessarily a *firm* for the purposes of the *rules*.~~

~~**Note:** A list of the non-EEA regulators which are approved by the *FCA* or *PRA* for the purposes of recognising *recognised third country investment firms* under the *Capital Adequacy Directive* is available on request from the *FCA*.~~

...

9 Chapter 9: Financial resources requirements for an exempt CAD firm

...

9.2 GENERAL REQUIREMENTS

...

Initial capital and professional indemnity insurance requirements – exempt CAD firms that are not IMD insurance intermediaries

9.2.4 R (1) An exempt CAD firm which is not an IMD insurance intermediary must have:

...

[Note: Article 67(3) of *MiFID* and ~~Article 7 of CAD~~ article 31(1) of the CRD]

...

9.2.5 R (1) ~~A~~ An exempt CAD firm that is also an IMD insurance intermediary must comply with the professional indemnity insurance requirements at least equal to those set out in 9.2.4R(1)(b) (except that the minimum *limits of indemnity* are at least €1,120,200 for a single claim and €1,680,300 in aggregate) and in addition has to have:

...

[Note: Article 67(3) of *MiFID* and ~~Article 8 of CAD~~ article 31(2) of the CRD]

...

Initial capital and ongoing capital requirements for local firm

9.2.8 R A local firm must:

(a) have *initial capital* of €50,000; and

[Note: Article 67(2) of *MiFID* and ~~Article 6 of CAD~~ article 30 of the CRD]

...

...

13 Chapter 13: Financial Resource Requirements for Personal Investment Firms

APPLICATION, GENERAL REQUIREMENTS AND PROFESSIONAL INDEMNITY INSURANCE REQUIREMENTS

...

- 13.1.11 R If the *firm* is an *exempt CAD firm* that maintains professional indemnity insurance under 13.1A.3(1)(b), the appropriate minimum *limits of indemnity* per year are no lower than:

...

[Note: Article 67(3) of *MiFID* and ~~Article 7 of CAD~~ article 31(1) of the CRD (see also rule 13.1A.3)]

- 13.1.12 R If the *firm* is both an *IMD insurance intermediary* and an *exempt CAD firm* that maintains professional indemnity insurance under 13.1A.4(1)(b), the appropriate additional *limits of indemnity* to 13.1.10R per year are no lower than:

...

[Note: Article 67(3) of *MiFID* and ~~Article 8 of CAD~~ article 31(2) of the CRD (see also rule 13.1A.4)]

...

13.1A ~~FINANCIAL RESOURCES REQUIREMENTS~~ CAPITAL RESOURCES AND PROFESSIONAL INDEMNITY INSURANCE REQUIREMENT FOR AN EXEMPT CAD FIRM

...

- 13.1A.3 R (1) A *firm* which is not an *IMD insurance intermediary* must have:

...

[**Note:** Article 67(3) of *MiFID* and ~~Article 7 of CAD~~ article 31(1) of the CRD (see also rule 13.1.11R)]

...

- 13.1A.4 R (1) A *firm* that is also an *IMD insurance intermediary* must have professional indemnity insurance at least equal to the limits set out in 13.1.10R and in addition has to have:

...

[**Note:** Article 67(3) of *MiFID* and ~~Article 8 of CAD~~ article 31(2) of the CRD (see also rule 13.1.12R)]

...

...

14 Chapter 14: Consolidated Supervision for Investment Businesses

14.1 Application

14.1.1 R Subject to rule 14.1.2, *consolidated* supervision and this chapter apply to a *firm* which is a member of a group if:

...

(2) It is ~~not~~ neither a *BIPRU firm* nor an *IFPRU investment firm*.

...

Cases where consolidated supervision under this chapter will not apply

14.1.2 R A *firm* is not subject to *consolidated supervision* under the rules in this Chapter where any of the following conditions are fulfilled:

...

(2) the *firm* is a member of a *UK consolidation group* already included in the supervision on a consolidated basis of the group of which it is a member by the *FCA* ~~or PRA~~ under *BIPRU 8*; or

(3) the *firm* is a member of a group already included in the supervision on a consolidated basis of the group of which it is a member by the appropriate regulator under Part One, Title II, Chapter 2 of the EU CRR.

...

Exemption from consolidated supervision

14.1.4 R A *firm* need not meet the requirements in rules 14.3.1 and 14.3.2 if:

...

(2) no *firm* in the group *deals in investments as principal*, except where it is dealing solely as a result of its activity of operating a *collective investment scheme*, or where the *firm's* positions fulfil the *CAD Article 3 5 exempting criteria*;

...

...

Appendix 14(1): Interpretation

Delete the following definitions. The deleted text is not shown.

CAD investment firm

Listed activity

Annex J

Amendments to the Client Assets sourcebook (CASS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

7 Client money rules

7.1 Application and Purpose

...

Credit institutions and approved banks

7.1.8 R The *client money rules* do not apply to a ~~BCD~~ CRD *credit institution* in relation to deposits within the meaning of the ~~BCD~~ CRD held by that *institution*.

...

...

7.1.11A R (1) This *rule* applies to a *firm* which is an *approved bank* but not a ~~BCD~~ CRD *credit institution*.

...

...

7.4 Segregation of client money

Depositing client money

7.4.1 R A *firm*, on receiving any *client money*, must promptly place this *money* into one or more accounts opened with any of the following:

...

(2) a ~~BCD~~ CRD *credit institution*;

...

7.4.2 G An account with a central bank, a ~~BCD~~ CRD *credit institution* or a bank authorised in a third country in which *client money* is placed is a *client bank account*.

...

A firm's selection of a credit institution, bank or money market fund

...

7.4.9B R For the purpose of CASS 7.4.9AR an entity is a relevant group entity if it is:

- (1) a ~~BCD~~ CRD *credit institution*, a bank authorised in a third country, a *qualifying money market fund*, or the entity operating or managing a *qualifying money market fund*; and

...

Annex K

Amendments to the Market Conduct sourcebook (MAR)

In this Annex, underlining indicates new text and striking through indicates deleted text.

5 Multilateral trading facilities (MTFs)

...

5.3 Trading process requirements

5.3.1 R A *firm* operating an *MTF* must have:

...

- (4) transparent rules, based on objective criteria, governing access to its facility, which rules must provide that its members or participants are *investment firms*, ~~BCD~~ CRD *credit institutions* or other persons who:

...

...

Annex L

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

3.1.10 G Other relevant sections of the Handbook (see SUP 3.1.9G)

...	
<i>Investment management firm, personal investment firm, securities and futures firm (other than <u>IFPRU investment firms</u> and BIPRU investment firms)</i>	<i>IPRU(INV)</i>
...	

...

3.10.5 R Client assets report

Whether in the auditor’s opinion	
...	
(3)	<p>in the case of an <i>investment management firm, personal investment firm, a UCITS firm, securities and futures firm, firm acting as trustee or depository of an AIF, firm acting as trustee or depository of a UCITS or BIPRU <u>IFPRU investment firm</u> or <u>BIPRU firm</u></i>, when a <i>subsidiary</i> of the firm is during the period a <i>nominee company</i> in whose name <i>custody assets</i> of the firm are registered during the period, that <i>nominee company</i> has maintained throughout the period systems for the custody, identification and control of <i>custody assets</i> which:</p> <p>...</p>
...	

...

9.3 Giving individual guidance to a firm on the FCA’s own initiative

...

9.3.2 G The FCA may give individual *guidance* to a *firm* on its own initiative if it considers it appropriate to do so. For example:

...

- (5) in relation to the maintenance of adequate financial resources, the *FCA* may give a *firm* individual *guidance* on the amount or type of financial resources the *FCA* considers appropriate, for example *individual capital guidance* for *IFPRU investment firms* or *BIPRU firms*; further *guidance* on how and when the *FCA* may give *individual capital guidance* on financial resources is contained in the Prudential Standards part of the *Handbook*:
- (a) for a *BIPRU firm*: *GENPRU* 1.2 and *BIPRU* 2.2; ~~and~~
 - (b) [deleted]
 - (c) for a *securities and futures firm* (or other *firm* required to comply with *IPRU(INV)3*): *IPRU(INV)* 3-79R; and
 - (d) [deleted]
 - (e) for an *IFPRU investment firm*: *IFPRU* 2.2. and 2.3.

...

11.8 Changes in the circumstances of existing controllers

- 11.8.1 R A *firm* must notify the *appropriate regulator* immediately it becomes aware of any of the following matters in respect of one or more of its *controllers*:

...

- (4) if a *controller*, who is authorised in another *EEA State* as a *MiFID investment firm*, ~~*BCD*~~ *CRD* *credit institution* or *UCITS management company* or under the *Insurance Directives* or the *Insurance Mediation Directive*, ceases to be so authorised (registered in the case of an *IMD insurance intermediary*).

...

13 Exercise of passport rights by UK firms

...

- 13.2.1 G This chapter gives *guidance* to *UK firms*. In most cases *UK firms* will be *authorised persons* under the *Act*. However, under the ~~*Banking Consolidation Directive*~~ *CRD*, a subsidiary of a *firm* which is a *credit institution* which meets the criteria set out in that Directive also has an *EEA right*. Such an authorised subsidiary is known as a *financial institution*. References in this chapter to a *UK firm* include a *financial institution*.

...

13.3.2 G A *UK firm* other than a *UK pure reinsurer* cannot establish a *branch* in another *EEA State* for the first time under an *EEA right* unless the relevant conditions in paragraphs 19(2), (4) and (5) of Part III of Schedule 3 to the *Act* are satisfied. It is an offence for a *UK firm* which is not an *authorised person* to contravene this prohibition (paragraph 21 of Part III of Schedule 3 to the *Act*). These conditions are that:

(1) the *UK firm* has given the *appropriate UK regulator*, in accordance with the *appropriate UK regulator's rules* (see *SUP 13.5.1R*) or the directly applicable regulations made under the *CRD* (see *SUP 13.5.1C*), notice of its intention to establish a *branch* (known as a *notice of intention*) which:

...

(b) includes such other information as may be specified by the *appropriate UK regulator* (see *SUP 13.5.1R*) or by the directly applicable regulations made under the *CRD* (see *SUP 13.5.1C*);

...

...

