

**INVESTMENT FIRMS PRUDENTIAL REGIME (AMENDMENT) INSTRUMENT
2023**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) 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 137T (General supplementary powers);
 - (3) section 139A (Power of the FCA to give guidance);
 - (4) section 143D (Duty to make rules applying to parent undertakings); and
 - (5) section 143E (Powers to make rules applying to parent undertakings).
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 29 September 2023.

Amendments to the FCA Handbook

- D. The Prudential sourcebook for MiFID Investment Firms (MIFIDPRU) is amended in accordance with the Annex to this instrument.

Notes

- E. In the Annex to this instrument, the “notes” (indicated by “**Note:**” or “*Editor’s note:*”) are included for the convenience of readers, but do not form part of the legislative text.

Citation

- F. This instrument may be cited as the Investment Firms Prudential Regime (Amendment) Instrument 2023.

By order of the Board
28 September 2023

Annex

Amendments to the Prudential sourcebook for MiFID Investment Firms (MIFIDPRU)

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

7 Governance and risk management

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

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7.6.10 G ...

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

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

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

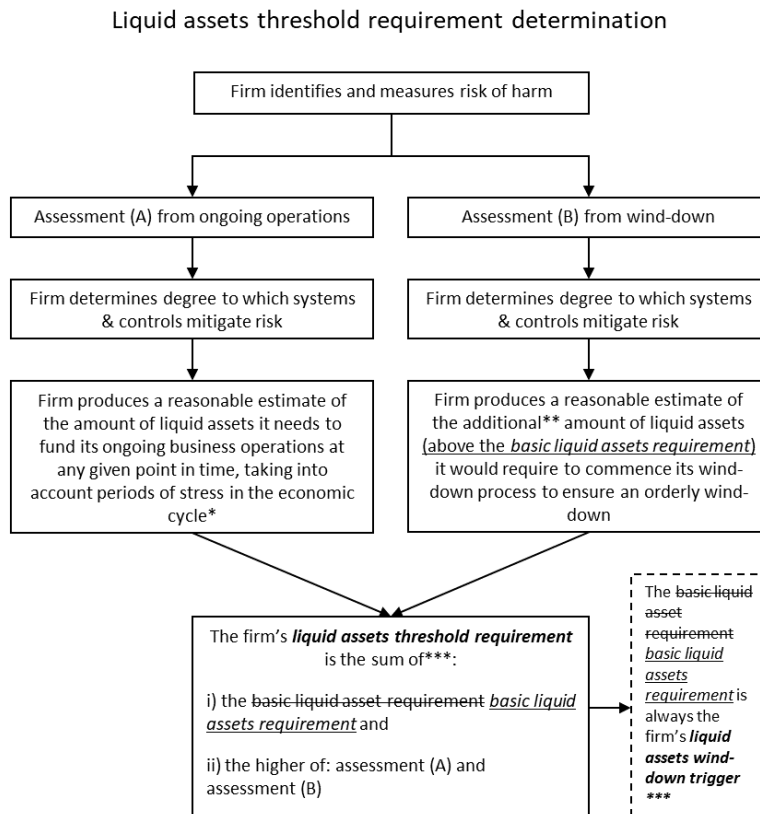
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7.7 ICARA process: assessing and monitoring the adequacy of liquid assets

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7.7.5 G ...

- (3) The following diagram summarises the process that a firm should undertake to determine its *liquid assets threshold requirement*:



* When a firm assesses the amount of liquid assets it needs for ongoing operations, it cannot use the value of the core liquid assets held to meet the basic liquid assets requirement to fund those operations.

** The basic liquid assets requirement may be insufficient to provide the liquid assets that the firm has assessed would be necessary to facilitate an orderly wind-down. Therefore, the firm may identify that it needs to hold an additional amount of liquid assets (above the basic liquid assets requirement) to meet its funding needs to commence its wind-down process. The amount of additional liquid assets under assessment (B), therefore, does not include the amount of the basic liquid assets requirement (as explained in MIFIDPRU 7.7.3G(2)(b)).

