

Consultation Paper **CP25/10****

Definition of capital for FCA investment firms

April 2025

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We are asking for comments on this Consultation Paper (CP) by **12 June 2025**.

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Chapter 1

Summary

Why we are consulting

- 1.1** We want to remove all references to the UK Capital Requirements Regulation (UK CRR) from the definition of regulatory capital, also known as 'own funds', that applies to FCA investment firms within MIFIDPRU 3. Own funds represent the high-quality capital that firms must hold to absorb losses and maintain financial resilience during periods of stress. Many UK CRR rules on own funds were designed for banks, making them complex and not fully aligned with the business models of investment firms.
- 1.2** This consultation does not propose any changes to the levels of regulatory capital firms are required to hold or require firms to adjust their capital arrangements. Instead, it focuses on simplifying and consolidating the existing rules for what qualifies as regulatory capital, reducing the volume of legal text by approximately 70% with clear application for investment firms.
- 1.3** We estimate that this will lower compliance costs and make the framework easier to navigate, therefore reducing firm burden while maintaining the fundamental principles of what constitutes own funds. These changes will improve accessibility without altering the substance of our prudential standards. We do not expect firms to change their capital arrangements because of these proposals. Instead, we hope that these changes will make it simpler for firms to follow what we require of them.
- 1.4** Our proposals focus on simplifying rules, removing irrelevant provisions, and improving clarity to help firms better understand and apply the requirements. This will reduce the risk of firms misinterpreting capital rules and ensure that they hold the appropriate level of high-quality capital. At the same time, reducing fragmentation and eliminating unnecessary cross-referencing will lower barriers to entry, making it easier for new firms to navigate and comply with prudential requirements.
- 1.5** This consultation also helps us deliver on our commitment in [PS21/6: Implementation of Investment Firms Prudential Regime](#). It forms part of a broader programme to move away from reliance on the UK CRR, ensuring that prudential rules are appropriately tailored to investment firms. Alongside this, we have also announced our Market Risk Review, which will examine whether capital requirements for trading firms remain appropriate. While these are separate workstreams, they share a common objective of creating a more proportionate and standalone prudential framework. We are addressing own funds first because it is a technical simplification, whereas the Market Risk Review involves a more complex policy assessment of capital adequacy.
- 1.6** In this Consultation Paper (CP), we also set out our ambition to establish a more integrated approach to prudential regulation at the FCA. By simplifying the own funds rules and incorporating them into the FCA Handbook, we are laying the foundation for a more consistent framework. This approach allows us to consider, in the future, whether

these rules could be extended to other sectors. As a result, these proposals may be relevant to firms subject to other prudential sourcebooks, as they reflect our broader direction in consolidating and streamlining prudential requirements

- 1.7** We invite feedback from firms and stakeholders on our proposals. We want to make sure that the revised framework is proportionate, effective, and aligned with the needs of investment firms while maintaining high standards of financial resilience and consumer protection. Your views will be crucial in shaping the final rules to support a more resilient and efficient market. These proposals also support the ambitions that we have set in our new strategy and in the commitments we have made to the Prime Minister (PM) to streamline regulation and reduce burden as well as supporting the growth and competitiveness of the UK.

Who this applies to

- 1.8** The proposed rules will apply to:
- MIFIDPRU investment firms
 - UK parent entities that are required to comply with MIFIDPRU 3 on the basis of their consolidated situation
 - parent undertakings subject to the Group Capital Test.
- 1.9** For the avoidance of doubt, these proposals do not apply to banks or other PRA-regulated entities.
- 1.10** Where groups contain both an FCA investment firm and a PRA-regulated entity, the proposals will apply to the FCA investment firm at a solo level, and the existing approach to applying requirements at group level, which seeks to minimise duplication, continues to apply.

What we want to change

- 1.11** The proposed changes cover the 3 tiers of regulatory capital: Common Equity Tier 1 (CET1), Additional Tier 1 (AT1), and Tier 2. CET1, the highest quality of capital, consists mainly of common shares and retained earnings, acting as the primary buffer against losses. AT1 includes instruments that absorb losses in times of stress, while Tier 2 provides additional support if needed. The changes apply the same approach across all 3 tiers by clarifying eligibility requirements, reducing unnecessary detail, and improving consistency. Further details are in Chapter 4.
- 1.12** We are improving how our rules on own funds are presented to better serve investment firms. This involves:
- Consolidating requirements into MIFIDPRU 3.
 - Removing provisions that are only relevant for banks.
 - Making requirements clearer and more accessible.

- 1.13** A key improvement is removing provisions that do not reflect investment firms' business models. For example, we propose to remove certain requirements from the UK CRR that were designed for banks' more complex capital structures. We are also making requirements clearer by grouping related provisions together.

Outcomes we are seeking

- 1.14** Our proposals aim to achieve:
- Better accessibility: Creating a single, coherent Handbook chapter that makes it easier to understand what constitutes own funds.
 - Maintained standards: Making sure firms continue to hold high-quality capital while making requirements clearer.
 - Improved efficiency: Reducing the time and resources firms spend interpreting and applying requirements.
 - Greater proportionality: Tailoring requirements to better reflect the nature and risks of investment firms, making sure firms (particularly those with simpler capital structures) are not subject to unnecessary complexity.

Measuring success

- 1.15** We will monitor a combination of key indicators. This will help us assess whether the revisions simplify compliance and support innovation without compromising financial stability or consumer protection.
- 1.16** For regulatory compliance and understanding, we will track the volume and type of firm enquiries and supervisory feedback on the new rules. We expect a reduction in the number of queries or reported errors to indicate improved clarity and usability of the revised requirements. Where possible, we will also rely on existing data sources such as MIFIDPRU returns, supervisory reviews, and sector analysis reports. This approach will make sure that monitoring remains proportionate, minimising any additional reporting burden on firms. We do not intend to carry out additional data collection related to these changes. Instead, we will rely on existing data sources such as MIFIDPRU returns, supervisory reviews, and sector analysis reports to assess the impact of the revised rules.
- 1.17** We will also assess the proportionality of the framework by gathering feedback from firms through post-implementation surveys and ongoing supervisory engagement. This will help us determine the extent to which compliance burdens and administrative complexity have been reduced.

Next steps

- 1.18** We invite feedback by Thursday, 12 June 2025. You can submit your response via the online response form on our website or by writing to us at the address on page 2.

- 1.19** After reviewing the feedback, we aim to publish our final rules in a Policy Statement in H2 2025. Subject to the consultation outcome, we expect the new framework to come into force on 1 January 2026.

Chapter 2

The wider context

Current position and what we are aiming to achieve

- 2.1** The UK CRR, which implemented the Basel Committee's banking standards, now forms part of assimilated UK law. However, many of these requirements are unnecessarily complex for FCA investment firms.
- 2.2** The detailed requirements in the UK CRR were designed for banks' more complex capital structures. While banks often use sophisticated own funds instruments requiring complex adjustments, investment firms typically have simpler capital structures based on ordinary shares and retained earnings. The UK CRR also sets out other requirements, such as resolution-related requirements for global systemically important banks (G-SIBs), which do not apply to FCA investment firms.
- 2.3** When we implemented the Investment Firm Prudential Regime (IFPR) on 1 January 2022, we cross-referred to the version of the UK CRR that existed on that date. This was an efficient short-term approach. But it means the approximately 3,100 FCA investment firms must currently navigate between MIFIDPRU and a frozen-in-time version of banking regulations that do not reflect their business models.
- 2.4** Moving this material into the FCA Handbook is an opportunity to make our requirements more accessible and proportionate while maintaining appropriate prudential standards. This will also enable us to adjust our rules with greater flexibility, using our usual rule-making process, to further promote our objectives, should the need arise.

Our commitment in PS21/6 and revocation of parts of the UK CRR

- 2.5** In PS21/6: Implementation of Investment Firms Prudential Regime (IFPR), we committed to considering whether we could incorporate own funds provisions directly into the FCA Handbook and remove UK CRR cross-references. We also stated that our long-term goal is to break the link with the UK CRR altogether.
- 2.6** The Treasury's announcement in September 2024 of its intention to revoke UK CRR adds further impetus to this work. While cross-referencing a frozen-in-time version of the UK CRR helped to deliver the IFPR on time, continuing to rely on this becomes increasingly problematic as the Prudential Regulation Authority (PRA) brings relevant material into its own rulebook.

Integrated sourcebook for prudential requirements

- 2.7** Our longer-term vision is to establish an integrated sourcebook that, where possible, brings together core requirements common across different types of firms we prudentially regulate. This is part of our broader strategy to make our prudential framework more accessible and consistent. Our review of the UK CRR and the subsequent integration of relevant provisions into our Handbook allows us to consider the future possibility of applying a single, clearer definition of own funds to other sectors, as appropriate.
- 2.8** We expect an integrated sourcebook could offer several benefits:
- **Clear structure** – requirements organised logically by theme.
 - **Consistent approach** – common definitions and principles where appropriate.
 - **Easy navigation** – firms can quickly find relevant requirements.
 - **Flexibility** – modular design allows for sector-specific needs.
- 2.9** We are not proposing to move the contents of MIFIDPRU 3 to a new integrated sourcebook in this consultation. Any such proposals will be consulted upon, and the subsequent transition to an integrated prudential sourcebook will be carefully managed to make sure clear and effective requirements are maintained throughout the transition period.

Consultation with Panels

- 2.10** Under section 1RB FSMA, we are required to set out information about any engagement with the statutory panels of the FCA, the PRA or the Payment Services Regulator (PSR). We have provided the Financial Services Consumer Panel and the PRA with an overview of our proposals. We will continue to liaise with them as we finalise the policy position and rules.

How it links to our objectives

Market integrity

- 2.11** Our proposals support our objective of protecting the integrity of the UK financial system and ensuring that markets remain effective, efficient and reliable by making our own funds definition clearer and more accessible. This will help firms better understand what constitutes eligible capital and how to assess its quality.
- 2.12** These proposals will not change the amount of regulatory capital our firms hold. However, these refinements should contribute to making sure that the capital held by firms continues to be of high quality and truly capable of absorbing losses and supporting the firm during stress. This, in turn, should enhance the overall resilience of firms in the face of adverse events.

Protecting consumers

- 2.13** By retaining prudent valuation requirements and clarifying loss absorption triggers, our proposals make sure that firms continue to maintain appropriate capital resources to absorb losses. This helps to maintain service continuity for consumers and reduce the risk of disorderly failure.

Competition

- 2.14** By making our own funds definition more accessible and removing unnecessary complexity inherited from banking regulations, we help firms focus on maintaining capital appropriate for their business model and risk profile.
- 2.15** Clearer requirements could also positively impact competition by reducing market entry costs associated with interpreting and applying our rules for new participants.

Secondary international competitiveness and growth objective

- 2.16** These proposals support our secondary international competitiveness and growth objective (SICGO) by making our requirements clearer and more accessible. A proportionate framework that firms can easily understand and apply helps reduce firm regulatory burden and costs and makes the UK an attractive place to do business. Our proposed changes should support the growth and competitiveness of the UK.

Environmental, social & governance considerations

- 2.17** We have considered the environmental, social and governance (ESG) implications of our proposals, including our duty under ss. 1B(5) and 3B(c) of FSMA to have regard to contributing towards the Secretary of State achieving compliance with the net-zero emissions target under section 1 of the Climate Change Act 2008. While we do not consider these proposals to be relevant to those targets, we welcome consultation feedback on any ESG implications.

Equality and diversity considerations

- 2.18** We have considered the equality and diversity issues that may arise from the proposals in this Consultation Paper.
- 2.19** Overall, we do not consider that the proposals materially impact any of the groups with protected characteristics under the Equality Act 2010 (in Northern Ireland, the Equality Act is not enacted but other antidiscrimination legislation applies). But we will continue to consider the equality and diversity implications of the proposals during the consultation period and will revisit them when making the final rules.

2.20 We welcome feedback on this.

Question 1: Regarding our vision for an integrated prudential sourcebook, what practical considerations should we take into account when developing it?