13.3.5 G (1) If the *UK firm's EEA right* derives from the ~~*Banking Consolidation Directive*~~ *CRD* or *MiFID*, the *appropriate UK regulator* will give the *Host State regulator* a *consent notice* within three *months* unless it has reason to doubt the adequacy of a *UK firm's* resources or its administrative structure. The *Host State regulator* then has a further two *months* to notify the *applicable provisions* (if any) and prepare for the supervision, as appropriate, of the *UK firm*, or in the case of a *MiFID investment firm*, to inform the *UK firm* that a *branch* can be established.

...

13.4.4 G (1) If the *UK firm's EEA right* derives from *MiFID*, the ~~*Banking Consolidation Directive*~~ *CRD* or the *UCITS Directive*, paragraph 20(3) of Part III of Schedule 3 to the *Act* requires the *appropriate UK regulator* to send a copy of the *notice of intention* to the *Host State Regulator* within one *month* of receipt. A *UK firm* passporting under the ~~*Banking Consolidation Directive*~~ *CRD* may start providing *cross border services* as soon as it satisfies the relevant conditions (see *SUP 13.4.2G*).

...

...

13.5.1 R A *UK firm*, other than a *UK pure reinsurer* or a *CRD credit institution*, wishing to establish a *branch* in a particular *EEA State* for the first time under an *EEA right* other than under the *auction regulation* must submit a *notice of intention* in the form set out in *SUP 13 Annex 1R*

...

13.5.2 R A *UK firm* wishing to provide *cross border services* into a particular *EEA State* for the first time under an *EEA right* other than the *auction regulation* must submit a notice in the form set out in:

...

(2) ~~*SUP*~~ *SUP 13 Annex 4R* if the *UK firm* is passporting under the ~~*Banking Consolidation Directive*~~ *CRD*; or

...

...

13.6.1 G Where a *UK firm* is exercising an *EEA right*, other than under the *Insurance Mediation Directive* (see *SUP 13.6.9AG*) or the *Reinsurance Directive* (see *SUP 13.6.9BR*) or the *CRD*, and has established a *branch* in another *EEA State*, any changes to the details of the *branch* are governed by the *EEA Passport Rights Regulations*. ...

...

Firms passporting under the ~~*Banking Consolidation Directive*~~ *CRD* and the *UCITS Directive*

13.6.4 G If a *UK firm* has exercised an *EEA right*, under the ~~*Banking Consolidation Directive*~~ *CRD* or the *UCITS Directive*, and established a *branch* in another *EEA State*, regulation 11(1) states that the *UK firm* must not make a change in the *requisite details* of the *branch* (see *SUP 13 Annex 1*), unless it has satisfied the requirements of regulation 11(2), or, where the change arises from circumstances beyond the *UK firm's* control, regulation 11(3) (see *SUP 13.6.10G*).

...

Firms passporting under the ~~*Banking Consolidation Directive*~~ *CRD* and *Insurance Mediation Directive*

13.7.11 G A *UK firm* providing *cross border services* under the ~~*Banking Consolidative Directive*~~ *CRD* or *Insurance Mediation Directive* is not required to supply a change to the details of *cross border services* notice.

...

13.8.2 G *UK firms* passporting under the ~~*Banking Consolidative Directive*~~ *CRD* or the *Insurance Directives* may be required to submit the change to details

notice in the language of the *Host State* as well as in English.

...

13 Annex 1R Passporting: Notification of intention to establish a branch in another EEA state

This annex consists of only one or more forms. Forms can be completed online now by visiting: <http://www.fsa.gov.uk/Pages/doing/index.shtml>
<http://www.bankofengland.co.uk/pru/Pages/authorisations/passporting/notifying.aspx>

The forms are also to be found through the following address:
Passporting: Notification of intention to establish a branch in another EEA state - SUP 13 Annex 1

...

In *SUP 13 Annex 1* form, on page 1 substitute 'Capital Requirements Directive' for 'Banking Consolidation Directive'

Amend the following as shown.

13A Qualifying for authorisation under the Act

...

13A.1.3 G (1) Under the *Gibraltar Order* made under section 409 of the *Act*, a Gibraltar firm is treated as an *EEA firm* under Schedule 3 to the *Act* if it is:

...

(b) authorised in Gibraltar under the *Banking Consolidation Directive* CRD; or

...

...

13A.5 EEA firms providing cross border services into the United Kingdom

...

13A.5.3 G ...

(2) For the purposes of paragraph 14(1)(b) of Part II of Schedule 3 to the *Act*, the information to be contained in the regulator's notice has been prescribed under regulation 3 of the *EEA Passport Rights Regulations* and in the case of the *CRD*, the information has been prescribed in the technical standards issued pursuant to

and under article 39 of the *CRD*.

...

The notification procedure

- 13A.5.4 G (1) Unless the *EEA firm* (other than an *EEA pure reinsurer* or an *EEA firm* that received authorisation under article 18 of the *auction regulation*) is passporting under the *Insurance Medication Directive*, if the *appropriate UK regulator* receives a regulator's notice or, where no notice is required (~~in the case of an *EEA firm* passporting under the *Banking Consolidation Directive*~~), is informed of the *EEA firm's* intention to provide *cross border services* into the *United Kingdom*, the *appropriate UK regulator* will, under paragraphs 14(2) and 14(3) of Part II of Schedule 3 to the *Act*, notify the *EEA firm* of the *applicable provisions* (if any) within two *months* of the *day* on which the *appropriate UK regulator* received the regulator's notice or was informed of the *EEA firm's* intention.

...

...

13A Annex 1G Application of the Handbook to Incoming EEA Firms

...		
(1) Module of Handbook	(2) Potential application to an incoming EEA firm with respect to activities carried on from an establishment of the firm (or its appointed representative) in the United Kingdom	(3) Potential application to an incoming EEA firm with respect to activities carried on other than from an establishment of the firm (or its appointed representative) in the United Kingdom
<i>PRIN</i>	The <i>Principles</i> apply only in so far as responsibility for the matter in question is not reserved by an <i>EU</i> instrument to the <i>firm's Home State regulator (PRIN 3.1.1R(1))</i> . For an <i>incoming EEA Firm</i> which is a <i>BCD</i> <i>CRD credit institution</i> without a <i>top-up permission</i> , <i>Principle 4</i> applies only in	...

	relation to the liquidity of a branch established in the <i>United Kingdom</i> (PRIN 3.1.1R(2)).	
...		
<i>BIPRU</i>	<p><i>EEA firms that are CAD investment firms</i> are subject to the prudential standards of their home state regulator (<i>BIPRU 1.1.7R and BIPRU 1.1.9G</i>).</p> <p>However, <i>BIPRU 12</i> applies to an <i>EEA firm that is an IFPRU investment firm or BIPRU firm</i> as respects the activities of its <i>UK branch</i>, but in relation to <i>liquidity risk</i> only.</p>	Does not apply if the <i>firm</i> has <i>permission</i> only for <i>cross border services</i> and does not carry on <i>regulated activities</i> in the <i>United Kingdom</i> .
...		
<i>INSPRU</i>	...	
<i>IFPRU</i>	<i>EEA firms that are investment firms</i> (as defined in the <i>EU CRR</i>) are subject to the <i>EU CRR</i> as implemented by their home state regulator (<i>IFPRU 1.1.5R</i>).	Does not apply if the <i>firm</i> has <i>permission</i> only for <i>cross border services</i> and does not carry on <i>regulated activities</i> in the <i>United Kingdom</i> .
...		
<i>COMP</i>	Applies, except in relation to the <i>passport activities</i> of a <i>MiFID investment firm</i> , a <i>BCD CRD</i> <i>credit institution</i> (other than an electronic money institution within the meaning of article 1(3)(a) of the <i>E-Money Directive</i> that has the right to benefit from the mutual recognition arrangements under the <i>Banking Consolidation Directive CRD</i>), an <i>IMD Insurance intermediary</i> , a <i>UCITS management company</i> carrying on non-core services under article 6.3 of the <i>UCITS Directive</i> and an <i>incoming AIFM branch</i> carrying on either <i>AIFM management functions</i> for an <i>unauthorised AIF</i> or non-core services under article 6.4 of <i>AIFMD</i> (see the definition of “ <i>participant firm</i> ”). However, a <i>firm</i> specified above may be able to apply for <i>top-up cover</i> in relation to its <i>passport activities</i> (see <i>COMP 14</i>	Does not apply in relation to the passported activities of an <i>MiFID investment firm</i> , a <i>BCD CRD</i> <i>credit institution</i> , an <i>IMD insurance intermediary</i> or a <i>UCITS management company</i> carrying on non-core services under article 6.3 of the <i>UCITS Directive</i> or an

	(Participation by EEA Firms)).	<i>incoming EEA AIFM regarding AIFM management functions carried on for an unauthorised AIF or non-core services under article 6.4. Otherwise, COMP may apply, but the coverage of the compensation scheme is limited for non-UK activities (see COMP 5).</i>
...		

13A Annex 2 Matters reserved to a Home State regulator

G

Introduction	
1.	...
Requirements in the interest of the general good	
2.	The <i>Single Market Directives</i> , and the <i>Treaty</i> (as interpreted by the European Court of Justice) adopt broadly similar approaches to reserving responsibility to the <i>Home State regulator</i> . To summarise, the <i>FCA</i> or <i>PRA</i> , as <i>Host State regulator</i> , is entitled to impose requirements with respect to activities carried on within the <i>United Kingdom</i> if these can be justified in the interests of the “general good” and are imposed in a non-discriminatory way. This general proposition is subject to the following in relation to activities passported under the <i>Single Market Directives</i> :
(1)	the <i>Single Market Directives</i> expressly reserve responsibility for the prudential supervision of a <i>MiFID investment firm</i> , BCD <u>CRD</u> <i>credit institution</i> , <i>UCITS management company</i> , <i>AIFM</i> or passporting <i>insurance undertaking</i> to the <i>Firm’s Home State regulator</i> . The <i>Insurance Mediation Directive</i> reaches the same position without expressly referring to the concept of prudential supervision. Accordingly, the <i>FCA</i> as <i>Host State Regulator</i> , is entitled to regulate only the conduct of the firm’s business within the <i>United Kingdom</i> ;

	(2)	...
	(3)	for a BCD <u>CRD</u> credit institution, the PRA or FCA, as Host State regulator, is jointly responsible with the Home State regulator under article 41 156 of the Banking Consolidative Directive <u>CRD</u> for supervision of the liquidity of a branch in the United Kingdom;
	(4)	for a MiFID investment firm including a BCD <u>CRD</u> credit institution which is a MiFID investment firm), the protection of clients' money and clients' assets is reserved to the Home State regulator under MiFID; and
	(5)	responsibility for participation in compensation schemes for BCD <u>CRD</u> credit institutions and MiFID investment firm is reserved in most cases to the Home State regulator under the Deposit Guarantee Directive and the Investor Compensation Directive.