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

- (4) The following example illustrates how to determine the *firm's liquid assets threshold requirement* once assessment (A) and assessment (B) have been calculated:
- (a) A firm has a basic liquid assets requirement of £1,000,000 under MIFIDPRU 6.
- (b) Through its ICARA process, the firm assesses that it needs a total amount of liquid assets of:
- (i) £1,500,000 for ongoing operations under assessment (A); and
- (ii) £5,000,000 for an orderly wind-down, which means that the firm's additional amount of liquid assets (above the basic liquid assets requirement) under assessment (B) is £4,000,000.
- (c) As assessment (B) (£4,000,000) is higher than assessment (A) (£1,500,000), assessment (B) (£4,000,000) is added to the firm's basic liquid assets requirement of £1,000,000.
- (d) The firm's liquid assets threshold requirement would, therefore, be £5,000,000 (the sum of the basic liquid asset requirement (£1,000,000) and assessment (B) (£4,000,000)).

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7.9 ICARA process: firms forming part of a group

7.9.1 G This section contains:

(1) ...

(1A) guidance on the extent to which an investment firm group may operate an ICARA process on a consolidated basis;

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~~Group~~ Consolidated ICARA process

7.9.4 G ...

(2) However, ~~in exceptional circumstances~~ on a case-by-case basis, the *FCA* may determine that a particular *investment firm group* should operate an *ICARA process* on a *consolidated basis*. ~~For example, the FCA may conclude that the individual ICARA process operated by a MIFIDPRU investment firm within an investment firm group, or the~~

group ICARA process operated by an investment firm group, does not adequately reflect certain material risks that arise in the context of the investment firm group as a whole. (ie, as if the overall financial adequacy rule applied to the consolidated situation, so that the UK parent entity and the relevant financial undertakings in the investment firm group were treated as a single MIFIDPRU investment firm). (2A) includes examples of such cases. Therefore, in appropriate cases, the FCA may:

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(b) ...

(2A) For the purposes of (2), examples of such cases may include where the FCA concludes that:

- (a) the individual ICARA process operated by a MIFIDPRU investment firm within an investment firm group, or the group ICARA process operated by an investment firm group, does not adequately reflect certain material risks that arise in the context of the investment firm group as a whole;
- (b) the operation of a group or an individual ICARA process does not enable the FCA to effectively supervise the compliance of the investment firm group, or any of the individual MIFIDPRU investment firms within it, with the obligations in MIFIDPRU 7, due to the structure of the investment firm group;
- (c) authorised persons (other than MIFIDPRU investment firms) within the investment firm group conduct a material amount of business and the individual or group ICARA process does not adequately reflect the impact of this business;
- (d) a MIFIDPRU investment firm within the investment firm group is materially dependent on a relevant financial undertaking (other than a MIFIDPRU investment firm) within the investment firm group for either revenue or services;
- (e) the financial resilience of the investment firm group could adversely affect the ongoing financial resilience of the MIFIDPRU investment firms within the investment firm group (for example, due to significant levels of goodwill); and
- (f) there are significant amounts of on- and off-balance sheet claims or liabilities (excluding own funds) between one or more MIFIDPRU investment firms and other relevant financial undertakings within the investment firm group, and they are not short-term or non-recurring.

...

- (4) ...
- (5) An ICARA process operated by an investment firm group on a consolidated basis is in addition to the individual ICARA process operated by a MIFIDPRU investment firm within an investment firm group, or to the group ICARA process operated by an investment firm group.

Group ICARA process

7.9.5 R ...

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7.9.8 R ...

7.9.8 G (1) As explained in MIFIDPRU 7.9.6R, a MIFIDPRU investment firm that is included within a group ICARA process does not generally need to comply with the requirements in MIFIDPRU 7.4 to MIFIDPRU 7.8 on an individual basis.

A

(2) However, as MIFIDPRU 7.9.5R explains, an investment firm group can operate a group ICARA process only if each MIFIDPRU investment firm within it complies with certain provisions of MIFIDPRU 7.4 to MIFIDPRU 7.8 on an individual basis.