Chapter 3

Core characteristics of own funds

- 3.1** This chapter explains the purpose and core characteristics of own funds in our prudential framework. These fundamental principles underpin our proposals to create a more accessible framework for defining own funds in MIFIDPRU 3, which are set out in Chapter 4.
- 3.2** We propose to refocus our own funds rules around the outcomes that the rules seek to achieve, and how they achieve those outcomes.

How our own funds definition supports prudential objectives

- 3.3** Our definition of own funds in the prudential framework achieves several important outcomes:
- We help make sure that a firm can absorb unexpected losses while continuing to operate on a solvent basis. Capital, at its simplest, represents a firm's surplus of assets over liabilities.
 - We also help make sure that a firm holds capital of sufficient quality to absorb losses in wind down or liquidation. For example, during liquidation a firm may need to pay the fees of an insolvency practitioner, or may incur costs associated with closing down or transferring its client relationships. Our own funds rules help make sure there are assets available to cover these losses without prejudicing other creditors, who may include consumers, other firms still in the market, and the Financial Services Compensation Scheme (FSCS).
 - We make sure that all relevant firms are determining their own funds in a clear and transparent way. This aids market comparison and helps us focus our supervisory attention in a data-led way.
 - And we help to align the interests of a firm's owners (eg shareholders), who ultimately control the business, with the interests of the firm itself and its other stakeholders. By making sure that any losses affect a firm's owners before they are externalised onto other stakeholders, we incentivise better run firms.

Characteristics of own funds

- 3.4** To achieve the outcomes described above, own funds need to have certain core characteristics. These are:
- **Loss absorption** – To absorb losses, the funds represented by capital need to be immediately available to withstand unexpected shocks. And any claim for the return of capital needs to be subordinate to the claim of the firm's ordinary creditors on its assets.
 - **Permanence** – To serve its purpose, capital needs to be available to the firm on a permanent or long-term basis.

- **Distribution flexibility** – The payment of dividends or interest on capital should not undermine a firm's longer-term financial resilience.

3.5 We have 3 tiers of capital, which achieve the core characteristics above to differing degrees:

- Common Equity Tier 1 (CET1) capital - highest quality, absorbs losses first.
- Additional Tier 1 (AT1) capital - absorbs losses while firm remains a going concern.
- Tier 2 (T2) capital - provides loss absorption in wind-down scenarios.

3.6 The 3-tier capital structure provides a framework that recognises different levels of quality and permanence in capital instruments. These different tiers of capital work together to provide a robust capital structure that makes sure firms can withstand unexpected losses, maintain financial resilience, and protect the interests of clients and other stakeholders. Each tier has specific characteristics that determine its ability to absorb losses under different circumstances.

3.7 Table 1 shows how each tier of capital applies the core characteristics of loss absorption, permanence, and distribution flexibility.

Table 1: Application of core characteristics across capital tiers

Characteristic	Common Equity Tier 1 (CET1)	Additional Tier 1 (AT1)	Tier 2 (T2)
Loss absorption	<ul style="list-style-type: none"> • Absorbs losses immediately as they occur • First to absorb losses in both going concern and liquidation • Fully subordinated to all other claims • No predetermined amount of loss absorption 	<ul style="list-style-type: none"> • Absorbs losses through conversion to CET1 or write-down when triggered • Conversion or write-down occurs when CET1 falls below 64% of requirements • Subordinated to all non-capital creditors 	<ul style="list-style-type: none"> • Absorbs losses only in liquidation • Subordinated to ordinary creditors • Available to cover losses after CET1 and AT1 are depleted
Permanence	<ul style="list-style-type: none"> • Perpetual with no maturity date • No redemption rights • No expectation or obligation of repayment • Repurchase requires prior regulatory approval 	<ul style="list-style-type: none"> • Perpetual with no maturity date • Limited call options at issuer's discretion • Earliest call typically after 5 years • No incentives for redemption • Requires prior regulatory approval for redemption 	<ul style="list-style-type: none"> • Minimum original maturity of 5 years • Subject to amortisation in final 5 years • Limited call options • Requires prior regulatory approval for early redemption

Characteristic	Common Equity Tier 1 (CET1)	Additional Tier 1 (AT1)	Tier 2 (T2)
Distribution flexibility	<ul style="list-style-type: none"> • Full discretion to cancel distributions • Distributions paid only after all obligations met • Non-cumulative basis • No restrictions on operations if distributions cancelled 	<ul style="list-style-type: none"> • Full discretion to cancel distributions • Non-cumulative basis • Cancellation does not constitute default • No dividend pushers or stoppers 	<ul style="list-style-type: none"> • More structured distribution arrangements • Generally fixed or floating rate interest • Limited flexibility to defer distributions • Distributions not linked to credit standing

3.8 Because AT1 and T2 capital do not have all the core characteristics of CET1 capital, AT1 and T2 capital can be used to meet part but not all of a firm's capital requirement. So we require that:

- $CET1 \geq 56\%$ of total own funds requirement
- $CET1 + AT1 \geq 75\%$ of total own funds requirement
- $CET1 + AT1 + T2 \geq 100\%$ of total own funds requirement

3.9 We are not proposing changes to any of these core characteristics. However, we hope that by refocusing on them, our own funds regime will be easier to understand.

Measuring own funds

3.10 A firm's own funds are calculated by:

- identifying eligible capital instruments and items in each tier (CET1, AT1, T2)
- applying relevant regulatory adjustments and deductions
- making sure the resulting capital structure meets composition requirements in paragraph 3.8.

Deductions and filters for own funds

3.11 To achieve the outcomes described above, the definition of own funds also prescribes certain deductions and filters for the different tiers of capital. These help make sure a firm measures its own funds in a way that reflects its ability to absorb losses in stress or liquidation, by adjusting accounting values that:

- are subject to significant valuation uncertainty, particularly during periods of market stress
- may not reflect realisable values in stressed conditions
- include gains or losses that may be temporary or potentially reversible

- are only realisable if the firm continues to operate as a going concern
- represent assets not fully owned or controlled by the firm

This list is not exhaustive, and the specific application of deductions and filters may vary depending upon a firm's business model and risk profile.

3.12 Given the technical nature of the deductions and filters, we recognise a need to maintain a reasonable level of specificity in the relevant rules. However, we are proposing some simplifications to remove irrelevant material, and to streamline requirements with a particular focus on trading firms. This focus reflects the fact that trading firms face more complex valuation issues due to their trading book activities and the typically higher volume of fair-valued financial instruments on their balance sheets.

Chapter 4

Proposed changes to own funds rules

4.1 This chapter explains our proposals to create a more accessible framework for defining own funds in MIFIDPRU 3, while maintaining prudential standards. Our proposals focus on removing cross-references to the UK CRR and tailoring requirements to better suit FCA investment firms.

Overview of proposed changes

4.2 Currently, firms must navigate between MIFIDPRU 3, the UK CRR, and various technical standards to understand what constitutes acceptable regulatory capital (own funds). This complexity stems from requirements originally designed for banks, whose capital structures are typically more complex than those of investment firms, and the original EU legislative approach that divided rulemaking responsibilities between the European Commission, European Banking Authority, and national competent authorities. This resulted in requirements being spread across multiple legislative levels (Regulation, Member State legislation, and technical standards).

4.3 Our proposals focus on incorporating own funds provisions directly into MIFIDPRU 3, removing cross-references to the UK CRR and associated technical standards. We propose several key structural improvements:

- Consolidating requirements within MIFIDPRU 3 to create a single, comprehensive source while maintaining standards.
- Removing provisions not relevant to FCA investment firms.
- Removing MIFIDPRU 3 Annexes 7 and 8 (which contain additional rules for calculating own funds and prudent valuation requirements, copying out certain technical standards) and integrating essential content into the main body of MIFIDPRU 3.

4.4 We also propose other minor policy changes to make the requirements simpler and easier to comply with, while maintaining standards.

4.5 We do not expect firms to need to make changes to their existing capital arrangements as a result of our proposals. If a firm's own funds currently meets our requirements, it should continue to do so under the proposed framework. The changes will be most relevant for firms considering future modifications to their capital structure and for new entrants to the market.

Question 2: Do you agree with our proposed approach to consolidating our definition and composition of own funds directly into MIFIDPRU 3? Please provide specific examples of how this might improve (or create challenges for) your understanding and implementation of the requirements.

Changes that apply to multiple tiers of capital

Removal of irrelevant material

4.6 We propose to remove a significant amount of material that does not apply to FCA investment firms, is not practically relevant to FCA investment firms' business models, or duplicates other material, as shown in Table 2:

Table 2: Material removed from the definition of own funds and rationale

Area	Reason for removal
Material which cross-refers to other parts of the UK CRR and does not apply to FCA investment firms	Where there is no equivalent requirement in MIFIDPRU that matches the other cross-referenced parts of the UK CRR, we can remove these
Material about the special resolution regime, the bank resolution and recovery directive, and eligible liabilities/ MREL	FCA investment firms were descoped from the UK's special resolution regime on 1 January 2022
Material which is duplicated across MIFIDPRU 3, the UK CRR, and MIFIDPRU 3 Annex 7R/8R	Our simplifications mean that we can remove duplication in the different source materials
Material which duplicates UK company law or accounting standards	It is not necessary to duplicate requirements in UK company law or accounting standards, such as the requirement for CET1 instruments to be approved by the owners of a firm or its management body
Material relating to the tax regimes of specific EU Member States	This material, such as the requirements around profit and loss transfer agreements in Article 28(3) paragraph 2 of the UK CRR, is not relevant in the UK as these specific corporate arrangements do not exist in UK legal and tax frameworks
Material relating to the prudential filter for regulated covered bonds	FCA investment firms are not permitted to issue regulated covered bonds

Area	Reason for removal
Material relating to the prudential filter for securitised assets	This material is not relevant to most FCA investment firms, which do not retain material securitisation exposures on their balance sheets. In the rare cases where such exposures exist, the internal capital adequacy and risk assessment process (ICARA) already requires firms to assess and hold capital against all material risks, including any securitisation exposures. We may consider reintroducing more prescriptive requirements for securitisation exposures if the market develops in a way that warrants it
Material subject to expired sunset clauses	Where the UK CRR grants time limited concessions to firms that have already expired, we can now remove these concessions and any associated material

Our approach to mutual societies

- 4.7** A mutual society is a building society, friendly society, credit union or a registered society under the Co-operative and Community Benefit Societies Act 2014. We do not prudentially regulate building societies, friendly societies or credit unions, but it would be possible for a registered society to be authorised as an FCA investment firm. However, no such societies are currently authorised as FCA investment firms.
- 4.8** The UK CRR contains a significant number of modifications for mutual societies, which reflects the unique characteristics of their capital arrangements. We want to support any future mutual societies who could apply to us for authorisation. But we do not think it is appropriate to maintain a body of requirements in the FCA Handbook that apply to an empty set of firms. We think a more proportionate and flexible approach is to indicate that we are prepared to modify our own funds rules for mutual societies using our waiver powers. We would discuss this with any applicant for authorisation, using the PRA's own funds modifications for mutual societies as our starting point. This allows us to simplify our own funds rules for other types of firm.

The prohibition on funding your own capital instruments

- 4.9** The UK CRR prohibits a firm from directly or indirectly funding its own capital instruments. This prohibition is supplemented by detailed technical standards, copied out into MIFIDPRU 3 Annex 7.20R to 7.23R, which explain when this prohibition applies.
- 4.10** We propose to simplify this material by eliminating excessive prescription, and introduce a broad exception for funding provided in the ordinary course of a firm's business. For example, a market maker that provides standard margin lending that happens to involve the market maker's own capital instruments would qualify for the exception. To qualify, funding needs to be provided as part of a firm's normal operations, the terms need to be comparable to terms offered for third party instruments, and the funding cannot be designed to support the firm's capital position. A structured arrangement that a firm designs specifically to fund the purchase of its own capital instruments would not qualify.