...

14.1 Application and Purpose

...

- 14.1.3 G (1) Under the *Gibraltar Order* made under section 409 of the *Act*, a Gibraltar firm is treated as an *EEA firm* under Schedule 3 to the *Act* if it is:

...

- (b) authorised in Gibraltar under the ~~Banking Consolidation Directive~~ CRD; or

...

...

Purpose

- 14.1.4 G This chapter gives *guidance* on the *Act* and the *EEA Passport Rights Regulations* made under the *Act*, for an *incoming EEA firm* which has established a *branch* in, or is providing *cross border services* into, the *United Kingdom* and wishes to change the details of the *branch* or *cross border services*.

[Note: An *EEA bank* is required to comply with the requirements set out in the technical standards adopted under articles 35, 36 and 39 of the *CRD*.]

...

14.2 Changes to branch details

...

Firms passporting under the ~~Banking Consolidation Directive~~ CRD and the UCITS Directive

- 14.2.2 G (1) Where an *incoming EEA firm* passporting under the ~~Banking Consolidation Directive~~ CRD or the *UCITS Directive* has established a *branch* in the *United Kingdom*, regulation 4 states that it must not make a change in the *requisite details* of the *branch* unless it has complied with the relevant requirements.

...

...

Changes arising from circumstances beyond the control of an incoming EEA firm passporting under the ~~Banking Consolidation Directive~~ CRD, UCITS Directive or Insurance Directive

- 14.2.8 ...

...

14.6 Cancelling qualification for authorisation

Incoming EEA firms

- 14.6.1 G Section 34 of the *Act* states that an *incoming EEA firm* no longer qualifies for *authorisation* under Schedule 3 to the *Act* if it ceases to be an *incoming EEA firm* as a result of:

...

- (2) ceasing to have an *EEA right* in circumstances in which *EEA* authorisation is not required; this is relevant to a *financial institution* that is a subsidiary of a *credit institution* (of the kind mentioned in Article ~~19~~ 34 of the ~~Banking Consolidation Directive~~ CRD) which fulfils the conditions in articles ~~18~~ 33 and ~~19~~ 34 of that *Directive*.

...

15 Notifications to the FCA or PRA

...

- 15.1.3 G In some cases, the application of provisions set out in *SUP 15 Annex 1* depends on whether responsibility is reserved to a *Home State regulator*. ~~*SYSC App 1* contains *guidance* on this.~~

...

Breaches of rules and other requirements in or under the Act

15.3.11 R (1) A firm must notify the appropriate regulator of:

...

(d) ...

(da) a breach of a directly applicable provision in the EU CRR or any directly applicable regulations made under the CRD or EU CRR; or

...

...

15 Annex 1R Application of SUP 15 to incoming EEA firms and incoming Treaty firms

...		
3.	For any other <i>incoming EEA firm</i> or <i>incoming Treaty firm</i> , SUP 15 applies as set out in the following table.	
Applicable sections		Application
SUP 15.1, SUP 15.2	Application, Purpose	Apply in full
SUP 15.3.1R to SUP 15.3.6G	Matters having a serious regulatory impact	SUP 15.3.1R does not apply, otherwise apply in full <u>Apply in so far as responsibility for the matter in question is not reserved by an EU instrument to the firm's Home State regulator</u>
...		
SUP 15.3.1R 15.3.11R to SUP 15.3.14G	Breaches of rules and other requirements in or under the Act	Apply in full
SUP 15.3.1R 15.3.15R to SUP	Civil, criminal or disciplinary	Apply in so far as responsibility for the matter in question is not

15.3.16G	proceedings against a firm	reserved by an <i>EU</i> instrument to the <i>firm's Home State Regulator</i>
SUP 15.3.1R 15.3.17R to SUP 15.3.20G	Fraud, errors and other irregularities	Apply in so far as responsibility for the matter in question is not reserved by an <i>EU</i> instrument to the <i>firm's Home State regulator</i>
...		

...

Appendix 3 Guidance on passporting issues

App 3.3.6 G (1) The European Commission has not produced an interpretative communication on *MiFID*. It is arguable, however, that the principles in the communication on the Second Banking Directive can be applied to *investment services and activities*. This is because Chapter II of Title II of *MiFID* (containing provisions relating to operating conditions for investment firms) also applies to the *investment services and activities* of firms operating under the *Banking Consolidation Directive*, which is repealed and replaced by the *CRD*.

(2) ...

...

App 3.9 Mapping of MiFID, ~~Banking Consolidation Directive~~ CRD, UCITS Directive and Insurance Mediation Directive to the Regulated Activities Order

App 3.9.1 G The following Tables 1, 2, 2A and 2B provide an outline of the *regulated activities* and *specified investments* that may be of relevance to firms considering undertaking *passporting activities* under the ~~*Banking Consolidation Directive*~~ *CRD*, *MiFID*, the *UCITS Directive* and the *Insurance Mediation Directive*. The tables may be of assistance to *UK firms* that are thinking of offering financial services in another *EEA State* and to *EEA firms* that may offer those services in the *United Kingdom*.

App 3.9.2 G The tables provide a general indication of the *investments* and activities specified in the *Regulated Activities Order* that may correspond to categories provided for in the ~~*Banking Consolidation Directive*~~ *CRD*, *MiFID*, the *UCITS Directive* of the *Insurance Mediation Directive*. The tables do not provide definitive *guidance* as to whether a *firm* is carrying on an activity that is capable of being passported, nor do the tables take account of exceptions that remove the effect of articles. Whether a *firm* is

carrying on a *passported activity* will depend on the particular circumstances of the *firm*. If a *firm's* activities give rise to potential passporting issues, it should obtain specialist advice on the relevant issues.

...

App 3.9.4 Activities set out in Annex 1 of the BCD CRD

	Table 1: <u>BCD CRD</u> activities		Part II RAO Activities	Part III RAO Investments
	1.	Acceptance of <u>Taking</u> deposits and other repayable funds from the public	Article 5	Article 74
	...			
	<u>15.</u>	<u>Issuing electric money</u>	<u>Article 9B</u>	<u>Article 74A</u>
	...			
<p>Note 1 : The services and activities provided for in Sections A and B of Annex I of <i>MiFID</i> when referring to the <i>financial instruments</i> provided for in Section C of Annex I of that Directive are subject to mutual recognition according to the <u>BCD-CRD</u> from 1 November 2007 <u>January 2013</u>. See the table at <i>SUP</i> App 3.9.5G below for mapping of <i>MiFID investment services and activities</i>. For further details relating to this residual category, please see the “Banking Consolidation Directive” “<u>CRD</u>” section of the passporting forms entitled “Notification of intention to establish a branch in another EEA State” and “Notification of intention to provide cross border services in another EEA State”.</p>				

Annex M

Amendments to the Compensation sourcebook (COMP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1 Introduction and Overview

...

1.4 EEA Firms

- 1.4.1 G *Incoming EEA firms* which are conducting *regulated activities* in the *United Kingdom* under a ~~BCD~~ CRD, *IMD* or *MiFID* passport are not required to participate in the *compensation scheme* in relation to those *passported activities*. They may apply to obtain the cover of, or ‘top-up’ into, the *compensation scheme* if there is no cover provided by the *incoming EEA firm’s Home State* compensation scheme or if the level or scope of the cover is less than that provided by the *compensation scheme*. This is covered by *COMP 14*.

Annex N

Amendments to the Collective Investment Schemes sourcebook (COLL)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Spread: general

- 5.6.7 R (1) This *rule* does not apply in respect of *government and public securities*.
- ...
- (9) For the purpose of calculating the limit in (5), *OTC derivative* positions with the same counterparty may be netted provided that the netting procedures:
- (a) comply with the conditions set out in Part 7 Three, Title II, Chapter 6, Section 7 (Contractual netting (Contracts for novation and other netting agreements)) of ~~Annex III of the Banking Consolidation Directive~~ the EU CRR; and
- (b) are based on legally binding agreements.
- ...
- ...

Spread: general

- 5.7.5 R ...
- (10) For the purpose of calculating the limit in (6), *OTC derivative* positions with the same counterparty may be netted provided that the netting procedures:
- (a) comply with the conditions set out in Part 7 Three, Title II, Chapter 6, Section 7 (Contractual netting (Contracts for novation and other netting agreements)) of ~~Annex III of the Banking Consolidation Directive~~ the EU CRR; and
- (b) are based on legally binding agreements.

Annex O

Amendments to the Credit Unions sourcebook (CREDS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 2.2.2 G For *credit unions*, the arrangements, processes and mechanisms referred to in SYSC 4.1.1R should be comprehensive and proportionate to the nature, scale, and complexity of the risks inherent in the business model and of the *credit union's* activities. That is the effect of SYSC 4.1.2R and SYSC 4.1.2AG.

Annex P

Amendments to the Investment Funds sourcebook (FUND)

In this Annex, underlining indicates new text and striking through indicates deleted text.

3 Requirements for alternative investment fund managers

...

Eligible depositaries for UK AIFs

...

3.11.11 G For a *depositary* to be *established* in the *UK* it must have its registered office or *branch* in the *UK*. A *MiFID investment firm* that has its registered office in the *UK* must be a full-scope BIPRU full-scope IFPRU investment firm to meet the requirements of *FUND* 3.11.10R(2). A *MiFID investment firm* that has a *branch* in the *UK* is ~~not subject to the requirements of *GENPRU* and *BIPRU*, but~~ must meet the equivalent capital requirements to under the *EU CRR* for a *full-scope BIPRU investment CRD full-scope firm* as implemented in its *Home State* to meet the requirements of *FUND* 3.11.10R(2).

...