(3) The following table explains which provisions a MIFIDPRU investment firm must comply with on an individual basis in order to meet the relevant conditions in MIFIDPRU 7.9.5R:

<u>Relevant condition in MIFIDPRU 7.9.5R</u>	<u>Main rules and related guidance that must be met on an individual basis to comply with the conditions in MIFIDPRU 7.9.5R</u>
<u>(3) – each MIFIDPRU investment firm must comply with the overall financial adequacy rule</u>	<u>MIFIDPRU 7.4.7R and provisions relating to the overall financial adequacy rule</u>
<u>(4) – each MIFIDPRU investment firm must maintain a separate wind-down plan and apply the wind-down triggers on an individual basis</u>	<u>MIFIDPRU 7.5.7R to MIFIDPRU 7.5.10G</u>
<u>(5) – each MIFIDPRU investment firm must comply with the requirements to notify</u>	<u>MIFIDPRU 7.6.11R to MIFIDPRU 7.6.13G</u>

<u>the FCA of certain levels of own funds and liquid assets</u>	<u>MIFIDPRU 7.7.14R to MIFIDPRU 7.7.15G</u>
<u>(9) – each MIFIDPRU investment firm must submit data item MIF007</u>	<u>MIFIDPRU 7.8.4R</u> <u>MIFIDPRU 7.8.5G</u> <u>MIFIDPRU 9.2</u>

- (4) The effect of MIFIDPRU 7.9.8R is that all the rules and guidance in MIFIDPRU 7.4 to MIFIDPRU 7.8 (except those specified in the table in MIFIDPRU 7.9.8AG(3)) apply at the level of the investment firm group.
- (5) Where a MIFIDPRU investment firm is included in a group ICARA process in accordance with MIFIDPRU 7.9.5R, the firm is reminded that, under MIFIDPRU 9.2.1R and MIFIDPRU 9.2.3R (as applicable), it must still submit data item MIF007 to the FCA on an individual basis. Data item MIF007 will provide information about the firm that has been derived from that group ICARA process.

7.9.9 G ...

- (3) Under a group ICARA process, the risk management and analysis of the financial impact of the risks is carried out at the level of the investment firm group. Each firm in the investment firm group is then allocated on a reasonable basis the assessment of own funds or liquid assets that are required to cover identified risks. In addition, each MIFIDPRU investment firm in the investment firm group must comply with the overall financial adequacy rule on an individual basis. An investment firm group that wishes to operate a group ICARA process must therefore ensure that its risk management processes are sufficiently robust to satisfy the requirements in MIFIDPRU 7.9.5R and that there is appropriate accountability of the responsible governing body in accordance with the requirements of that rule.

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9 Reporting

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9 Data items for MIFIDPRU 9

Annex 1R

This annex consists of forms which can be found through the following link:

[Editor’s note: insert link]

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MIF007 – ICARA questionnaire

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Part A: Basis of completion of the ICARA process

1	<p>Is this report on behalf of a consolidation group? Please confirm the basis on which you are submitting this MIF007:</p>	<p><i>Yes/No</i></p>
	<p><u>On an individual basis (under an individual ICARA process)</u></p>	<p><input type="checkbox"/></p>
	<p><u>On an individual basis (as part of a group ICARA process)</u></p>	<p><input type="checkbox"/></p>
	<p><u>On a consolidated basis (Note: this option will apply only where the FCA has imposed a requirement on a UK parent undertaking to operate an ICARA process on a consolidated basis)</u></p>	<p><input type="checkbox"/></p>
2	<p><u>If yes, you undertake the ICARA process on a group or a consolidated basis, please list the firm reference numbers of all FCA regulated entities in the consolidated situation that are covered by the group ICARA process or consolidated ICARA process.</u></p>	<p><i>number</i></p>
3	<p>Has the ICARA process review been completed through a group level arrangement?</p>	<p><i>Yes/No</i></p>

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Part C: Assessing and monitoring the adequacy of liquid assets held

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Liquid assets required as identified through the ICARA process

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34	<p>Additional liquid assets required to fund ongoing business operations at any given point in time (MIFIDPRU 7.7)</p>	
35 <u>34</u>	<p>Quarter 1</p>	<p><i>number</i></p>
36 <u>35</u>	<p>Quarter 1</p>	<p><i>number</i></p>
37 <u>36</u>	<p>Quarter 3</p>	<p><i>number</i></p>