Deductions for 'significant' and 'non-significant' holdings of capital instruments of financial sector entities

- 4.11** MIFIDPRU 3 and the UK CRR contain separate deductions for 'significant' and 'non-significant' investments in the capital instruments of financial sector entities. These distinctions, which originate from the Basel framework for banks, create unnecessary complexity for FCA investment firms. We began the process of simplifying these deductions when we implemented the IFPR, by disapplying the complex thresholds in Articles 46 and 48 of the UK CRR. We think we can further simplify the material by combining these two deductions into one, creating a more streamlined approach that:
- Reduces compliance complexity by eliminating the need to categorise investments as 'significant' or 'non-significant'.
 - Creates a more consistent treatment across different types of holdings.

4.12 This would mean that:

- If a firm has a significant investment in a financial sector entity which it holds in the trading book, it can also benefit from the exception for trading book positions (which allows firms not to deduct investments in financial sector entities when those investments are held in the trading book).
- We can remove the separate exception for underwriting positions held for 5 working days or fewer, as we would expect such positions to be held in the trading book.

Identifying and valuing 'indirect' and 'synthetic' holdings for deduction purposes

4.13 As well as requiring firms to deduct direct holdings of their own capital instruments and those of financial sector entities, MIFIDPRU 3 and the UK CRR require firms to deduct holdings which are indirect (exposures through intermediate entities such as holding companies) or synthetic (exposures through derivatives, guarantees, or similar arrangements). Currently, these requirements are supplemented by detailed and prescriptive material which originated in technical standards and were copied out into MIFIDPRU 3 Annex 7.32R to 7.40R. This material explains how to identify and quantify such exposures using specific methodologies and calculations.

4.14 We propose to simplify this material by:

- Explaining how to identify and quantify indirect and synthetic exposures in a less prescriptive, outcomes-based way.
- Replacing the detailed, prescriptive calculation methodologies with clearer principles-based guidance that focuses upon economic substance.
- Providing a more straightforward definition of what constitutes indirect holdings (exposures through intermediate entities) and synthetic holdings (exposures through derivatives or other similar arrangements).
- Setting out a clearer standard for calculating exposure amounts that maintains prudent outcomes while reducing computational complexity.
- Integrating these requirements directly into MIFIDPRU 3 rather than keeping them in a separate annex.

- 4.15** As part of these changes, we also propose to clarify that we do not generally require firms to 'look through' a fund's investments (meaning firms will not need to analyse each underlying investment within a fund to identify potential indirect holdings of capital instruments that would require deduction). This proportionate approach recognises that most funds contain only limited exposures to deductible instruments.
- 4.16** Instead, firms can treat the fund itself as a non-financial sector entity. However, where a fund has a purpose or mandate to invest mainly in the capital instruments of financial sector entities (such as a financial sector exchange traded fund (ETF) or bank-focused investment fund), we would expect a firm to apply the relevant deductions to reflect the economic substance of the exposure.

New guidance on fully paid-up instruments

- 4.17** We propose to include additional guidance on what constitutes a 'fully paid-up' capital instrument, based on guidance published by the Basel Committee on Banking Supervision (BCBS). This clarification helps firms better understand when capital instruments meet this fundamental eligibility criterion, providing greater regulatory certainty.

Simplified eligibility conditions for distributions on CET1/AT1 instruments

- 4.18** We have simplified the conditions relating to the cancellation of distributions on CET1 and AT1 instruments. Rather than stipulating that a cancellation of distributions cannot impose 'restrictions' on the firm (which could be interpreted broadly), we have focused on specific consequences that would undermine the discretionary nature of distributions. For example, our rules now clarify that failure to pay distributions must not trigger events such as:
- rights of termination for holders
 - early repayment obligations
 - additional voting rights for holders
 - reclassification of the instrument
 - other contractual penalties or obligations that would effectively make distributions mandatory
- 4.19** We have added new guidance clarifying that the condition preventing non-payment of distributions from constituting an event of default includes situations where failure to pay a distribution would engage rights of termination, early repayment, additional voting rights, or other similar consequences. This provides firms with clearer expectations about permissible distribution structures.

Objective test for cross holdings

- 4.20** The deduction for cross holdings which artificially inflate own funds has been simplified so that it no longer relies on FCA opinion. We believe it is more appropriate for this to be an objective test and have proposed simple guidance about what constitutes an arrangement designed to artificially inflate own funds. This guidance identifies specific indicators such as:

- cross holdings that do not serve a genuine business purpose
- timing and circumstances of the investments that suggest an intention to boost regulatory capital
- coordination between entities in capital management decisions
- reciprocal agreements or patterns of investment between firms

4.21 This approach provides greater clarity and certainty for firms by establishing clear criteria rather than relying upon regulatory discretion.

Question 3: Do you foresee any practical challenges in transitioning to our proposed standalone framework? If so, please explain what these are and how they could be addressed.

Changes to the common equity tier 1 capital framework

4.22 CET1 requirements are currently fragmented across multiple sources:

- core requirements in MIFIDPRU 3
- detailed eligibility criteria in UK CRR Articles 26-31
- technical specifications in MIFIDPRU 3 Annex 7
- valuation requirements in MIFIDPRU 3 Annex 8
- various deduction rules across multiple UK CRR Articles

This fragmentation means firms have to navigate between multiple sources and interpret banking-focused language that is not tailored to investment firms.

4.23 We have consolidated and streamlined these requirements into a single coherent framework within MIFIDPRU 3 that:

- Organises requirements thematically around core characteristics (loss absorption, permanence, distributions).
- Removes provisions designed primarily for banks.
- Simplifies language to be more accessible.
- Presents deductions in a clearer, more logical sequence.
- Incorporates essential technical details directly into the main body of MIFIDPRU 3.

4.24 Table 3 shows how we have reorganised CET1 requirements to make them more accessible while maintaining prudential standards:

Table 3: Structure of CET1 requirements

Component	Essential requirements	How presented in MIFIDPRU 3
Eligible items	<ul style="list-style-type: none"> • Fully paid-up capital instruments • Share premium accounts • Retained earnings • Other reserves 	Clear criteria for each item type, with emphasis on immediate availability for loss absorption

Component	Essential requirements	How presented in MIFIDPRU 3
Required deductions	<ul style="list-style-type: none"> • Intangible assets • Certain holdings • Items not providing genuine loss absorption 	Simplified calculation approach with clear rationale for each deduction
Prudential filters	<ul style="list-style-type: none"> • Valuation adjustments for the trading book • Hedging effects • Changes in own credit standing 	Focused upon maintaining prudent valuations while removing unnecessary complexity

4.25 This reorganisation maintains the substance of CET1 requirements while making them easier to understand and apply.

Permanence of CET1 instruments

4.26 The UK CRR requires that, when a firm issues a CET1 instrument, it must not indicate expressly or implicitly that the principal amount of the instrument would or might be repaid, except in the context of liquidation.

4.27 We see this as an important component of permanence which we propose to retain. If the owners of CET1 instruments are to have appropriate alignment of interests with the firm's long-term resilience, they should not expect the principal amount of capital to be repaid by the firm.

4.28 However, we also recognise that firms retain a residual discretion to repurchase their own CET1 instruments or otherwise reduce capital, subject to applicable regulatory and company law requirements such as prior FCA permission.

4.29 So we are proposing new Handbook guidance to clarify that a firm can acknowledge that it is able to reduce capital, for example in its articles of association. However, a firm should not create an expectation that it would or might reduce capital, for example by adopting:

- A term which creates an economic incentive for it to reduce capital.
- A term which suggests that it may reduce capital at a particular point in time, or at the initiative of any person other than the firm, even if this is conditional on the firm's and the FCA's approval.
- Any other contractual or non-contractual indication that the firm would or might reduce capital on a particular date, or in particular circumstances.

Regulatory capital implications of non-CET1 shares

4.30 The UK CRR requires that common equity tier 1 instruments must rank below all other claims in the event of liquidation, so that they absorb the losses first as they occur.

4.31 We propose to clarify that CET1 instruments' eligibility is not precluded by the existence of non-CET1 shares that rank equally to CET1 shares. We also propose to clarify that non-CET1 shares which carry a claim on a given proportion of residual assets do not

undermine the quality of CET1. This is because CET1 shareholders' potential return would remain unlimited and they could still lose the full amount of their investment. Firms with more complex capital structures will benefit from this approach. This includes start-up firms that may use different classes of shares with varying rights as part of their financing and employee incentivisation strategies.

4.32 To maintain appropriate transparency, we propose to enhance the disclosure requirements in the MIFIDPRU 8 Annex 1R template to make sure market participants have clear information about such arrangements.

4.33 Where a firm has non-CET1 instruments that rank equally with CET1 instruments, the firm should provide clear disclosures in the main features template under MIFIDPRU 8 Annex 1R. These disclosures should:

- Clearly identify which instruments rank equally.
- Explain how losses would be absorbed and shared between equally ranked instruments.
- Specify the proportion of residual assets that each instrument is entitled to claim.
- Reference relevant provisions in the firm's constitutional documents that establish these arrangements.

4.34 These enhanced disclosure requirements are important to ensure appropriate transparency where non-standard ranking arrangements exist, enabling effective supervision while maintaining the loss-absorbing nature of own funds.

Question 4: Are the enhanced disclosure requirements we propose for MIFIDPRU 8 Annex 1R clear and workable? If not, what clarifications would be helpful?

Interim profits

4.35 We propose to streamline our approach to the inclusion of interim profits in CET1 capital by moving from a permission to a notification-based system. Under our proposals, firms can include these profits before formal year-end decisions, provided they meet the other existing requirements. For example, verification by persons independent of the firm who are responsible for auditing the accounts. The verification must confirm that profits have been evaluated in line with applicable accounting standards.

4.36 When including interim profits in CET1, firms will still be required to deduct foreseeable charges and dividends on a prudent basis, considering factors such as:

- Formal dividend decisions by the firm's management body.
- Established dividend policies and historical payout ratios.
- Tax charges and other foreseeable expenses.
- Any other factors that could materially affect final profit figures.

Question 5: Do you agree with our proposal to move from a permission-based to a notification-based approach for including interim profits in CET1 capital? Are the verification requirements clear?

Valuation adjustment for trading book positions

4.37 When we implemented the IFPR, we simplified the requirements around additional valuation adjustments for the trading book by requiring all firms to adopt a standardised 0.1% adjustment to trading book positions.

4.38 Given this simplified approach, we think we can remove most of the legacy requirements in MIFIDPRU 3 Annex 8R. These contain detailed provisions on additional valuation adjustments (AVAs), including specific methodologies for calculating valuation uncertainty across different risk categories, aggregation approaches, and document requirements derived from banking standards. Firms with a trading book will continue to be required to manage the trading book in line with the general requirements in MIFIDPRU 4.11. These include provisions on trading book policies and procedures, valuation methodologies, position monitoring, and risk management practices.

Deduction of qualifying holdings outside of the financial sector

4.39 We propose some minor changes to this deduction, making it easier to apply and more consistent with other similar requirements. Instead of excepting shares which are not fixed financial assets, we propose to except shares held in the trading book. We are also removing the exception for underwriting positions held for 5 business days or fewer on the basis we would expect such shares to fall within the trading book exception. We do not expect these changes to impact how firms apply the deduction in practice.

Question 6: Are the proposed changes to CET1 requirements clear and proportionate? Do you believe they maintain the core characteristics of high-quality capital while improving accessibility?

Changes to the additional tier 1 capital framework

4.40 AT1 requirements are currently fragmented across:

- Basic requirements in MIFIDPRU 3.
- Detailed eligibility criteria in UK CRR Articles 51-55.
- Loss absorption mechanics in UK CRR Articles 54-55.
- Technical specifications in MIFIDPRU 3 Annex 7.
- Various deduction rules spread across multiple UK CRR Articles.

This structure requires firms to navigate between different sources and interpret provisions primarily designed for more complex banking instruments.