3.11.15 G For certain types of closed-ended *AIFs* (such as private equity, venture capital and real estate funds) a wider range of entities than those specified in *FUND* 3.11.10R may perform the relevant *depositary* functions. The *FCA* requires such entities to obtain authorisation as a *depositary* to demonstrate that they can meet the commitments inherent in those functions, but imposes a lower level of capital requirements in recognition of the different degree of risk implied by the characteristics of the *AIF*. The capital requirements of such *firms* are contained in *IPRU(INV)* 5 (particularly *IPRU(INV)* 5.2.3R(3)(a)(ia) (Own funds requirement)) ~~or in *GENPRU* and *BIPRU*~~ but if the *firm* also undertakes *MiFID business*, its capital requirements will be contained in *IFPRU* and the *EU CRR* or in *GENPRU* and *BIPRU* depending on the scope of that *MiFID business*.

...

Additional requirements for depositaries of authorised AIFs

...

3.11.17 G Where the *firm* referred to in *FUND* 3.11.16R is a full-scope BIPRU full-scope IFPRU investment firm which is a *depositary* for an *authorised AIF* appointed in line with *FUND* 3.11.10R(2), it is subject to the capital

requirements of ~~GENPRU~~ and ~~BIPRU IFPRU~~ and the EU CRR. However, these requirements are not in addition to FUND 3.11.16R and, therefore, a *firm* subject to this *rule* may use the *own funds* required under ~~GENPRU~~ and ~~BIPRU IFPRU~~ and the EU CRR to meet the £4 million requirement.

...

Depositary functions: cash monitoring

3.11.20 R A *depositary* must ensure that the *AIF*'s cash flows are properly monitored and that:

...

(2) all cash of the *AIF* has been booked in cash accounts opened:

...

(b) at:

(i) ...

(ii) a ~~BCD~~ CRD *credit institution*; or

...

...

Annex Q

Amendments to the Regulated Covered Bonds sourcebook (RCB)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1.1.6 G ~~*BIPRU IFPRU investment firms*~~ which have *exposures to covered bonds* which meet the requirements set out in the provisions of ~~*BIPRU 3.4.106R to BIPRU 3.4.109R*~~, whether made by the *FCA* or the *PRA* article 129 of the *EU CRR*, may benefit from reduced *risk weights* as set out in ~~the version of *BIRPRU 3.4.110R* applying to that *BIPRU firm*~~ article 129 of the *EU CRR*.

...

Covered bonds collateralised by real estate

2.3.13 G In assessing whether the *asset pool* is of sufficient quality, the *FCA* will have regard to the requirements ~~about legal certainty~~ in relation to the collateralisation of real estate referred to in ~~*BIPRU 3.4.64R*~~, the ~~requirements about monitoring of property values in *BIRPRU 3.4.66R*~~ article 208 of the *EU CRR* and the valuation rules in ~~*BIPRU 3.4.77R to BIPRU 3.4.80R*~~ article 229(1) of the *EU CRR*.

...

2 Annex 1D Application for admission to the register of issuers and register of regulated covered bonds

...

Application Form

Questions	Responses
...	
For covered bonds collateralised by real estate, provide information on how you have had regard to the requirements of <i>BIPRU 3.4.64R</i> (legal certainty), <i>BIPRU 3.4.66R</i> (monitoring of property values) and <i>BIPRU 3.4.77R to BIPRU 3.4.80R</i> (valuation) referred to in <u>article 208 of the <i>EU CRR</i></u> and <u>article 229(1) of the <i>EU CRR</i></u> (valuation).	
...	

Annex R

Amendments to the Prospectus Rules sourcebook (PR)

In this Annex, underlining indicates new text and striking through indicates deleted text.

PR App 1	Relevant definitions	
App 1.1.1		
<i>credit institution</i>	as defined in article <u>4</u> (1)(1) of the <i>Banking Consolidated Directive</i> <u><i>EU CRR</i></u> .	
...		

Annex S

Amendments to the Disclosure Rules and Transparency Rules sourcebook (DTR)

In this Annex, underlining indicates new text and striking through indicates deleted text.

5 **Vote Holder and Issuer Notification Rules**

...

5.3 **Notification of voting rights arising from the holding of certain financial instruments**

5.3.1 R ...

(3) For the purposes of (2) a client-serving intermediary is a *person* satisfying the following conditions:

- (a) (i) it is authorised by its *Home State* under *MiFID* or the ~~BCD~~ CRD, or, subject to (iii), as a *third country investment firm*, to deal as principal, in a client-serving capacity, in *financial instruments* falling within (1)(b), and to carry on any relevant business connected to such dealing; or

...

...

Annex T

Amendments to the Guide for Energy Market Participants (EMPS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1.2 Parts of the Handbook applicable to energy market participants

...

1.2.3 G Applicability of parts of Handbook to energy market participants

This table belongs to *EMPS* 1.2.1G

	Part of Handbook	Applicability to energy market participants
...
Prudential standards	Interim Prudential sourcebooks (<i>IPRU</i>)	<p>Chapter 1 (Application and General) of <i>IPRU (INV)</i> (Interim Prudential sourcebook: Investment Businesses) applies.</p> <p>Chapter 3 (Financial resources for Securities and Futures Firms which are not MiFID investment firms or which are exempt BIPRU commodities firms <u>or exempt IFPRU commodities firms</u>) of <i>IPRU(INV)</i> applies, with the following qualifications:</p> <p>(a) <i>energy market participants</i> whose main business consists of the generation, production, storage, distribution and/or transmission of <i>energy</i> may be granted a <i>waiver</i> of Chapter 3 in the <i>FCA</i>'s discretion: see <i>SUP</i> 21; and</p> <p>(b) the concentrated risk requirements do not apply to an <i>energy market participant</i> if it is an <i>exempt BIPRU commodities firm</i> <u><i>exempt IFPRU commodities firm</i></u> that applies the <i>large exposure</i> requirements in <i>BIPRU</i> 10 (Concentration risk) Part Four (articles 387 to 403) of the <i>EU CRR</i>: see <i>IPRU(INV)</i> 3-1BR, <i>IPRU(INV)</i> 3-1CG and <i>IPRU(INV)</i> 3-1DG; <u>and</u></p> <p>(c) the concentrated risk requirements apply <u>to an <i>energy market participant</i> if it is an</u></p>

		<p><u>exempt BIPRU commodities firm that satisfies the conditions in BIPRU TP 16 in the version as at 31 December 2013.</u></p> <p>...</p>
	...	
	<p><u>Prudential sourcebook for Investment Firms (IFPRU)</u></p>	<p><u>Except for provisions on combined buffer, own funds, own funds requirements and the ICAAP rules, this applies to an energy market participant if it is an exempt IFPRU commodities firm: see IFPRU 1.1.1G.</u></p>
...		
Regulatory processes	[deleted]	[deleted]
	Supervision manual (<i>SUP</i>)	<p>This applies, with the following qualifications:</p> <p>(a) in <i>SUP</i> 3 (Auditors), only some provisions apply if <i>IPRU(INV)</i> 3 (Financial Resources for Securities and Futures firms which are not MiFID investment firms or which are exempt BIPRU commodities firms or exempt IFPRU commodities firms) does not apply to an <i>energy market participant</i> (because it has been granted a <i>waiver</i> of that chapter): see <i>SUP</i> 3.1.2R;</p> <p>...</p>
...		

Annex U

Amendments to the Guide for Oil Market Participants (OMPS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1.2 Parts of the Handbook applicable to oil market participants

...

1.2.2 G Parts of the Handbook applicable to oil market participants

This table belongs to *OMPS* 1.2.1G

	Part of Handbook	Applicability to oil market participants
...
Prudential standards	Interim Prudential sourcebooks (<i>IPRU</i>)	<p>Chapter 1 (Application and General) of <i>IPRU (INV)</i> (Interim Prudential sourcebook: Investment Businesses) applies.</p> <p>Chapter 3 (Financial resources for Securities and Futures Firms which are not MiFID investment firms or which are exempt BIPRU commodities firms <u>or exempt IFPRU commodities firms</u>) of <i>IPRU(INV)</i> applies, with the following qualifications:</p> <p>(a) to an <i>oil market participant</i> only if it is a member of a <i>recognised investment exchange</i> or a <i>designated investment exchange</i> which is, under the rules of that exchange, entitled to trade with other members: see <i>IPRU(INV)</i> 3-1AR; and</p> <p>(b) the concentrated risk requirements do not apply to an <i>oil market participant</i> if it is an exempt BIPRU commodities firm <u>exempt IFPRU commodities firm</u> that applies the <i>large exposure</i> requirements in BIPRU 10 (Concentration risk) <u>Part Four (articles 387 to 403) of the EU CRR</u>: see <i>IPRU(INV)</i> 3-1BR, <i>IPRU(INV)</i> 3-1CG and <i>IPRU(INV)</i> 3-1DG; <u>and</u></p>

		<p>(c) <u>the concentrated risk requirements apply to an oil market participant if it is an exempt BIPRU commodities firm that satisfies the conditions in BIPRU TP 16 in the version as at 31 December 2013.</u></p> <p>...</p>
	...	
	<p><u>Prudential sourcebook for Investment Firms (IFPRU)</u></p>	<p><u>Except for provisions on combined buffer, own funds, own funds requirements and the ICAAP rules, this applies to an oil market participant if it is an exempt IFPRU commodities firm: see IFPRU 1.1.1G.</u></p>
...		
Regulatory processes	[deleted]	[deleted]
	Supervision manual (<i>SUP</i>)	<p>This applies, with the following qualifications:</p> <p>(a) in <i>SUP</i> 3 (Auditors), only some provisions apply if <i>IPRU(INV)</i> 3 (Financial Resources for Securities and Futures firms which are not MiFID investment firms or which are exempt BIPRU commodities firms or exempt IFPRU commodities firms) does not apply to an oil market participant: see <i>SUP</i> 3.1.2R;</p> <p>...</p>
...		

Annex V

Amendments to the Enforcement Guide (EG)

In this Annex, underlining indicates new text and striking through indicates deleted text.