38 <u>37</u>	Quarter 4	<i>number</i>
39 <u>38</u>	Additional liquid assets required to start wind-down (MIFIDPRU 7.7)	<i>number</i>

Meeting debts as they fall due

40 <u>39</u>	Has the firm at any point not been able to meet its debts as they fall due?	<i>Yes/No</i>
41 <u>40</u>	Please provide details	<i>Alpha</i>

Additional liquid assets requirement specified by the FCA

42 <u>41</u>	Has the FCA specified a liquid asset requirement for the firm? If yes, basis for the FCA specified requirement	<i>Yes/No</i>
43 <u>42</u>	Liquid assets threshold requirement	<i>Yes/No</i>
44 <u>43</u>	Liquid assets wind-down trigger	<i>Yes/No</i>
45 <u>44</u>	Liquid assets threshold requirement specified by the FCA	<i>number</i>
46 <u>45</u>	Liquid assets wind-down trigger specified by the FCA	<i>number</i>

Part D: MiFID investment services and activities and business model information**MiFID investment services and activities****Indicate the MiFID investment services and activities the firm provides**

47 <u>46</u>	Reception and transmission of orders in relation to one or more financial instruments [A1]	<i>Yes/No</i>
48 <u>47</u>	Execution of orders on behalf of clients [A2]	<i>Yes/No</i>
49 <u>48</u>	Dealing on own account [A3]	<i>Yes/No</i>
50 <u>49</u>	Portfolio management [A4]	<i>Yes/No</i>

51 <u>50</u>	Investment advice [A5]	Yes/No
52 <u>51</u>	Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis [A6]	Yes/No
53 <u>52</u>	Placing of financial instruments without a firm commitment basis [A7]	Yes/No
54 <u>53</u>	Operation of an MTF [A8]	Yes/No
55 <u>54</u>	Operation of an OTF [A9]	Yes/No

Other business activities

~~56~~ 56 ~~Indicate the other business services and activities the firm provides~~

Indicate the other business services and activities the firm provides

57 <u>55</u>	Holding client assets or client money for non-MiFID business	Yes/No
58 <u>56</u>	Receive money or assets from clients under title transfer collateral agreements	Yes/No
59 <u>57</u>	Operating 'name give-up' as an inter-dealer broker	Yes/No
60 <u>58</u>	Clearing activities	Yes/No
61 <u>59</u>	Corporate finance business	Yes/No
62 <u>60</u>	Venture capital business	Yes/No
63 <u>61</u>	Are you part of a financial conglomerate?	Yes/No
64 <u>62</u>	Delegation of discretionary portfolio management to other firms	Yes/No
65 <u>63</u>	If yes, what is the current value delegated to other firms?	number
66 <u>64</u>	Discretionary portfolio management delegated from other firms	Yes/No
67 <u>65</u>	If yes, what is the current value delegated from other firms?	number
68 <u>66</u>	Provide advice of an ongoing nature	Yes/No

69 <u>67</u>	If yes, what is the current value of assets included within the K-AUM calculation?	<i>number</i>
70 <u>68</u>	Calculation of AUM at ICARA process reference date excluding offsetting - when calculating AUM has the firm applied any offsetting of negative values or liabilities attributed to positions within the relevant portfolios?	<i>Yes/No</i>
71 <u>69</u>	If yes, what is the AUM value without any offsetting?	<i>number</i>

**9
Annex
2G** **Guidance notes on data items in MIFIDPRU 9 Annex 1R**

This annex consists of guidance which can be found through the following link:
 [Editor’s note: insert link]

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MIF007 – ICARA Questionnaire

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Part A: Basis of completion of the ICARA process

~~1A~~ asks FCA investment firms to specify, using the dropdown list, the basis on which ~~the ICARA process is being completed~~ they are submitting the MIF007.

~~2A~~ asks for the FRNs of all the FCA investment firms ~~that form part of the consolidation group, where the answer to 1A is ‘Yes’~~ regulated entities that are covered by the group ICARA process or by the consolidated ICARA process.

~~3A~~ asks if the ICARA process review has been completed through a group level arrangement.

...

Part C: Assessing and monitoring the adequacy of liquid assets held

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~~33A~~ 32A – Non-core liquid assets – post-haircut

...