4.41 We have consolidated these requirements into a single framework within MIFIDPRU 3 that:

- Groups requirements logically by core characteristics (perpetuity, loss absorption, distribution flexibility).
- Simplifies the loss absorption mechanism requirements to reflect our approach of requiring full conversion or write-down.
- Aligns AT1 deductions with our streamlined approach to CET1 deductions.
- Removes unnecessary complexity while maintaining key prudential standards.

4.42 Table 4 shows how we have reorganised AT1 requirements to make them more accessible while maintaining prudential standards:

Table 4: Structure of AT1 requirements

Component	Essential requirements	How presented in MIFIDPRU 3
Eligible items	<ul style="list-style-type: none"> • Additional tier 1 instruments • Share premium accounts related to AT1 instruments 	Clear eligibility criteria organised by core characteristics (loss absorption, perpetuity, distribution flexibility)
Required deductions	<ul style="list-style-type: none"> • Holdings of own AT1 instruments • Reciprocal cross holdings with financial sector entities • Holdings of AT1 instruments of financial sector entities • Excess of tier 2 deductions • Foreseeable tax charges 	Streamlined deduction framework with consistent approach across all tiers of capital
Loss absorption mechanism	<ul style="list-style-type: none"> • Conversion to CET1 or write-down when triggered • Trigger when CET1 falls below 64% of the firm's own funds requirement • Full conversion/write-down upon trigger 	Simplified requirements focusing upon key outcomes rather than prescriptive procedures

4.43 This reorganisation maintains the substance of AT1 requirements while making them easier to understand and apply. In particular, we have simplified the requirements related to the loss absorption mechanism, reflecting our approach of requiring full conversion or write-down when a trigger event occurs.

Conversion or write down of AT1

4.44 A key feature of AT1 instruments is their ability to absorb losses through conversion to CET1 or write-down when a trigger event happens.

- 4.45** When we implemented the IFPR, we simplified these provisions by requiring that the full amount of each AT1 instrument must be written down or converted when a trigger event occurs for that instrument.
- 4.46** Now that we are consolidating all the requirements relating to conversion and write down in one place, we are proposing some associated simplifications that reflect full conversion or write down. For example, we are not proposing to carry across requirements for an independent review of the amount to be written down or converted. This is because if the amount can only ever be written down or converted in full, an independent review of the amount is unlikely to be necessary.

Question 7: Do you agree with our simplification of AT1 loss absorption mechanisms? Are the proposed changes sufficiently clear to support firms' understanding of these instruments?

Changes to the tier 2 capital framework

- 4.47** Following our approach to CET1 and AT1 capital, we propose to streamline T2 requirements by consolidating them directly into MIFIDPRU 3. This will create a single, clear source for firms to understand eligibility criteria, deduction requirements, and the treatment of maturity and amortisation.
- 4.48** Tier 2 requirements are currently fragmented across:
- Basic requirements in MIFIDPRU 3.
 - Detailed eligibility criteria in UK CRR Articles 62-65.
 - Maturity and amortisation requirements in separate provisions.
 - Technical specifications in MIFIDPRU 3 Annex 7.
 - Various deduction rules across multiple UK CRR Articles.
- 4.49** We have consolidated these requirements into a single framework within MIFIDPRU 3 that:
- Groups requirements logically by key characteristics (loss absorption and subordination, maturity and amortisation, distributions).
 - Presents maturity and amortisation rules in a more straightforward way.
 - Aligns Tier 2 deductions with our streamlined approach to CET1 and AT1 deductions.
 - Removes unnecessary complexity while maintaining key prudential standards.
- 4.50** Table 5 shows how we have reorganised T2 requirements to make them more accessible while maintaining prudential standards:

Table 5: Structure of T2 requirements

Component	Essential requirements	How presented in MIFIDPRU 3
Eligible items	<ul style="list-style-type: none"> • Tier 2 instruments • Share premium accounts related to T2 instruments 	Clear eligibility criteria focusing on subordination, minimum maturity, and loss absorption in liquidation
Required deductions	<ul style="list-style-type: none"> • Holdings of own T2 instruments • Reciprocal cross holdings with financial sector entities • Holdings of T2 instruments of financial sector entities not held in the trading book 	Consistent approach to deductions aligned with CET1 and AT1 frameworks
Maturity and amortisation	<ul style="list-style-type: none"> • Minimum 5-year original maturity • Progressive amortisation over final 5 years • No incentives for early redemption 	Straightforward rules for amortisation that reflect diminishing loss absorption capacity as instruments approach maturity

4.51 Beyond reordering the chapter to group requirements in a more logical way, and the cross-cutting changes to all capital tiers discussed above, we are not proposing any material policy changes that relate to T2 capital.

Changes to the general requirements for own funds instruments (MIFIDPRU 3.6)

Distributions on instruments in a form other than cash or own funds instruments

4.52 We are proposing to carry across a simplified version of the prohibition on paying distributions in a form other than cash or own funds instruments in Article 73 of the UK CRR. We are not proposing to carry across the associated regulatory permission, as no firm has ever applied for this permission under the IFPR.

4.53 Based on our observations of investment firms' capital structures and distribution practices, we consider it highly unlikely that firms would need this permission in the future. Investment firms typically make distributions in cash or through additional shares, and we've seen no evidence of market demand for more complex distribution mechanisms. However, if a firm were ever to want to issue instruments that pay distributions in a form other than cash or own funds instruments, and can demonstrate that this would not undermine the outcomes our own funds rules seek to achieve, it would still be able to apply for a waiver.

Own funds instruments which use a broad market index as one of the bases for determining the level of distributions

4.54 We are not proposing to carry across the requirements that allow firms to use broad market indices to determine the level of distributions where there is no correlation with the credit standing of the firm or its group in Article 73 of the UK CRR. We think these are unnecessarily complex due to:

- Prescriptive and often subjective index criteria, including:
 - quantitative thresholds for index participants
 - complicated correlation analyses between indices and firm credit standing
 - requiring ongoing validation and reporting of index composition.
- Interpretation challenges arising from ambiguous terms like ‘sufficiently diversified’.
- Resource-intensive compliance processes, including case-by-case regulatory permissions.

4.55 Instead, we propose to tweak one of the eligibility requirements for AT1 and T2 so that we prohibit instruments where the level of distribution changes in a way that is linked to the credit standing of the firm or a member of its group. This approach achieves the same policy objective more efficiently by:

- Directly targeting the fundamental risk of credit-linked distributions.
- Establishing a clearer standard for evaluating the integrity of distribution mechanisms.
- Reducing compliance burden by replacing complex index validation with an outcomes-based test that considers whether there is a link between the level of distributions and the firm’s credit standing.
- Aligning with market practice and regulatory principles that prevent instruments from undermining capital loss-absorption capabilities.

Reductions of capital

4.56 MIFIDPRU 3 and the UK CRR require firms to get permission or notify us before buying back their own funds instruments or carrying out some other form of reduction of capital (except where the principal amount of a T2 instrument is repaid on maturity).

4.57 In keeping with the other simplifications proposed for trading firms, we propose to introduce an exception for firms that repurchase their own capital instrument for market making purposes, who would not be required to get permission or notify us. We are not otherwise proposing material changes to these requirements.

Index holdings of capital instruments

4.58 We propose to maintain the ability for firms to net off holdings via indexes, similar to the approach in Article 76 of the UK CRR. However, we are simplifying these provisions by removing the detailed stipulations around internal control processes and the

requirement for the FCA to assess these processes annually. This is appropriate because:

- The detailed process requirements create unnecessary administrative burden for investment firms without commensurate prudential benefit.
- The annual supervisory assessment requirement is disproportionate given the typically smaller scale and lower complexity of investment firms' index holdings compared to banks.
- Firms remain subject to general risk management and internal control requirements that are sufficient to ensure appropriate management of these exposures.
- The core prudential principle of accurately identifying and deducting relevant holdings is maintained through the simplified provisions.

4.59 We are also removing the permission requirement in Article 76(2), as no firm has applied for this permission under the IFPR. We believe it is unlikely that firms will need this permission in the future because:

- Investment firms typically have less complex index holdings than banks.
- The standardised approach we're maintaining (allowing firms to treat index holdings consistently) should be sufficient for most firms.
- Operational burdens related to look-through of indices are now lower than when these rules were originally designed, due to improvements in data availability and analysis tools.

4.60 If a firm did need this alternative approach in the future, it could still apply for a waiver.

Clarification of test for reducing own funds

4.61 While maintaining the permission and notification system for reducing own funds, we are reformulating one of the key tests. Instead of requiring that 'the firm will continue to exceed the applicable capital requirements by a margin that the FCA considers necessary,' the test will be whether 'the firm will continue to exceed its own funds threshold requirement by a margin sufficient to ensure adequate financial resilience for the foreseeable future'. This provides a clearer and more objective standard for firms to understand when reductions of capital might be permitted, while maintaining our prudential expectations.

Minority interests

4.62 The concept of a minority interest is relevant to investment firm groups that apply MIFIDPRU 3 on a consolidated basis. A minority interest is essentially capital of a subsidiary in the group which is contributed by an external investor.

4.63 A minority interest is only eligible to the extent it is being used to meet the subsidiary's capital requirement, or the contribution that the subsidiary makes to the consolidated capital requirement of the investment firm group. This is because surplus capital that is

attributable to an external investor is not available to meet losses incurred by the wider group. If the capital was returned, it would be due back to the external investor rather than the parent of the group.

4.64 Although we mainly deal with minority interests in MIFIDPRU 2, this concept relates to the definition of own funds as it applies on a consolidated basis, and presents similar opportunities for simplification as our other own funds rules.

4.65 We propose to simplify these requirements primarily by:

- Consolidating all relevant material in one place, removing the reliance on the UK CRR and the supplementary material in MIFIDPRU 3 Annex 7R.
- Removing the condition that a minority interest is only eligible if it is issued from an FCA investment firm, UK credit institution or designated investment firm.
- Focusing only on the contribution that the subsidiary (and its subsidiaries) make to the consolidated capital requirement of the investment firm group.

4.66 We also propose to include 2 examples in Handbook guidance which show how to apply these provisions.

Question 8: **Have we achieved our objective of making the own funds definition more accessible while maintaining the substance of the relevant provisions? If not, please explain where further improvements could be made.**

Question 9: **Do you agree that an implementation date of 1 January 2026 is sufficient? If not, what alternative date would you suggest and why?**

Annex 1

Questions in this paper

- Question 1:** Regarding our vision for an integrated prudential sourcebook, what practical considerations should we take into account when developing it?
- Question 2:** Do you agree with our proposed approach to consolidating our definition and composition of own funds directly into MIFIDPRU 3? Please provide specific examples of how this might improve (or create challenges for) your understanding and implementation of the requirements.
- Question 3:** Do you foresee any practical challenges in transitioning to our proposed standalone framework? If so, please explain what these are and how they could be addressed.
- Question 4:** Are the enhanced disclosure requirements we propose for MIFIDPRU 8 Annex 1R clear and workable? If not, what clarifications would be helpful?
- Question 5:** Do you agree with our proposal to move from a permission-based to a notification-based approach for including interim profits in CET1 capital? Are the verification requirements clear?
- Question 6:** Are the proposed changes to CET1 requirements clear and proportionate? Do you believe they maintain the core characteristics of high-quality capital while improving accessibility?
- Question 7:** Do you agree with our simplification of AT1 loss absorption mechanisms? Are the proposed changes sufficiently clear to support firms' understanding of these instruments?
- Question 8:** Have we achieved our objective of making the own funds definition more accessible while maintaining the substance of the relevant provisions? If not, please explain where further improvements could be made.
- Question 9:** Do you agree that an implementation date of 1 January 2026 is sufficient? If not, what alternative date would you suggest and why?