8 Variation and cancellation of permission and imposition of requirements on the FCA's own initiative and intervention against incoming firms

8.19 Relevant Community obligations which the *FCA* may need to consider include those under the ~~Banking Consolidation Directive~~ Capital Requirements Directive, the Insurance Directives, the Investment Services Directive/Markets in Financial Instruments Directive; and the Insurance Mediation Directive. Each of these Directives imposes general obligations on the relevant *EEA competent authority* to cooperate and collaborate closely in discharging their functions under the Directives.

...

19 Non-FSMA powers

...

19.64 The *FCA's powers* to vary a firm's *Part 4A permission* or to impose requirements under sections 55J and 55L of the *Act* ~~has~~ have been extended under these Regulations. The *FCA* is able to use ~~this power~~ these powers where it is desirable to do so for the purpose of:

...

- acting in accordance with specified provisions of the ~~Banking Consolidation~~ Capital Requirements Directive; and

...

...

19.72 The *FCA* is responsible for monitoring and enforcing compliance with the Regulations not only by authorised firms who are within the *Money Laundering Regulations'* scope, but also by what the Regulations describe as "Annex I financial institutions". These are businesses which are not otherwise authorised by us but which carry out certain of the activities listed in Annex I of the Banking Consolidation Directive, now Annex I of the CRD. The activities include lending (e.g. forfaiters and trade financiers), financial leasing, and safe custody services. Annex I financial institutions are required to register with the *FCA*.

Footnote 24 ~~Credit~~ Consumer credit financial institutions and money service businesses are also outside the definition of “Annex I financial institution”, which is set out in Regulation 22(1).

Annex W

Amendments to the Perimeter Guidance manual (PERG)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

1.4 General guidance to be found in PERG

...

1.4.2 G Table: list of general guidance to be found in PERG

Chapter:	Applicable to:	About:
...		
<p><i>PERG 13:</i> Guidance on the scope of the Markets in Financial Instruments Directive and the recast Capital Adequacy Directive <u>CRD IV (Directive on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms and the Regulation on prudential requirements for credit institutions and investments firms)</u></p>	<p>Any <i>UK person</i> who needs to know whether <i>MiFID</i> or the recast <u>CAD CRD and EU CRR (which allow the recast CAD to continue to apply to certain firms)</u> as implemented in the UK apply to him.</p>	<p>the scope of <i>MiFID</i> and the recast <u>CAD</u> <u>CRD</u> and <u>EU CRR</u>.</p>

...		
-----	--	--

...

4.11.5 G For the purposes of *regulated mortgage activities*, sections 418(2), (4), (5), (5A) and (6) are relevant as follows:

- (1) Section 418(2) refers to a case where a *UK-based person* carries on a *regulated activity* in another *EEA State* in the exercise of rights under a *Single Market Directive*. The only *Single Market Directive* which is relevant to mortgages is the *Banking Consolidation Directive CRD*.

...

...

10 Guidance on activities related to pension schemes

...

10.4A The application of EU Directives

Q41A. Are pension scheme trustees and administration service providers likely to be subject to authorisation under the Markets in Financial Instruments Directive or subject to the ~~Capital Adequacy Directive~~ Directive on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms?

...

As for the ~~re-cast Capital Adequacy Directive CRD~~, this will only apply to persons who are *MiFID investment firms* or ~~BCD~~ CRD credit institutions.

Detailed guidance on the scope of MiFID and the ~~re-cast Capital Adequacy Directive CRD~~ and *EU CRR* is in *PERG 13*.

...

...

13 Guidance on the scope of the Markets in Financial Instruments Directive and the ~~recast Capital Adequacy Directive~~ CRD IV (Directive on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms and the Regulation on prudential requirements for credit institutions and investments firms)

13.1 Introduction

The purpose of this chapter is to help UK firms consider:

- whether they fall within the scope of the Markets in Financial Instruments

Directive 2004/39/EC ('MiFID') and therefore are subject to its requirements;

- how their existing *permissions* correspond to related MiFID concepts;
- whether the ~~recast Capital Adequacy Directive~~ ('~~recast CAD~~') applies CRD and the EU CRR apply to them, and for certain firms, whether the recast CAD continue to apply to them; and
- if so, which category of investment firm they are for the purposes of the transposition of the ~~recast CAD~~ or CRD and the EU CRR.

...

~~Recast Capital Adequacy Directive (recast CAD)~~ CRD IV

Investment firms subject to MiFID, including those who fall within the article 3 MiFID exemption but opt not to take advantage of it, ~~and UCITS investment firms~~ are subject to the requirements of the ~~recast CAD~~ CRD and the EU CRR.

There are special provisions for certain commodities firms as well as firms whose MiFID investment services and activities are limited to only one or more of the following investment services and activities:

- execution of orders on behalf of clients;
- portfolio management;
- giving investment advice; or
- receiving and transmitting client orders; ~~or both~~ and

who are not permitted to hold client money or securities nor are authorised to provide ancillary service (1) referred to in Section B of Annex 1 to MiFID (which is safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management).

Collective portfolio management investment firms (a term that is used to refer to both *AIFM investment firms* and *UCITS investment firms*) are subject to the requirements of the *CRD* and the *EU CRR*, unless they are firms whose MiFID investment services and activities are limited to those in the preceding paragraph.

Under the UK implementation of the ~~recast CAD~~ CRD and the EU CRR, the level of capital an investment firm subject to MiFID requires is determined by the type of investment services and activities it provides or performs, its scope of permission and any limitations or requirements attaching to that permission (see *PERG 13.6*). A firm relying on an article 2 or 3 MiFID exemption is not subject to ~~recast CAD~~ CRD and the EU CRR.

How does this document work?

This document is made up of Q and As divided into the following sections:

- General (*PERG 13.2*);
- ...
- The ~~recast CAD~~ CRD IV (*PERG 13.6*); and

- Flow charts, tables and lists (*PERG 13 Annex 1*, *PERG 13 Annex 2*, *PERG 13 Annex 3*, *PERG 13 Annex 4*).

We have also included guidance in the form of flow charts to help firms decide whether MiFID and the CRD and the EU CRR (which allow the recast CAD to apply to certain firms) apply to them as well as permission maps indicating which regulated activities and *specified investments* correspond to MiFID investment services, activities and MiFID financial instruments (see *PERG 13 Annex 1*, *PERG 13 Annex 2*, *PERG 13 Annex 3*, *PERG 13 Annex 4*).

...

13.2 General

Q1. Why does it matter whether or not we fall within the scope of MiFID?

Depending on whether or not you fall within the scope of MiFID, you may be subject to:

- domestic legislation implementing MiFID (for example, FCA rules);
- directly applicable legislation made by the European Commission (the *MiFID Regulation* and EU CRR); and
- domestic legislation implementing the ~~recast CAD~~ CRD (see *PERG 13.6*).

...

Q2. Is there anything else we should be reading?

The Q and As complement, and should be read in conjunction with, the relevant legislation and the general guidance on regulated activities, which is in chapter 2 of our Perimeter Guidance manual ('PERG'). The Q and As relating to the ~~recast CAD~~ CRD and the EU CRR (which allow the recast CAD to apply to certain firms) should be read in conjunction with the relevant parts of our Prudential sourcebook for Investment Firms (IFPRU), the Interim Prudential sourcebook for Investment Businesses (IPRU(INV)), the General Prudential sourcebook ('GENPRU') and the Prudential sourcebook for banks, building societies and investment firms ('BIPRU').

~~More generally, you should be aware that the recast CAD forms part of the Capital Requirements Directive ('CRD') which also amends the Banking Consolidation Directive.~~

Q3. How much can we rely on these Q and As?

The answers given in these Q and As represent the FCA's views but the interpretation of financial services legislation is ultimately a matter for the courts. How the scope of MiFID and the ~~recast CAD~~ CRD and the EU CRR affect the regulatory position of any particular person will depend on his individual circumstances. If you have doubts about your position after reading these Q and As, you may wish to seek legal advice. The Q and As are not a substitute for reading the relevant provisions in MiFID, the ~~recast CAD~~ CRD and the EU CRR (and the recast CAD for certain firms), the MiFID implementing measures and The Treasury's implementing legislation, including the statutory instruments listed

in Annex 4 ('Principal Statutory Instruments relating to MiFID scope issues').

Moreover, although MiFID and the ~~recast CAD~~ CRD and the EU CRR set out most of the key provisions and definitions relating to scope, some provisions may be subject to further legislation by the European Commission. In addition to FCA guidance, MiFID's scope provisions may also be the subject of guidance or communications by the European Commission or the ~~Committee of European Securities and Markets Authority ('ESMA') Regulators ('CESR')~~. Similarly, the ~~recast CAD~~ CRD and the EU CRR provisions may be the subject of technical standards and guidance or communications by the European Commission or the ~~Committee of European Banking Authority ('EBA') Supervisors ('CEBS')~~.

...

13.3 Investment Services and Activities

...

Q12A. We carry out the activity of bidding in emissions auctions. Is this a MiFID service or activity?

Article 6(5) of the *auction regulation* deems as an *investment service or activity* the reception, transmission and submission of a bid for a *financial instrument* (the 'five-day future' auction product – see *PERG* 2.6.19GG(3)) on an *auction platform* by an *investment firm* to which *MiFID* applies or a ~~BCD~~ CRD *credit institution*. It does not specify which *investment service or activity*. In the *FCA*'s view, it is likely to be the reception and transmission of orders in relation to one or more *financial instruments*, *execution of orders on behalf of clients* or *dealing on own account*.

...

Q16. What is dealing on own account? (A3 and article 4.1(6))

...

In our view, where you are a firm which meets all of the conditions of article ~~5.2 of the recast CAD~~ 29(2) of CRD (see Q61), you will not be dealing on own account.

...

Q.24 What is a multilateral trading facility?...

The concept of a multilateral trading facility (MTF) draws on standards, issued by CESR (now known as ESMA), on which the FSA's previous alternative trading system regime was based. ...

...

Q26. We are an investment firm – can we apply for passporting rights that include ancillary services?

...

You will not be able to apply for passporting rights in respect of ancillary services only. In our view, this does not restrict the ability of credit institutions to exercise passporting rights under the *BCD CRD* which correspond to ancillary services under *MiFID* (for example, the activity of safekeeping and administration of securities in Annex 1 paragraph 12 of the *BCD CRD*).

...

13.5 Exemptions from MiFID

...

Q49. Which firms might fall within this exemption?