Liquid assets required as identified through the ICARA process

33A – Liquid assets threshold requirement

FCA investment firms should enter their liquid assets threshold requirement from their ICARA assessment here.

This will be the sum of the firm's basic liquid asset requirement; and the higher of

- the amount of liquid assets the firm requires at any given point in time to fund its ongoing business operations (~~cell 34A~~)
- the additional amount of liquid assets the firm requires to start its wind-down (~~cell 39A~~ 38A)

This amount should **not** include any additional liquid assets amount specified by the FCA.

~~34A~~ — Liquid assets required to fund ongoing business operations

~~FCA investment firms should enter the amount of liquid assets they need to fund ongoing business operations at any given point in time, taking into account periods of stress in the economic cycle. More information on this assessment is in MIFIDPRU 7.7.~~

~~35A~~ 34A to ~~38A~~ 37A – Breakdown of liquid assets estimate to fund ongoing business operations by quarter

As part of the ICARA process to estimate funding needs for ongoing business operations, FCA investment firms must produce a reasonable estimate of the amount of liquid assets they would require to fund their ongoing business during each quarter over the next 12 months from the ICARA assessment date. FCA investment firms should enter those quarterly values into cells ~~A35~~ 34A to ~~A38~~ 37A. See MIFIDPRU 7.7 and particularly MIFIDPRU 7.7.4G, for more information and guidance on this assessment.

~~35A~~ 34A – Quarter 1

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~~36A~~ 35A – Quarter 2

...

~~37A~~ 36A – Quarter 3

...

~~38A~~ 37A – Quarter 4

...

~~39A~~ 38A – Liquid assets required to begin an orderly wind-down

...

Meeting debts as they fall due

~~40A~~ 39A – Has the firm at any point not been able to meet its debts as they fall due?

...

~~41A~~ 40A – Please provide details

FCA investment firms should provide full details of issue(s) referred to in ~~40A~~ 39A, including:

- reasons they were unable to meet their debts as they fell due
- what action they took to remedy the situation
- what changes have been made to systems and controls to prevent this from re-occurring

Additional liquid assets requirement set by the FCA

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~~42A~~ 41A – Has the FCA specified a liquid asset requirement for the firm?

FCA investment firms should indicate whether the FCA has specified a liquid asset requirement amount. This could be as the result of a SREP or through other means.

If the answer is ‘Yes’, FCA investment firms must also answer ‘Yes’ to at least one of 42A and 43A and ~~44A~~. Both can be completed if appropriate.

~~43A~~ 42A – Liquid assets threshold requirement

FCA investment firms should indicate whether the FCA has specified a liquid assets threshold requirement. If ‘Yes’, ~~45A~~ 44A must be completed.

~~44A~~ 43A – Liquid assets wind-down trigger

FCA investment firms should indicate whether the FCA has specified liquid assets wind-down trigger. If ‘Yes’, ~~46A~~ 45A must be completed.

~~45A~~ 44A – Liquid assets threshold requirement set by the FCA

...

~~46A~~ 45A – Liquid assets wind-down trigger set by the FCA

...

Part D: MiFID investment services and activities and business model information

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~~47A~~ 46A to ~~55A~~ 54A – MiFID investment services and activities

...

Other business activities**~~56A~~—~~62A~~ 55A – 60A**

...

63A 61A – Financial conglomerate

...

64A 62A – delegation of discretionary portfolio management to other firms

...

65A 63A should only be completed where **64A 62A** has been answered 'Yes'. It should be left blank otherwise. Firms should enter the amount **delegated to** other firms.

66A 64A – delegation of discretionary portfolio management from other firms

...

67A 65A should only be completed where **66A 64A** has been answered 'Yes'. It should be left blank otherwise. Firms should enter the amount of assets **delegated from** other firms.

68A 66A – provision of advice on an ongoing nature

...

69A 67A should only be completed where **64A 66A** has been answered 'Yes'. It should be left blank otherwise. Firms should enter the amount of assets under ongoing advice they have included within their K-AUM calculation.

70A 68A – Calculation of AUM at ICARA accounting reference date excluding offsetting

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67A 69A should only be completed where **66A 68A** has been answered 'Yes'. It should be left blank otherwise.

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