Annex 2

Cost benefit analysis

Introduction

1. FSMA, as amended by the Financial Services Act 2012, requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, section 138I requires us to publish a CBA of proposed rules, defined as 'an analysis of the costs, together with an analysis of the benefits that will arise if the proposed rules are made'.
2. This analysis presents estimates of the impacts of our proposals to streamline the prudential requirements for FCA investment firms by removing references to the UK Capital Requirements Regulation (UK CRR) and simplifying and incorporating provisions related to the definition of regulatory capital into the FCA Handbook. We provide monetary values for the impacts where we believe it is reasonably practicable to do so. For others, we provide estimates of outcomes in other dimensions.
3. The CBA has the following structure:
 - The Market
 - Problem and Rationale for Intervention
 - Proposed Intervention and Casual Chain
 - Baseline and Key Assumptions
 - Summary of Costs and Benefits
 - Monitoring and Evaluation

The Market

4. The Investment Firms Prudential Regime (IFPR) came into effect on 1 January 2022. It applies to investment firms that engage in MiFID (Markets in Financial Instruments Directive) activities, such as investment platforms, fund managers, asset managers, firms that deal on their own account, depositaries, and securities brokers.
5. The IFPR distinguishes between 'small and non-interconnected investment firms' ('SNI' firms) and non-SNI firms. Our firm population covers both of these and there are c.3100 firms within the scope of this intervention.

Problem and Rationale for Intervention

6. When introducing the IFPR, we used cross-references to the UK CRR as this was the most efficient and proportionate way to implement the regime in the time available. As a result, our rules rely on highly prescriptive legislation which was designed to

implement the prudential regulation reforms of the Basel Committee on Banking Supervision for banks and now forms part of assimilated law. This legislation is becoming increasingly outdated as it is repealed and replaced by PRA rules. The status quo creates unnecessary complexity for investment firms, which need to navigate between the FCA Handbook and a frozen version of banking regulations. (More information found in chapter 2 of the CP)

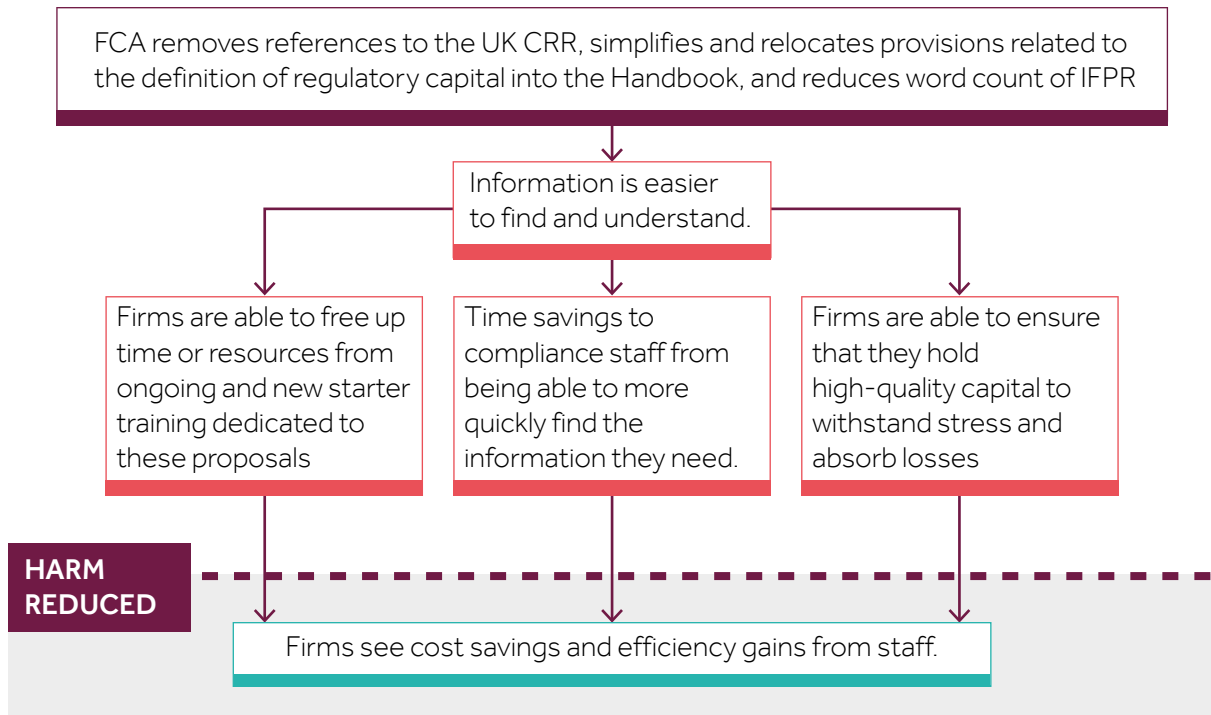
7. To address this, in this consultation we propose to remove all references to the frozen in time version of the UK CRR from the definition of regulatory capital in MIFIDPRU 3 and simplify the definition where appropriate.
8. Due to the way these rules were developed and implemented we believe there are inefficiencies for firms when trying to access, understand and implement these rules. We expect these inefficiencies to increase over time, as the UK CRR is repealed and replaced by PRA rules.
9. We are not fundamentally changing the definition of own funds or altering the amount of capital firms need to hold under the IFPR. While maintaining continuity with existing requirements, our changes focus on better alignment with investment firm business models and simplifying compliance through clearer, more accessible rules.
10. We believe this will help businesses to locate the relevant information in an easier and more timely manner which should save time and therefore cost, while also ensuring firms hold sufficient high-quality capital to withstand stress and absorb losses.

Proposed Intervention and Casual Chain

Our proposed intervention

11. Relocate and simplify the content (illustrated in causal chain) – We propose to remove all references to the frozen in time version of the UK CRR from the definition of regulatory capital in MIFIDPRU 3 and amend and update the definition where necessary to reduce complexity and simplify compliance. Our recommended approach strikes a balance between these alternatives. It maintains core principles of high-quality regulatory capital while allowing flexibility for investment firm models, reducing disruption, and improving clarity.

Casual Chain



Other options considered

12. We explored different policy options before finalising our proposals. Below, we outline these options along with their limitations that led us to dismiss them.
13. We considered doing nothing. However, this will provide suboptimal policy outcomes due to the reference legislation becoming more out of date as it is repealed and replaced by PRA rules.
14. We also considered a more fundamental overhaul of the regulatory capital definition. However, it also presents significant disadvantages, including the potential for substantial compliance costs and operational disruption for firms, increased regulatory uncertainty, and a longer implementation timeframe. Given the broad range of solo-regulated firms, it is also unclear whether we would be able to deliver a more radical overhaul of the definition for which the benefits outweigh the costs.

Baseline and Key Assumptions

15. Our analysis makes several assumptions:
 - all price estimates are in real terms in 2024 price year using GDP deflators produced by the Office for Budget Responsibility (OBR)
 - when estimating net present value of costs and benefits, we use a 3.5% discount rate as per the Treasury's Green Book
 - we assume full compliance with the proposals as per the FCA statement of policy on CBA. We also assume full compliance with previous rules set by the FCA.

- 16. In our analysis, the estimates of one-off costs are based on adapting our standardised cost model¹, in which costs depend on a firm's size. The model differentiates between large, medium, and small firms, basing this classification using data on firms' annual FCA fee blocks, and ranking them accordingly. At the time of writing this CP, there are c.3,100 firms in scope of this CBA. Roughly 30 large firms, 370 medium firms and 2700 small firms.
- 17. As these figures are mean averages, individual firms may experience higher or lower costs than those set out below.
- 18. For the cost savings we will use an assumptions based model to estimate the reduction in training costs.

Baseline

- 19. Our counterfactual scenario is that, without an intervention, there continues to be inefficiencies within our prudential environment for these firms and the risks of regulatory inefficiency increases over time as the assimilated law becomes more out of date and potentially less fit for purpose.
- 20. Under the baseline firms are required to read ~ 45,000 words to familiarise and understand the rules. Firms are also expected to know where the detail is held as it is outside of the FCA Handbook within (frozen) banking regulations.

Costs and Benefits

Summary of Costs and Benefits

- 21. In the section below, we have assessed the costs and benefits from the proposed policy changes.
- 22. Table 1 summarises the direct costs, benefits and the EANDCB. We explore these figures in more detail in the following subsections.

Table 1: Summary table of total discounted direct benefits and costs over the appraisal period (10 years)

	Costs (£m)		Benefits (£m)	
	One-off	Ongoing	One-off	Ongoing
Familiarisation and gap analysis	0.4			
Reduced cost of training		-1.2		
Time savings by compliance staff				<i>Not Quantified</i>

¹ <https://www.fca.org.uk/publication/corporate/how-we-analyse-costs-benefits-policies-2024.pdf>

	Costs (£m)		Benefits (£m)	
	One-off	Ongoing	One-off	Ongoing
Simpler material for firms to understand				<i>Not Quantified</i>
EANDCB (£m)	-0.09			

*In 2024 prices, discounted. The equivalised annual net direct cost to business is presented as a negative figure to show that there is a cost reduction from this policy proposal.

Costs

Costs to Firms

23. We use our standardised costs model to calculate the expected one-off costs for FCA firms and multiply it by the number of firms in scope. The tables below present estimated aggregate costs of implementing the proposed intervention across all firms.

One-Off costs - Familiarisation costs

24. One-off upfront costs include changes required to implement the policy, including costs to firms arising from familiarising actions.
25. In terms of familiarisation costs, we assume firms will require staff to read our proposals and become familiar with them. We do not anticipate any other one-off costs to be incurred by firms. We assume 45 pages of CP text to be reviewed
26. We assume there are 300 words per page and reading speed is 100 words per minute. We estimate that familiarisation for large firms will require 3 members of staff to read the document. For medium-sized firms, we assume 1.5 members of staff required. For small firms, we assume 1 member of staff will be required to read the documentation. Salaries depend on the size of the firm with a breakdown of this as follows: Hourly wages including overheads: in a large firm compliance staff are estimated to cost £69; medium firms £64; and small firms £53.
27. Using our standardised cost model, we estimate the one-off familiarisation costs for firms to be around £0.4m. This is £130 per firm. These numbers are averages and individual firms may have higher or lower costs than those set out:

Table 2: Familiarisation costs

	Familiarisation costs (£m)
Total	0.4

*In 2024 prices, undiscounted.

Costs to Consumers

- 28.** We do not anticipate any costs to consumers will arise because of our proposals. The proposals do not create any ongoing additional cost to firms. In fact, the proposals should help reduce firm costs over the long term. As such, there shouldn't be any cost pass through from firms as a result of this proposal.

Costs to the FCA

- 29.** We do not anticipate any costs to the FCA will arise because of our proposals as there are no changes to IT systems, supervision and authorisation.

Cost Savings

Cost Savings to Firms

- 30.** We believe firms will benefit from the proposals by having easier access to the information they need to determine their capital requirements. Part of this may manifest as a reduction in training costs for staff. With a simplification of the material this training time can be reduced. This either reduces the time staff spend in training, both at the beginning of their employment and in refresher courses, or it frees up time to spend on other subjects.
- 31.** To model this, we need to make some assumptions about the number of staff that are receiving training each year and the length of time this training takes. From this we can use staff salaries to form a cost of training in the baseline scenario. We will then assume that training costs, estimated as the opportunity cost of staff time, will reduce proportionately to the reduction in the length of text when transposing the rules from the CRR to our FCA Handbook.
- 32.** In our baseline we assume that across the c.3100 firms there are around 7,800 staff working in compliance that these proposals impact. We assume each compliance staff member averages 60 minutes of training per year on this topic. Taking the compliance staff salaries from the SCM, the same as for familiarisation costs, this means that staff training each year across all firms costs £450,000.
- 33.** As we are reducing the text by ~ 70% we assume that the training time can be reduced proportionally to this. In practice this may be an underestimate as we are not able to estimate how much time the current fragmented information environment adds to the training, and we have used a conservative estimate of compliance staff impacted by these proposals.
- 34.** Under our proposals we expect staff training time, on this subject, to reduce to around 20 minutes per year per staff member. Across the population this should reduce the total annual cost of training associated with our proposals to £135,000.