The exemption applies to persons who meet all the following conditions:

- ...
- credit institutions authorised under the *BCD CRD*;
- branches of third country investment firms or credit institutions complying with rules considered by the FCA to be at least as stringent as those laid down in MiFID, ~~the BCD~~ or the *CAD CRD* and the *EU CRR*;
- ...

...

Q53. What is the practical effect of exercising the optional exemption for those firms falling within its scope?

You are not a firm to which MiFID applies and so are not a *MiFID investment firm* for the purposes of the Handbook. As such you are not subject to the requirements of the ~~recast CAD CRD~~ as transposed in the Handbook and the *EU CRR* and cannot exercise passporting rights.

...

13.6 ~~The recast Capital Adequacy Directive~~ CRD IV

Q54. What is the purpose of this section?

This section is designed to help UK investment firms consider:

- whether the *CRD* and the *EU CRR* (which allow the recast CAD to continue to apply to certain firms), as implemented in the UK, applies to them;
- ~~if so, which category of firm they are for the purposes of the FCA's base capital resources requirements made under the recast CAD, for example whether they are a *BIPRU 50K firm*, a *BIPRU 125k firm*, a *BIPRU IFPRU 730K firm*, a *UCITS investment firm*, an *exempt CAD firm* or a firm falling within the transitional regime for certain commodity brokers and dealers; and~~
- if the *CRD* applies, which category of firm they are for the purposes of the

FCA's base own funds requirements, for example whether they are an IFPRU 50K firm, an IFPRU 125K firm or an IFPRU 730K firm, an exempt CAD firm or a firm falling within the transitional regime for certain commodity brokers and dealers;

- if the CRD allows the recast CAD to apply for certain firms, which category of firm they are for the purposes of the FCA's base capital resources requirements, for example whether they are a BIPRU firm or a BIPRU firm falling within the transitional regime for certain commodity brokers and dealers;
- in respect of collective portfolio management investment firms, which category of firm they are for the purpose of the FCA's financial resources requirements, for example whether they are an IFPRU investment firm or BIPRU firm; and
- how the ~~recast CAD~~ CRD and the EU CRR otherwise impacts impact on their business, by explaining when a firm will be a limited licence firm, a limited activity firm or a full-scope BIPRU IFPRU investment firm.

This section is intended to provide a general summary of these issues and not a detailed or exhaustive explanation of the ~~recast CAD~~ CRD and the EU CRR as implemented in the UK.

Q55. Are we subject to the ~~recast CAD~~ CRD and the EU CRR?

Only investment firms subject to the requirements of MiFID are subject to the requirements of the ~~recast CAD~~ CRD and the EU CRR (which allow the recast CAD to apply for certain firms). This includes UCITS investment firms collective portfolio management investment firms (see Q6 and Q63).

Despite being subject to the requirements of MiFID, broadly speaking, if you are one of the following investment firms, ~~our implementation of the recast CAD~~ CRD and the EU CRR will only apply to you in a limited way:

- a firm whose main business consists exclusively of providing *investment services or activities* in relation to commodity derivatives or C10 derivatives, or both, and to whom the ISD would not have applied. If you fall into this category, you will fall within a transitional regime under which you will not be subject to the capital requirements of the ~~recast CAD~~ EU CRR or CRD but will be subject to other requirements (see Q57); or
- a firm that is only authorised to provide investment advice or receive and transmit orders, or both, without holding client money or securities and does not provide the ancillary service (1) referred to in Section B of Annex I to MiFID, which is safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management. If you fall into this category, you will be an *exempt CAD firm* and only subject to base capital requirements under the ~~recast CAD~~ CRD (see Q58 and Q59 below); or
- a firm that:
 - does not provide the ancillary service of safekeeping and

administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management, and is not authorised to do so;

- is not authorised to provide the following investment services: (a) to deal in any financial instruments for its own account; (b) to underwrite issues of financial instruments on a firm commitment basis; (c) to place financial instruments without a firm commitment basis; and (d) to operate a multilateral trading facility;
- is authorised to provide one or more of the following investment services: (a) the execution of investors' orders for financial instruments; or (b) the management of individual portfolios of investments in financial instruments;
- may be authorised to provide one or more of the following investment services: (a) reception and transmission of investors' orders for financial instruments; or (b) investment advice; and
- does not hold clients' money and/or securities and is not authorised to do so (it should have a limitation or requirement prohibiting the holding of client money and its permission should not include safeguarding and administering investments).

If you fall into this category, you may be a BIPRU firm and as such would not be subject to the capital requirements of the EU CRR or CRD but would instead be subject to other requirements (see Q58A).

If you are an investment firm to which an exemption in either article 2 or article 3 MiFID applies (see PERG 13.5 and PERG 13 Annex 1 flow chart 2), you are not subject to the ~~recast-CAD~~ CRD and the EU CRR. However, if you potentially fall within the article 3 exemption, but decide to opt into MiFID regulation, for instance to acquire passporting rights (see Q52), you are subject to the ~~recast~~ ~~CAD~~ CRD and the EU CRR. If you do so, you are an *exempt CAD firm* (see Q58 and Q59).

There is also a special exemption under the ~~recast-CAD~~ EU CRR for locals that do not fall within the exemption for local firms under MiFID (see Q47). However, we do not think that UK regulated firms that were subject to the regulatory regime for locals prior to MiFID implementation are likely to fall within the exemption under the ~~recast-CAD~~ EU CRR. This is because they are likely to fall within article 2.1(l) MiFID.

Q56. We are an investment firm to which MiFID applies and do not fall into one of the limited categories described above. How does the ~~recast-CAD~~ CRD and the EU CRR apply to us?

You are a ~~CAD~~ an *IFPRU investment firm*. Broadly speaking, you should go through an initial two-stage process in considering how the ~~recast-CAD~~ CRD and the EU CRR will apply to you:

- consider what kind of base ~~capital~~ own funds requirements apply to you; and
- consider whether you are a *limited licence firm*, a *limited activity firm* or a

full-scope BIPRU IFPRU investment firm to determine how other capital requirements of the ~~recast CAD~~ CRD and the EU CRR apply to you.

You are either a ~~BIPRU~~ an IFPRU 50K firm (subject to a base ~~capital~~ own funds requirement of euro 50,000) (see Q60), a ~~BIPRU~~ an IFPRU 125K firm (subject to a base ~~capital~~ own funds requirement of euro 125,000) (see Q61), a ~~BIPRU~~ an IFPRU 730K firm (subject to a base ~~capital~~ own funds requirement of euro 730,000) (see Q62) or a ~~UCITS investment firm~~ collective portfolio management investment firm (see Q63). Your base ~~capital~~ own funds requirement depends essentially on the scope of your permission and any limitations or requirements placed upon it.

If you are a ~~CAD~~ an IFPRU investment firm, in essence the scope of your *permission* and any limitations or requirements placed upon it also dictate whether you are a *limited licence firm*, a *limited activity firm* or a *full-scope BIPRU IFPRU investment firm*. Broadly speaking, the benefit of being a *limited licence firm* or a *limited activity firm* (see Q64 and Q65) is that you are exempt from:

- minimum own funds requirements to hold capital to cover operational risk, although you are subject to the requirements to hold own funds calculated by reference to credit risk, market risk and fixed overheads (see ~~GENPRU 2.1.45R~~ articles 95 and 96 of the EU CRR);
- the requirement to calculate a leverage ratio (see article 6(5) of the EU CRR).

A limited licence firm is further exempt from the requirements on capital buffers (see the last paragraph of article 128 of CRD) and liquidity requirements in Part Six of the EU CRR (see article 6(4) of the EU CRR).

A limited activity firm is exempt from the liquidity requirements in Part Six of the EU CRR unless it is both an ILAS BIPRU firm and a significant IFPRU firm (see article 6(4) of the EU CRR).

An IFPRU investment firm includes a collective portfolio management investment firm (see Q63).

Other derogations may apply (see IFPRU).

If you are a *full-scope BIPRU IFPRU investment firm*, you are subject to the full range of ~~recast CAD~~ risk requirements in CRD and the EU CRR, unless there are specific derogations that apply (see Q66). ~~See, generally, GENPRU 2.1.45R in relation to the calculation of capital resources requirements for limited licence firms, limited activity firms and full scope BIPRU investment firms.~~

The question of whether you are a *limited licence firm* or a *limited activity firm* may also be relevant to capital treatment at a group level. This is outside the scope of this guidance which focuses only on the application of the ~~recast CAD~~ CRD and the EU CRR at the level of the individual firm, ~~although you may find the decision tree at BIPRU 8 Annex 5R helpful in considering these issues.~~

Q57. How do we know if we are a firm to which the transitional regime for certain commodity brokers and dealers applies?

You are a firm to which the transitional regime applies if:

- you are a firm to which the Directive 93/22/ECC (ISD) did not or would not have applied on 31 December 2006; and
- your main business consists exclusively of the provision of investment services or activities in relation to financial instruments set out in C5, 6, 7, 9 and 10 of Annex 1 of MiFID. See article 498 of the EU CRR or BIPRU TP 15, whichever is applicable.

This exemption is only relevant if you are a firm to which MiFID applies, that is, you do not fall within the exemptions in articles 2 or 3 of MiFID (see Q55). Although you are exempt from the capital requirements of the ~~recast CAD CRD~~ and the EU CRR (or the recast CAD as applicable to BIPRU firms), you are subject to risk management and other systems and control requirements in the form of SYSC (see BIPRU TP 15.11G or IFPRU 1.1.1G). You may also be subject to the requirements of chapter 3 of IPRU(INV).

If you fall into this category, you are either an exempt BIPRU commodities firm (see BIPRU TP 15 if you are a BIPRU firm) or an exempt IFPRU commodities firm (see article 498 of the EU CRR if you are an IFPRU investment firm).

In our view, your main business for the purposes of this exemption is the main business to which MiFID applies.

Q58. How do we know whether we are an exempt CAD firm and what does this mean in practice?

...

- are not authorised to hold client money or securities in relation to MiFID business;
- do not have a *safeguarding and administering investments* (without arranging) permission in relation to MiFID financial instruments; and

...

Q58A. How do we know whether we are a BIPRU firm and what does that mean in practice?