Table 3: Cost savings

	Cost Savings (£m)
Annual	0.14
Total 10 Year	1.4

*In 2024 prices, undiscounted. Numbers may not sum due to rounding

Benefits

Benefits to Firms

- 35.** Whilst we didn't consider it reasonably practicable to quantify benefits beyond the cost savings discussed above, we do believe there may be some additional benefits to firms.
- 36.** As a result of these changes firms are likely to see some efficiency benefits in the form of time savings by compliance staff from having all our rules in one place within the FCA Handbook. This should save some time from having to locate and move between sources. There may also be some additional benefits from making this process simpler, such as making the source material easier to understand.

Net Present Value

- 37.** We estimate the discounted net cost savings from our policy proposals as follows.

Table 4: Net Cost Savings

	Familiarisation Costs (£m)	Cost Savings (£m)	Net Cost Savings (£m)
10 Year Costs	0.4	1.2	0.8

*In 2024 prices, discounted. Numbers may not sum due to rounding

Secondary International Competitiveness and Growth Objective

- 38.** Due to the nature and size of the changes being made, it is unlikely to have any significant benefits to competitiveness as a result of this intervention.

Monitoring and Evaluation

- 39.** We don't believe it is proportionate to monitor and evaluate this beyond our standard rule review process.

Annex 3

Compatibility statement

Compliance with legal requirements

1. This Annex records the FCA's compliance with a number of legal requirements applicable to the proposals in this consultation, including an explanation of the FCA's reasons for concluding that our proposals in this consultation are compatible with certain requirements under the Financial Services and Markets Act 2000 (FSMA).
2. When consulting on new rules, the FCA is required by section 138I(2)(d) FSMA to include an explanation of why it believes making the proposed rules is compatible with its general duty, under section 1B(1) FSMA, so far as reasonably possible, to act in a way which is compatible with its strategic objective and advances one or more of its operational objectives. The FCA is also required to explain why making the proposed rules advances, so far as reasonably possible, the secondary international competitiveness and growth objective, under section 1B(4A) FSMA, and complies with its general duty under section 1B(5)(a) FSMA to have regard to the regulatory principles in section 3B FSMA. The FCA is also required by s 138K(2) FSMA to state its opinion on whether the proposed rules will have a significantly different impact on mutual societies as opposed to other authorised persons.
3. This Annex also sets out the FCA's view of how the proposed rules are compatible with the duty on the FCA to discharge its general functions (which include rule-making) in a way which promotes effective competition in the interests of consumers (section 1B(4)). This duty applies in so far as promoting competition is compatible with advancing the FCA's consumer protection and/or integrity objectives.
4. In addition, this Annex explains how we have considered the recommendations made by the Treasury under s 1JA FSMA about aspects of the economic policy of His Majesty's Government to which we should have regard in connection with our general duties.
5. This Annex includes our assessment of the equality and diversity implications of these proposals.
6. Under the Legislative and Regulatory Reform Act 2006 (LRRRA) the FCA is subject to requirements to have regard to a number of high-level 'Principles' in the exercise of some of our regulatory functions and to have regard to a 'Regulators' Code' when determining general policies and principles and giving general guidance (but not when exercising other legislative functions like making rules). This Annex sets out how we have complied with requirements under the LRRRA.
7. Additionally, as these proposals constitute Part 9C rules under FSMA (as amended by the Financial Services and Markets Act 2023), we must comply with the specific requirements of section 143H FSMA. This requires that our consultation is accompanied by:

- An explanation of the provision that the FCA has considered it appropriate to include in the rules given the risks specified in or under section 143C(2) or 143D(2), and
- An explanation of the ways in which having regard to the matters specified in or under section 143G(1) has affected the proposed rules.

The FCA's objectives and regulatory principles: Compatibility statement

Strategic objective (s1B FSMA)

8. We consider these proposals compatible with the FCA's strategic objective of ensuring that the relevant markets function well. Our approach maintains market confidence by preserving capital quality standards while enhancing transparency and reducing complexity by achieving a 70% legal text reduction (from approximately 44,100 to 13,200 words), as quantified in 1.3.
9. This significant reduction in complexity addresses shortcomings stemming from the current fragmentation of rules across the FCA Handbook, the UK CRR, and various technical standards. By consolidating and streamlining these rules, we improve market functioning through greater clarity and accessibility.

Operational objectives

10. The proposals set out in this consultation are primarily intended to advance the FCA's operational objective of protecting the integrity of the UK financial system. They are also relevant to the FCA's consumer protection and competition objectives.
11. Our proposals support our market integrity objective by maintaining the soundness, stability, and resilience of the financial system. By ensuring that firms have adequate financial resources that are genuinely capable of absorbing losses, the proposals reduce the risk of disorderly firm failure that could disrupt market functioning. The streamlined approach to deductions and filters ensures that only capital that can absorb losses in stress counts toward regulatory requirements.
12. With respect to our consumer protection objective, our proposals retain prudent valuation requirements and clarify loss absorption triggers. These elements ensure that firms maintain appropriate capital resources to withstand losses, helping to maintain service continuity for consumers and reduce the risk of disorderly failure.
13. Our proposals also support our competition objective by making the own funds definition more accessible and removing unnecessary complexity. This helps firms focus on maintaining own funds appropriate for their business model and risk profile, and reduces barriers to entry by making requirements clearer and easier to understand. These improvements can facilitate more effective competition in the investment firm sector.

Secondary International Competitiveness and Growth Objective (s1B(4A))

14. We have considered our secondary international competitiveness and growth objective in developing these proposals. While our changes may contribute to a more accessible regulatory framework, we consider that due to the technical nature and limited scope of these changes, they are unlikely to have any significant benefits to the international competitiveness of the UK financial services sector.
15. Our proposals focus primarily on streamlining existing requirements rather than making substantive policy changes. We have therefore concluded that while the proposals are compatible with the secondary objective, they do not represent a significant advancement of it.

Regulatory principles (s3B FSMA)

16. In preparing the proposals set out in this consultation, the FCA has had regard to the regulatory principles set out in s 3B FSMA:
17. **The need to use our resources in the most efficient and economic way:** The proposed rules in this consultation paper do not introduce new requirements for firms in scope of the changes. The costs and benefits of our proposals are set out in Annex 2.
18. **The principle that a burden or restriction should be proportionate to the benefits:** Our approach removes unnecessary complexity by tailoring requirements to the business models of investment firms, while maintaining appropriate prudential standards. This improves proportionality by removing provisions designed for more complex banking structures that are not relevant to most investment firms.
19. **The need to contribute towards achieving compliance by the Secretary of State with section 1 of the Climate Change Act 2008 (UK net zero emissions target) and section 5 of the Environment Act 2021 (environmental targets):** We have considered the environmental, social and governance implications of our proposals and our duty under section 1B(5) and 3B(c) of FSMA to have regard to contributing towards the Secretary of State achieving compliance with the net-zero emissions target under section 1 of the Climate Change Act 2008 and environmental targets under section 5 of the Environment Act 2021. Overall, we do not consider the proposals are relevant to contributing to those targets.
20. **The general principle that consumers should take responsibility for their decisions:** This principle is less directly relevant to these proposals as they focus on prudential standards rather than conduct requirements that directly affect consumers.
21. **The responsibilities of senior management:** Our proposals maintain appropriate governance requirements and management responsibilities while making them clearer and more accessible. This supports sound governance without unnecessary complexity.
22. **The desirability of recognising differences in the nature of, and objectives of, businesses carried on by different persons including mutual societies and other kinds of business organisation:** Our approach recognises differences in the nature

and objectives of businesses by tailoring requirements specifically to investment firms rather than applying banking standards. We explain our proposed approach to mutual societies at paras 4.7 - 4.8.

- 23. The desirability of publishing information relating to persons subject to requirements imposed under FSMA, or requiring them to publish information:** The proposals maintain appropriate disclosure requirements through MIFIDPRU 8, ensuring transparency around firms' capital structures. The enhanced disclosure template for firms with non-CET1 shares provides valuable information to the market, supporting informed decision-making.
- 24. The principle that we should exercise our functions as transparently as possible:** We have clearly set out our approach and rationale for the proposed changes in this consultation paper and are seeking feedback from stakeholders. Our consultation process ensures transparency in our rule-making.
- 25.** In formulating these proposals, the FCA has had regard to the importance of taking action intended to minimise the extent to which it is possible for a business carried on by an authorised person or a recognised investment exchange, or in contravention of the general prohibition, to be used for a purpose connected with financial crime (as required by s1B(5)(b) FSMA). We do not consider that the proposals have any implications in this regard.
- 26.** In preparing these proposals, we have had regard to the Treasury's recommendations under s1JA FSMA concerning aspects of His Majesty's Government's economic policy, particularly around supporting growth. Our approach to simplifying the definition of regulatory capital directly supports the government's growth agenda as outlined in our letter to the PM, where we committed to "removing unnecessary regulation" and "streamlining our handbook." By reducing the volume of legal text by approximately 70% and making the framework easier to navigate, we are reducing regulatory burden for firms and creating a more accessible rulebook. This consultation is part of our broader work to reduce barriers to entry and improve operational efficiency, supporting the UK's competitiveness while maintaining appropriate prudential standards. As stated in our letter, we recognise that growth is "a cornerstone of our strategy, through to 2030," and these proposals reflect our commitment to that mission.

Part 9C FSMA requirements

Explanation of risks addressed (s143C(2) and 143D(2))

- 27.** Section 143H(1)(a) FSMA requires us to explain the provisions we have considered appropriate to include in our rules given the risks specified in sections 143C(2) and 143D(2).
- 28.** The risks specified in sections 143C(2) and 143D(2) are:
- The risks to consumers arising from FCA investment firms, their parent undertakings, and groups
 - The risks to the integrity of the UK financial system arising from these firms

- The risks to which FCA investment firms are exposed by virtue of their relationship with their parent undertaking
- Any other risks specified by the Treasury by regulations.

- 29.** Our proposals for the definition and quality of capital address these risks in the following ways:
- 30.** Regarding risks to consumers (section 143C(2)(a) and 143D(2)(a)), our proposals maintain the Basel-derived capital quality standards. By ensuring that investment firms hold high-quality capital that can genuinely absorb losses, our proposals help protect consumers from disruption that could result from firm failure or financial distress. The clear distinction between different tiers of capital (CET1, AT1, and T2) shown in Table 2 ensures that firms maintain sufficient resources of appropriate quality to withstand adverse market conditions.
- 31.** To address risks to the integrity of the UK financial system (section 143C(2)(b) and 143D(2)(b)), our proposals preserve the established loss-absorbency hierarchy through the maintenance of core characteristics for each tier of capital. This hierarchical approach ensures that firms maintain appropriate quality and quantity of regulatory capital, reducing the risk of disorderly failures that could have wider market impacts. Our approach to deductions and filters ensures that only genuine loss-absorbing capacity counts toward regulatory requirements. The simplified approach to deductions for holdings in financial sector entities maintains appropriate safeguards against double-counting of capital across the financial system.
- 32.** Regarding risks to which FCA investment firms are exposed (s143C(2)(c)), our proposals maintain the established loss-absorbency characteristics of each tier of capital, which ensures that firms can absorb losses arising from the risks to which they are exposed.
- 33.** For risks related to group contagion (143D(2)(c)), our proposals retain consolidated capital safeguards. These include provisions for minority interests and intra-group holdings that help ensure capital is appropriately allocated within investment firm groups and is available to absorb losses where they occur.
- 34.** The Treasury has not specified any other risks under section 143C(2)(d) or 143D(2)(d) that would be relevant to these proposals.

International Standards & Treasury Matters (s143G(1))

- 35.** In accordance with section 143G(1) FSMA, when making Part 9C rules, the FCA must, among other things, have regard to any relevant standards set by an international standard-setting body and any other matter specified by the Treasury by regulations.
- 36.** While there are no specific international prudential standards for investment firms, our approach is consistent with the core principles established by the Basel Committee on Banking Supervision (BCBS) regarding the quality and loss-absorbing capacity of regulatory capital. We have maintained alignment with Basel capital adequacy principles, applying them proportionately to investment firms.

- 37.** The Basel framework establishes fundamental principles for regulatory capital that we have preserved in our proposals, including:
- The hierarchical structure of capital tiers based on loss-absorption capability
 - The requirement for capital to be available to absorb losses on a going-concern and gone-concern basis
 - The need for appropriate deductions to ensure only genuine loss-absorbing capacity counts toward requirements
- 38.** The Treasury has not specified any other matters under section 143G(1)(d) that would apply to these proposals.

Equivalence Considerations (s143G(3))

- 39.** In accordance with section 143G(3) FSMA, we have considered the likely effect of the rules on relevant equivalence decisions.
- 40.** We have also discussed with the Treasury the likely effect on equivalence decisions as part of the process of drafting the rules in this consultation paper.

Expected effect on mutual societies

- 41.** The FCA does not expect the proposals in this paper to have a significantly different impact on mutual societies. Only FCA investment firms are in scope of the proposed rules. At present, there are no mutual societies authorised as FCA investment firms, though our approach provides flexibility to accommodate such entities should they seek authorisation in the future.

Compatibility with the duty to promote effective competition in the interests of consumers

- 42.** In preparing the proposals as set out in this consultation, we have had regard to the FCA's duty to promote effective competition in the interests of consumers.
- 43.** While our cost-benefit analysis does not specifically quantify competition benefits, we believe our proposals may have some modest positive effects on competition. As noted in Annex 2, firms are likely to see efficiency benefits and time savings from having all relevant rules in one place within the FCA Handbook. This streamlining may reduce the regulatory burden particularly for smaller firms and new entrants who typically have fewer resources to devote to regulatory compliance.
- 44.** These changes could therefore marginally reduce barriers to entry and expansion in the market, which is consistent with promoting effective competition. However, given the technical nature of these changes and their focus on improving accessibility rather than substantively altering requirements, we do not expect significant competitive impacts in the market.

Equality and diversity

- 45.** We are required under the Equality Act 2010 in exercising our functions to 'have due regard' to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the Act, advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, to and foster good relations between people who share a protected characteristic and those who do not.
- 46.** As part of this, we ensure the equality and diversity implications of any new policy proposals are considered. We have considered the equality and diversity implications of our proposals and do not consider that they materially impact any of the groups with protected characteristics under the Equality Act 2010. The technical eligibility criteria for own funds apply uniformly across firm types regardless of their ownership or governance structure.
- 47.** We will continue to consider the equality and diversity implications of the proposals during the consultation period and will revisit them when making the final rules to ensure our approach remains appropriate.

Legislative and Regulatory Reform Act 2006 (LRRRA)

- 48.** We have had regard to the principles in the LRRRA for the parts of the proposals that consist of general policies, principles or guidance. Our proposals support transparency through clearly setting out our approach and rationale for the changes. They maintain accountability by consulting on our proposals and committing to consider all feedback received. We have ensured that our approach is proportionate by removing unnecessary complexity while maintaining appropriate prudential standards. The proposals establish consistency by maintaining coherent principles across different tiers of capital. Finally, our changes are targeted only at areas where action is needed to improve accessibility without imposing new substantive requirements on firms.
- 49.** We have had regard to the Regulators' Code for the parts of the proposals that consist of general policies, principles or guidance and consider that the proposals support our approach of being a forward-looking and proactive regulator.

Annex 4

Abbreviations in this document

Abbreviation	Description
AT1	Additional Tier 1 capital
AVA	Additional valuation adjustment
BCBS	Basel Committee on Banking Supervision
CBA	Cost benefit analysis
CET1	Common Equity Tier 1 capital
CP	Consultation Paper
CRR	Capital Requirements Regulation
EANDCB	Equivalent Annual Net Direct Cost to Business
ESG	Environmental, Social and Governance
ETF	Exchange Traded Fund
FCA	Financial Conduct Authority
FSCS	Financial Services Compensation Scheme
FSMA	Financial Services and Markets Act
GCT	Group Capital Test
GDP	Gross Domestic Product
G-SIB	Global Systemically Important Bank
HMT	His Majesty's Treasury
IFG	Investment Firm Group

Abbreviation	Description
AT1	Additional Tier 1 capital
IFPR	Investment Firms Prudential Regime
LRRRA	Legislative and Regulatory Reform Act
MIFIDPRU	Prudential sourcebook for MiFID investment firms
MREL	Minimum Requirement for Own Funds and Eligible Liabilities
OBR	Office for Budget Responsibility
PM	Prime Minister
PRA	Prudential Regulation Authority
PS	Policy Statement
PSR	Payment Systems Regulator
SICGO	Secondary International Competitiveness and Growth Objective
T2	Tier 2
UK	United Kingdom

Appendix 1

Draft Handbook text

DEFINITION OF CAPITAL FOR INVESTMENT FIRMS INSTRUMENT 2025

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following sections of 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 138D (Actions for damages);
 - (4) section 139A (Power of the FCA to give guidance);
 - (5) section 143D (Duty to make rules applying to parent undertakings); and
 - (6) 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 *[date]*.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Prudential sourcebook for MiFID Investment Firms (MIFIDPRU) is amended in accordance with Annex B to this instrument.

Notes

- F. In the annexes 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

- G. This instrument may be cited as the Definition of Capital for Investment Firms Instrument 2025.

By order of the Board
[date]

Annex A

Amendments to the Glossary of definitions

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

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>accumulated other comprehensive income</i>	means the accumulated balance of ‘other comprehensive income’ as defined in International Accounting Standard (IAS) 1.
<i>additional tier 1 or comparable instrument</i>	has the meaning in <i>MIFIDPRU</i> 3.4A.22R.
<i>additional tier 1 item</i>	has the meaning in <i>MIFIDPRU</i> 3.4A.2R.
<i>common equity tier 1 or comparable instrument</i>	has the meaning in <i>MIFIDPRU</i> 3.3A.29R.
<i>common equity tier 1 item</i>	has the meaning in <i>MIFIDPRU</i> 3.3A.2R.
<i>distribution</i>	means the payment, in any form, of dividends or interest.
<i>external investor</i>	an <i>undertaking</i> that is not included in the <i>investment firm group</i> .
<i>intangible asset</i>	has the same meaning as in the applicable accounting framework and includes goodwill.
<i>liquidation</i>	means the winding up of a <i>firm</i> under Part IV of the Insolvency Act 1986, and any other comparable process.
<i>minority interest</i>	means the <i>common equity tier 1 items</i> , <i>additional tier 1 items</i> or <i>tier 2 items</i> of a <i>subsidiary</i> of a <i>UK parent entity</i> that are attributable to an <i>external investor</i> .
<i>other reserves</i>	means reserves, within the meaning of the applicable accounting framework, that: <ol style="list-style-type: none"> (1) are required to be disclosed under the applicable accounting standard; and

	(2)	are not included in <i>accumulated other comprehensive income</i> or <i>retained earnings</i> .
<i>reciprocal cross-holding</i>		means a holding by a <i>firm</i> of the <i>own funds instruments</i> or other capital instruments issued by a <i>financial sector entity</i> where that entity also holds <i>own funds instruments</i> issued by the <i>firm</i> .
<i>reduction of capital</i>		means a call, redemption, repurchase, buyback, repayment of principal and any other transaction with a similar economic effect.
<i>retained earnings</i>		means profits and losses brought forward as a result of an <i>undertaking's</i> finalised profit or loss for the year under the applicable accounting framework.
<i>tier 2 or comparable instrument</i>		has the meaning in <i>MIFIDPRU 3.5A.17R</i> .
<i>tier 2 item</i>		has the meaning in <i>MIFIDPRU 3.5A.2R</i> .

Amend the following definitions as shown.

<i>additional tier 1 capital</i>	(1)	(in <i>MIFIDPRU</i>) as defined in article 61 of the <i>UK CRR</i>, as applied and modified by <i>MIFIDPRU 3.4</i> <u>has the meaning in <i>MIFIDPRU 3.4A.2R</i>.</u>
	(2)	as defined in article 61 of the <i>UK CRR</i>.
<i>additional tier 1 instrument</i>	(1)	(in relation to an instrument issued by a <i>MIFIDPRU investment firm</i>) a capital instrument that qualifies as an additional tier 1 capital instrument under article 52 of the <i>UK CRR</i> as applied and modified by the requirements in <i>MIFIDPRU 3.4</i> <u>a capital instrument that complies with the conditions in <i>MIFIDPRU 3.4A.3R</i> to <i>MIFIDPRU 3.4A.15R</i> and that is not a <i>common equity tier 1 instrument</i>.</u>
	(2)	(in any other case) a capital instrument that qualifies as an additional tier 1 capital instrument under article 52 of the <i>UK CRR</i>.
<i>common equity tier 1 capital</i>	(1)	(in <i>MIFIDPRU</i>) as defined in article 50 of the <i>UK CRR</i>, as applied and modified by <i>MIFIDPRU 3.3</i> <u>has the meaning in <i>MIFIDPRU 3.3A.2R</i>.</u>
	(2)	(except in <i>MIFIDPRU</i>) as defined in article 50 of the <i>UK CRR</i>.

<i>common equity tier 1 instrument</i>	<p>a capital instrument that qualifies as a common equity tier 1 instrument under article 26 of the UK CRR <u>a capital instrument that complies with the conditions in MIFIDPRU 3.3A.3R to MIFIDPRU 3.3A.16R.</u></p>
<i>contingent convertible instrument</i>	<p>a <i>financial instrument</i> which meets the requirements for either:</p> <p>(a) <u>Additional Tier 1 instruments under article 52 of the Own Funds (CRR) Part of the PRA Rulebook; or</u></p> <p>(aa) <u>Additional tier 1 instruments; or</u></p> <p>(b) <u>Tier 2 instruments under article 63 of the Own Funds (CRR) Part of the PRA Rulebook or Tier 2 instruments, provided:</u></p> <p>(i) the provisions governing the instrument require that, upon the occurrence of a trigger event, the principal amount of the instrument be written down on a permanent or temporary basis or the instrument be converted to one or more common equity Tier 1 instruments; and</p> <p>(ii) the trigger mechanism in (i) is different from, or additional to, any discretionary mechanism for converting or writing down the principal amount of the instrument which is activated following a determination by the relevant authority that the issuer of the <i>financial instrument</i> (or its <i>group</i>, or any member of its <i>group</i>) is no longer viable, or will no longer be viable unless the relevant instrument is converted or written down;</p> <p>in each case of the UK CRR, or (where applicable) its provisions as applied and amended by MIFIDPRU 3.</p>
<i>own funds</i>	<p>...</p> <p>(4A) (in MIFIDPRU) has the meaning in MIFIDPRU 3.2.1R <u>MIFIDPRU 3.2A.2R.</u></p> <p>...</p>
<i>own funds instruments</i>	<p>(1) (in relation to an instrument issued by a MIFIDPRU investment firm <u>except in (2)) capital instruments that qualify as common equity tier 1 instruments, additional tier 1 instruments or tier 2 instruments.</u></p>

	(2)	(in relation to a <i>parent undertaking</i> to which the <i>group capital test</i> applies) as defined <u>has the meaning in <i>MIFIDPRU 2.6.2R</i> <i>MIFIDPRU 2.6.2R(1)</i>.</u>
	(3)	(in any other case) has the meaning in article 4(1)(119) of the <i>UK CRR</i>.
<i>tier 2 capital</i>	(1)	(in <i>MIFIDPRU</i>) as defined in article 71 of the <i>UK CRR</i>, as applied and modified by <i>MIFIDPRU 3.5</i> <u>has the meaning in <i>MIFIDPRU 3.5A.2R</i>.</u>
	(2)	(except in <i>MIFIDPRU</i>) as defined in article 71 of the <i>UK CRR</i>.
<i>tier 2 instruments</i>		a capital instrument that qualify as tier 2 instruments under article 62 of the <i>UK CRR</i> <u>complies with the conditions in <i>MIFIDPRU 3.5A.3R</i> to <i>MIFIDPRU 3.5A.11R</i> and is not a <i>common equity tier 1 instrument</i> or an <i>additional tier 1 instrument</i>.</u>

Delete the following definitions. The text is not shown struck through.