This category may be relevant to you if you have permission to *execute orders on behalf of clients* and/or carry out *portfolio management* in relation to MiFID financial instruments. In summary, a *BIPRU firm*:

- does not provide the *ancillary service of safekeeping and administration of financial instruments* for the account of *clients*, including *custodianship and related services such as cash/collateral management*, and is not authorised to do so;
- is not authorised to provide the *investment services of dealing in any financial instruments* for its own account, *underwriting issues of financial instruments on a firm commitment basis*, *placing financial instruments without a firm commitment basis* and *operating a multilateral trading facility*;
- is authorised to provide one or more of the *investment services of*

executing investor's orders for *financial instruments*, or management of individual portfolios of investments in *financial instruments*;

- may be authorised to provide one or more of the *investment services* of the reception and transmission of investors' orders for *financial instruments*, or investment advice; and
- does not hold clients' money and/or securities and is not authorised to do so (it should have a *limitation* or *requirement* prohibiting the holding of client money and its permission should not include *safeguarding and administering investments*).

Where you hold client money for purposes unconnected with providing investment advice or receiving and transmitting orders in relation to MiFID financial instruments, in our view you can still be a *BIPRU firm*. This might include, for instance, when you hold money or securities for clients to whom you only provide services that do not constitute *investment services* and therefore fall outside the scope of MiFID.

There is a discretion in article 95(2) of the *EU CRR* which the FCA has exercised to keep *BIPRU firms* on the recast CAD and Banking Consolidation Directive, as they stood under national law (ie, *BIPRU* and *GENPRU*) on 31 December 2013. Consequently, if you are a *BIPRU firm*, you are subject to base capital resources requirement of euros 50,000 (see *GENPRU* 2.1.48R) and, for the calculation of the variable capital requirement for a *BIPRU firm*, see *GENPRU* 2.1.45R.

A *collective portfolio management investment firm* may also include a *BIPRU firm* (see Q63).

Q59. If we are subject to the Insurance Mediation Directive, does this make any difference to the requirements which apply?

Yes. If the only *investment services* that you are authorised to provide are investment advice or receiving and transmitting orders or both, without holding client money or securities, you can still be an *exempt CAD firm*. However, you are subject to different base capital requirements. Broadly speaking, article ~~8~~ ~~recast~~ ~~CAD~~ 31(2) of the *CRD* requires you to have professional indemnity insurance of euro 1,000,000 for any one claim and euro 1,500,000 in aggregate (this is the *IMD* requirement), plus coverage in one of the following forms:

- base capital of euro 25,000; or
- professional indemnity insurance of euro 500,000 for any one claim and euro 750,000 in aggregate; or
- a combination of base capital and professional indemnity insurance resulting in an equivalent level of coverage to the options above.

For the rules transposing these requirements and supporting guidance, see the final paragraph of the answer to Q58.

As mentioned in Q58, when you hold client money or securities for purposes unconnected with providing investment advice or receiving and transmitting orders in relation to MiFID financial instruments, in our view you can still be an *exempt CAD firm*. This might include, for instance, when you hold client money

for those to whom you provide insurance mediation services.

You should also bear in mind that if you are a firm to whom article 2 or article 3 MiFID applies (see *PERG* 13.5), you are not subject to the ~~recast~~ CAD CRD.

Q60. Are we a ~~BIPRU~~ an IFPRU 50K firm?

This category may be relevant to you if you are not an *exempt CAD firm* or a *BIPRU firm* and have one or more of the following permissions in relation to MiFID financial instruments:

- *arranging (bringing about) deals in investments;*
- *dealing investments as agent;* or
- *managing investments,*

provided that you are not authorised to:

- hold client money or securities in relation to MiFID business or *safeguard and administer (without arranging)* MiFID financial investments; or
- deal on own account in, or underwrite on a firm commitment basis, issues of MiFID financial instruments (if you have a *dealing in investments as principal* permission in relation to MiFID financial instruments, you need a limitation or requirement on your permission to this effect).

Q61. Are we a ~~BIPRU~~ an IFPRU 125K firm?

This category may be relevant to you if you would have been a ~~BIPRU~~ an IFPRU 50K firm but for the fact that you are entitled to hold client money or securities in relation to MiFID business or hold MiFID financial instruments.

You may also be a ~~BIPRU~~ an IFPRU 125K firm if you meet the conditions of article ~~5.2 recast~~ CAD 29(2) of the CRD. Broadly speaking, this applies to investment firms which execute investors' orders and hold financial instruments for their own account provided that:

- such positions arise only as a result of the firm's failure to match investors' orders precisely;
- the total market value of all such positions is subject to a ceiling of 15% of the firm's initial capital;
- the firm meets the requirements laid down in articles ~~18, 20 and 28 recast~~ CAD 92 to 95 of the EU CRR and Part Four of the EU CRR (including own funds requirements in respect of position risk, settlement and counterparty credit risk and large exposures); and
- such positions are incidental and provisional in nature and strictly limited to the time required to carry out the transaction in question.

If you meet the conditions of article ~~5.2 recast~~ CAD 29(2) of the CRD and are not authorised to hold client money or securities in relation to MiFID business or *safeguard and administer (without arranging)* MiFID financial instruments, you will be a ~~BIPRU~~ an IFPRU 50K firm.

Q62. Are we a ~~BIPRU~~ an IFPRU 730K firm?

If you are a ~~CAD~~ an IFPRU investment firm and you are neither a ~~BIPRU~~ an IFPRU 50K firm nor a ~~BIPRU~~ an IFPRU 125K firm nor a ~~UCITS investment firm~~ collective portfolio management investment firm (see Q63), you will be a ~~BIPRU~~ an IFPRU 730K firm.

Q63. We are a ~~UCITS investment firm~~ collective portfolio management investment firm. How will the ~~recast CAD~~ the CRD and the EU CRR apply to us? Does the recast CAD continue to apply to us?

~~UCITS investment firms~~ Collective portfolio management investment firms (AIFMs that are authorised to perform the additional services of portfolio management, investment advice, safeguarding and administering of units and reception and transmission of orders in relation to financial instruments and UCITS management companies that are authorised to perform the additional services of portfolio management, investment advice and safeguarding and administration of units) are subject to the ~~recast CAD~~ CRD and the EU CRR in parallel with the capital requirements in AIFMD and/or the UCITS Directive (as applicable). This category of collective portfolio management investment firms are also IFPRU investment firms. See IFPRU and IPRU(INV) 11.

As an exception to the above, collective portfolio management investment firms which are also a BIPRU firm (see Q58A) are subject to the recast CAD in parallel with the capital requirements in AIFMD and/or the UCITS Directive (as applicable). See GENPRU, BIPRU and IPRU(INV) 11.

If you are a ~~UCITS investment firm~~ collective portfolio management investment firm, your minimum base capital own funds requirement is contained in IPRU(INV) 11.3.1R, GENPRU 2.1.48R (which refers to UPRU 2.1.2R(1)) and in summary is:

- ~~a minimum base capital requirement of euro 125,000; and~~
- ~~an additional amount of own funds equal to 0.02% of the amount by which the value of the portfolios under management exceeds euro 250,000,000 (subject to an overall maximum base capital requirement of euro 10,000,000).~~

In our view, a ~~UCITS investment firm~~ collective portfolio management investment firm should be a limited licence firm, as AIFMD and/or the UCITS Directive (as applicable) prevents it from dealing on own account outside its scheme management activities. As a result, where a ~~UCITS investment firm~~ collective portfolio management investment firm has a dealing in investments as principal permission, this ~~should be limited to box management activities where MiFID financial instruments are concerned. In our view, a UCITS investment firm which has this limitation and complies with it will only be required as a result of its individual portfolio management activity and it will not be dealing on own account for the purposes of the MiFID and the CRD and the EU CRR (or the recast CAD as applicable to BIPRU firms).~~

Q64. Are we a limited licence firm?

A *limited licence firm* is one that is not authorised to:

- deal on own account (see Q16); and
- underwrite and/or place financial instruments on a firm commitment basis (see Q22).

You can be a *limited licence firm* if you are either:

- a ~~BIPRU~~ an IFPRU 50K firm (see Q60); or
- a ~~BIPRU~~ an IFPRU 125K firm (see Q61).

Generally, you cannot be a *limited licence firm* if you are a ~~BIPRU~~ an IFPRU 730K firm. However, you may be a *limited licence firm* if you operate a multilateral trading facility (and therefore are a ~~BIPRU~~ an IFPRU 730K firm) and do not have a *dealing in investments as principal* permission enabling you to deal on own account or to underwrite or place financial instruments on a firm commitment basis.

For calculation of the variable capital requirement for a ~~BIPRU~~ an IFPRU limited licence firm (including a ~~UCITS investment firm~~ collective portfolio management investment firm) see ~~GENPRU 2.1.45R~~ article 95 of the EU CRR.

Q65. Are we a limited activity firm?

A *limited activity firm* is a ~~BIPRU~~ an IFPRU 730K firm that deals on own account only for the purpose of:

- fulfilling or executing a client order; or
- gaining entrance to a clearing and settlement system or a recognised exchange when acting in an agency capacity or executing a client order.

If you wish to be a *limited activity firm*, you should apply for a limitation on your *dealing in investments as principal* permission reflecting these conditions.

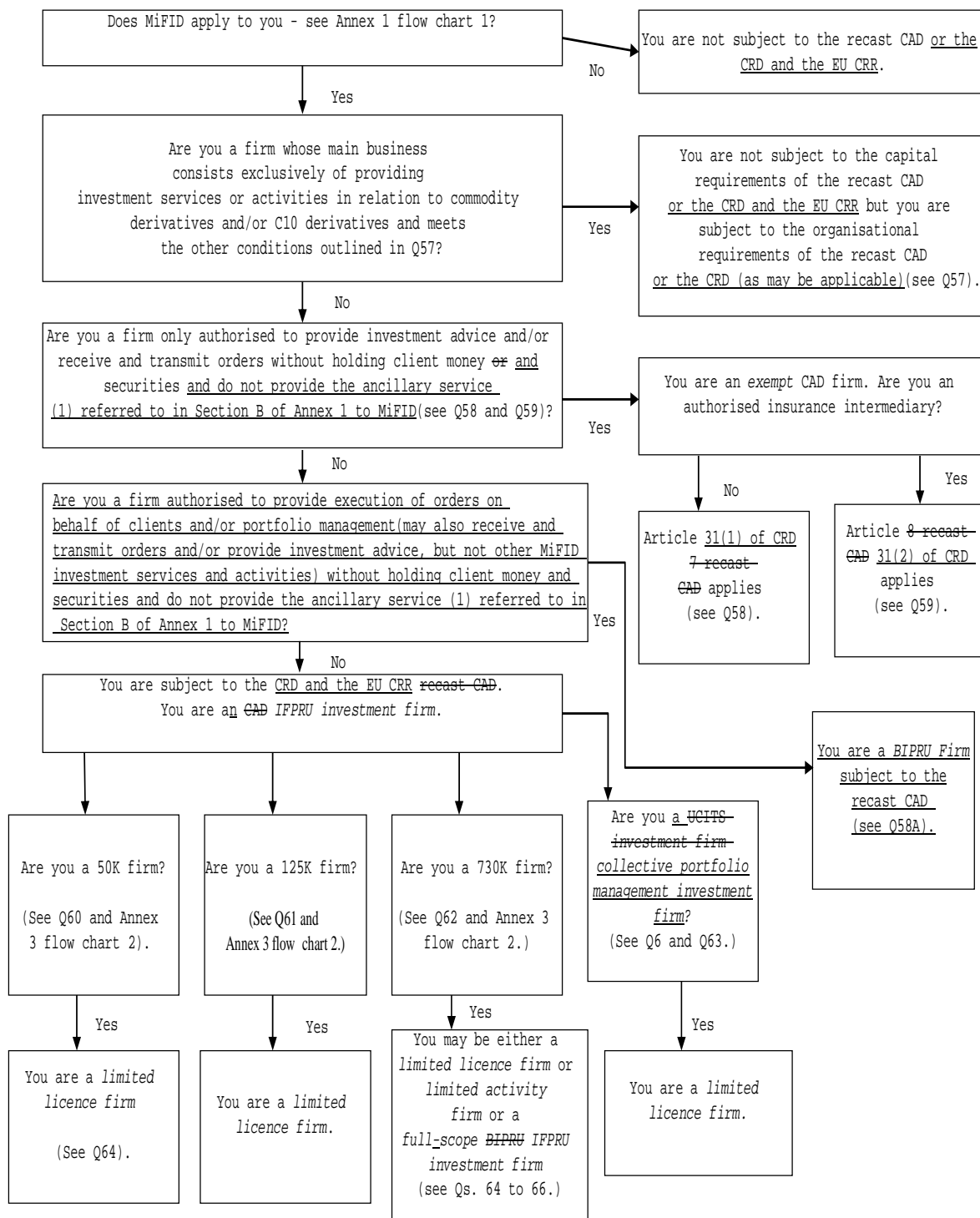
There is also a category for certain firms which, among other things, do not hold client money or securities and have no external customers. ~~We do not think that any UK regulated firms are likely to fall within this third category of limited activity firm.~~

Q66. What is the effect of being a ~~CAD~~ an IFPRU investment firm subject to the CRD and the EU CRR which is neither a limited licence firm nor a limited activity firm?

You will be a *full-scope* ~~BIPRU~~ IFPRU investment firm, subject to the full range of ~~recast CAD~~ CRD and EU CRR risk requirements, unless there are specific derogations that apply.

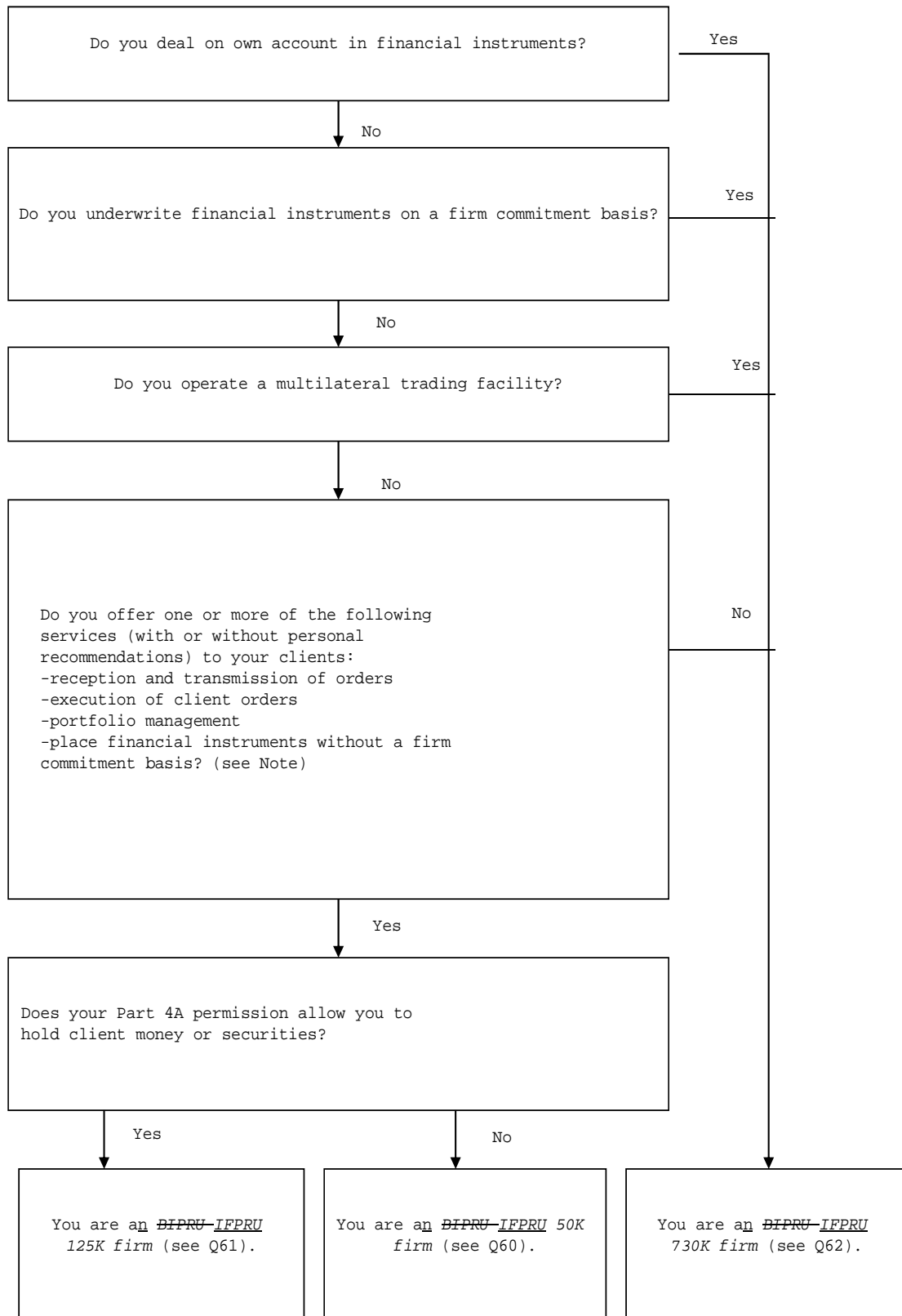
13 In flow chart 1 substitute ‘recast CAD’ for ‘recast *CAD* or the *CRD* and the *EU*
Annex 1 *CRR*’. The amended text is not shown.

13 Annex 3 Flow chart 1 – Are you subject to the CRD and EU CRR (or allowed to be subject to the recast CAD)?



13 Annex 3 Flow chart 2 – ~~CAD~~ IFPRU investment firms (excluding UCITS collective portfolio management investment firms)

Are we an BIPRU IFPRU 50K firm, an BIPRU IFPRU 125K firm or an BIPRU IFPRU 730K firm?



Note

It is possible, in principle, that a ~~CAD~~ an IFPRU investment firm may only provide the *investment service* of investment advice and hold client funds or securities, in which case the starting point is generally that it is a

~~BIPRU~~ an IFPRU 730K firm. In practice, if such a firm wishes to benefit from a lower capital treatment (for example euro 125,000), it may wish to add an *arranging (bringing about) deals in investments* element to its permission to enable it to receive and transmit orders in relation to MiFID instruments.

15 Guidance on the scope of the Payment Services Regulations 2009

...

15.2 General

Q1. Why does it matter whether or not we fall within the scope of the PSD regulations?

Broadly, when you provide payment services, by way of business, in the UK and these services do not fall within an exclusion or exemption, you must be:

...

- (d) a credit institution (either one with a Part 4A permission to accept deposits or an EEA credit institution where it is exercising passport rights under paragraph 4 of Annex 1 to the ~~Banking Consolidation directive~~ CRD); or

...

Q7. We are a credit institution. Do the PSD regulations apply to us?

...

An EEA credit institution wishing to provide payment services through a UK branch must exercise its passport rights under paragraph 4 of the Annex to the ~~Banking Consolidation directive (BCD)~~ CRD. Similarly, a UK credit institution which wishes to provide payment services in other Member States may exercise its ~~BCD~~ CRD passport rights to do so.

Q10. We are a “financial institution” under the ~~Banking Consolidation Directive (BCD)~~ CRD. How does PSD apply to us?

...

A “financial institution” for the purposes of the PSD regulations, as for the ~~BCD~~ CRD, is an undertaking other than a credit institution, the principal activity of which is to acquire holdings or to carry on one or more of the activities listed in points 2 to 12 of Annex 1 to the ~~BCD~~ CRD (see *SUP* App 3.9.4G). It may include, for example, an authorised person under the *Act* which is neither a credit institution nor an e-money issuer.

...

15.6 Territorial Scope

Q45. We are a UK payment institution - when will we need to make a passport notification?

...

As regards the provision of payment services in other EEA States and passport notification, in our view the Commission Interpretative Communication (Freedom to provide services and the interest of the general good in the Second Banking Directive (97C 209/04)) provides a useful starting point, in particular because payment services form part of the ~~BCD~~ CRD passport. ...

...

16 Scope of the Alternative Investment Fund Managers Directive

...

16.2 G What types of funds and businesses are caught?

...

Question 2.58: Is a bank or insurer caught?

An undertaking authorised under the *Insurance Directives* or the ~~*Banking Consolidative Directive*~~ CRD will not be an AIF.