<i>AVA</i>	an additional valuation adjustment calculated under <i>MIFIDPRU 3 Annex 8R</i> .
<i>cooperative society</i>	a cooperative society as defined in <i>MIFIDPRU 3 Annex 7.4R</i> .
<i>intermediate entity</i>	an intermediate entity as defined in <i>MIFIDPRU 3 Annex 7.32R</i> .
<i>similar institution</i>	a similar institution as defined in <i>MIFIDPRU 3 Annex 7.5R</i> .
<i>valuation exposure</i>	means the amount of a <i>valuation position</i> that is sensitive to the movement in a <i>valuation input</i> .
<i>valuation input</i>	means a market observable or non-observable parameter or matrix of parameters that influences the fair value of a <i>valuation position</i> .
<i>valuation position</i>	means a <i>financial instrument</i> or commodity or portfolio of <i>financial instruments</i> or commodities, which are measured at fair value.

Annex B

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 indicated.

1 Application

1.1 Application and purpose

...

Voluntary application of stricter requirements

...

1.1.9 G (1) If a *firm* applies stricter measures than those required under *MIFIDPRU* in accordance with *MIFIDPRU* 1.1.8R, the *firm* must still ensure that it meets the basic requirements of *MIFIDPRU*. This is illustrated by the following two examples:

...

- (b) Example 2: A *firm* decides to hold a significant amount of additional *own funds* instead of applying the deductions from its *common equity tier 1 capital* required under ~~*MIFIDPRU* 3.3.6R~~ *MIFIDPRU* 3. It does so on the basis that the additional *own funds* far exceed the estimated value of the required deductions and the *firm* considers that the deduction calculations are too onerous. While the *firm* may consider that holding these additional *own funds* is a stricter measure, this approach would not meet the basic requirements of *MIFIDPRU*, which require the *firm* to calculate and apply the deductions. In addition, the failure to apply the correct deductions to *common equity tier 1 capital* may result in the *firm* incorrectly applying the *concentration risk* requirements and limits in *MIFIDPRU* 5. This approach would therefore not be permitted under *MIFIDPRU* 1.1.8R because it does not meet the basic requirements of *MIFIDPRU*.

...

...

2 Level of application of requirements

...

2.5 Prudential consolidation

...

Prudential consolidation – main requirements

...

- 2.5.10 R (1) ~~When applying MIFIDPRU 3 on a consolidated basis, the requirements in Title II of Part Two of the UK CRR shall also apply with the modifications in this rule.~~
- (2) ~~A reference in Title II of Part Two of the UK CRR to an entity or person included within the “consolidation pursuant to Chapter 2 of Title II of Part One” is a reference to an entity or person included in the consolidated situation of the investment firm group under MIFIDPRU 2.5.~~
- (3) ~~The relevant subsidiaries for the purposes of articles 81(1)(a) and 82(a) of the UK CRR are:~~
- ~~(a) a MIFIDPRU investment firm;~~
 - ~~(b) a designated investment firm; and~~
 - ~~(c) a UK credit institution that is included in the consolidated situation under MIFIDPRU 2.5 because it is a connected undertaking.~~
- (4) ~~The modifications in (5) apply where the following provisions of the UK CRR apply to a subsidiary that is a MIFIDPRU investment firm:~~
- ~~(a) article 84(1)(a)(i);~~
 - ~~(b) article 85(1)(a)(i); and~~
 - ~~(c) article 87(1)(a)(i).~~
- (5) ~~The modifications referred to in (4) are as follows:~~
- ~~(a) the relevant amount of common equity tier 1 capital in article 84(1)(a)(i) is the sum of:~~
 - ~~(i) the amount of common equity tier 1 capital required to meet the firm’s own funds threshold requirement; and~~
 - ~~(ii) any other requirements that apply to the firm under additional third countries local supervisory regulations in to the extent that those requirements must be met by common equity tier 1 capital;~~
 - ~~(b) the relevant amount of tier 1 capital in article 85(1)(a)(i) is the sum of:~~

- (i) ~~the amount of *tier 1 capital* required to meet the *firm's own funds threshold requirement*; and~~
 - (ii) ~~any other requirements that apply to the *firm* under additional local supervisory regulations in *third countries* to the extent that those requirements must be met by *tier 1 capital*; and~~
- (e) ~~the relevant amount of *own funds* in article 87(1)(a)(i) is the sum of:~~
- (i) ~~the amount of *own funds* required to meet the *firm's own funds threshold requirement*; and~~
 - (ii) ~~any other requirements that apply to the *firm* under additional local supervisory regulations in *third countries* to the extent that those requirements must be met by *own funds*.~~
- (6) The following provisions of the *UK CRR* are modified as follows:
- (a) article 84(1)(a)(ii) applies as if it refers to the sum of:
 - (i) ~~the amount of consolidated *common equity tier 1 capital* that relates to the *subsidiary* that is required on a *consolidated basis* to meet the requirement in *MIFIDPRU 2.5*; and~~
 - (ii) ~~any other requirements that apply to the *subsidiary* under additional local supervisory regulations in *third countries* to the extent that those requirements must be met by *common equity tier 1 capital*;~~
 - (b) article 85(1)(a)(ii) applies as if it refers to the sum of:
 - (i) ~~the amount of consolidated *tier 1 capital* that relates to the *subsidiary* that is required on a *consolidated basis* to meet the requirement in *MIFIDPRU 2.5*; and~~
 - (ii) ~~any other requirements that apply to the *subsidiary* under additional local supervisory regulations in *third countries* to the extent that those requirements must be met by *tier 1 capital*; and~~
 - (c) article 87(1)(a)(ii) applies as if it refers to the sum of:
 - (i) ~~the amount of consolidated *own funds* that relates to the *subsidiary* that is required on a *consolidated basis* to meet the requirement in *MIFIDPRU 2.5*; and~~

- (ii) ~~any other requirements that apply to the *subsidiary* under additional local supervisory regulations in *third countries* to the extent that those requirements must be met by *own funds*. [deleted]~~

2.5.10A G ~~*MIFIDPRU 3 Annex 7.57G* and *MIFIDPRU 3 Annex 7.58R* contain supplementary provisions that may be relevant when a firm is applying *MIFIDPRU 2.5.10R*. [deleted]~~

2.5.10B R (1) When applying *MIFIDPRU 3* on a *consolidated basis*, a *UK parent entity* may include the *minority interest* of an *external investor* in a *subsidiary* ('X') in the *UK parent entity's consolidated common equity tier 1 capital*, subject to the requirements in (2) to (5) of this rule.

(2) X must be fully consolidated under *MIFIDPRU 2.5.13R(1)*.

(3) The *minority interest* must meet all of the criteria for *common equity tier 1 items* in *MIFIDPRU 3*.

(4) (a) The *minority interest* must not have been funded directly or indirectly by an *undertaking* in the *investment firm group*.

(b) (4)(a) does not apply if the funding is provided in the ordinary course of the *firm's* business.

(5) The amount of the *minority interest* in X that is eligible to count towards the *UK parent entity's consolidated common equity tier 1 capital* is limited to:

R*P

where:

- R is the amount of the consolidated *own funds requirement* of the *UK parent entity* that arises from the inclusion of X and its *subsidiaries* in the *consolidated situation*, to the extent this must be met by *common equity tier 1 capital*; and
- P is the percentage of X's *common equity tier 1 items* that is attributable to *external investors*.

(6) When calculating the *minority interests* eligible for inclusion in a *UK parent entity's consolidated tier 1 capital*, (2) to (5) apply subject to the following modifications:

(a) references to *common equity tier 1 items* in (3) and (5) are read as references to *common equity tier 1 items* and *additional tier 1 items*; and

(b) references to *common equity tier 1 capital* in (5) are read as references to *tier 1 capital*.

- (7) When calculating the *minority interests* eligible for inclusion in a *UK parent entity's consolidated own funds*, (2) to (5) apply subject to the following modifications:
- (a) references to *common equity tier 1 items* in (3) and (5) are read as references to *common equity tier 1 items, additional tier 1 items* and *tier 2 items*; and
- (b) references to *common equity tier 1 capital* in (5) are read as references to *own funds*.

- 2.5.10C G (1) *MIFIDPRU 2.5.10BR* permits a *UK parent entity* to count the capital of a *subsidiary* ('X') that is attributable to an *external investor* towards the relevant component of its consolidated *own funds*.
- (2) Such capital cannot have been funded directly or indirectly by an *undertaking* in the *investment firm group*, unless the funding is provided in the ordinary course of business. The *guidance* in *MIFIDPRU 3.3A.10G(2)* explains what this means.
- (3) Such capital is only eligible if it is being used to meet the contribution that X makes to the consolidated *own funds requirement* of the *investment firm group*. Surplus capital that is attributable to an *external investor* is not eligible, because it is not available to meet losses incurred by the wider *investment firm group* – if the capital was returned, it would be due back to the *external investor* rather than available to the *UK parent entity*.
- (4) *MIFIDPRU 2.5.24G* to *MIFIDPRU 2.5.46R* explain how to calculate the consolidated *own funds requirement*. X's contribution to the consolidated requirement will not necessarily be the same as X's individual capital requirement, for example because intra-group transactions can sometimes be netted off.
- (5) X's contribution to the consolidated *own funds requirement* can be calculated by comparing the consolidated *own funds requirement* of the *investment firm group* with the consolidated requirement if X (and its *subsidiaries*) were not included in the *investment firm group*.
- (6) The *UK parent entity* is still required to comply with the requirements on composition of *own funds* in *MIFIDPRU 3.2A* on a consolidated basis. Even where *minority interests* are eligible, their use may be limited by the applicable limits for different tiers of capital.
- (7) The definition of *subsidiary* includes a *subsidiary* of another *subsidiary*. If there are multiple *subsidiaries* with *minority interests* in a single *investment firm group*, a *UK parent entity* should repeat the calculation in *MIFIDPRU 2.5.10BR* for each *subsidiary*.

- 2.5.10D G (1) The following examples illustrate how to apply MIFIDPRU 2.5.10BR to calculate how much of a *minority interest* may be included in a UK parent entity's consolidated common equity tier 1 capital.
- (2) X is a subsidiary of a UK parent entity. Its contribution to the consolidated own funds requirement of its UK parent entity which must be met by common equity tier 1 capital is 35.
- (3) X has common equity tier 1 instruments in issue of 20, of which 16 are owned by the UK parent entity and 4 by an external investor. 20% are therefore attributable to an external investor.
- (4) X also has 40 in retained earnings. Because retained earnings are attributable in the same proportions as the common equity tier 1 instruments, 8 of the retained earnings (20%) are also attributable to the external investor.
- (5) The total minority interest in X is therefore 4 common equity tier 1 instruments plus 8 in retained earnings, so 12.
- (6) MIFIDPRU 2.5.10BR(5) limits how much of the 12 minority interest is eligible to count towards the UK parent entity's consolidated common equity tier 1 capital.
- (7) To calculate the limit in MIFIDPRU 2.5.10BR(5):
- (a) R, the contribution of X to the consolidated own funds requirement of its UK parent entity which must be met by common equity tier 1 capital, is 35.
- (b) P, the percentage of common equity tier 1 items attributable to an external investor, is 20%.
- (c) The amount of the minority interest eligible for inclusion in the consolidated common equity tier 1 capital of the UK parent entity is therefore limited to $R \cdot P$ or $35 \cdot 20\% = 7$.

- 2.5.10E G (1) The following examples illustrate how to apply MIFIDPRU 2.5.10BR to calculate how much of a *minority interest* may be included in a UK parent entity's consolidated own funds.
- (2) X is a subsidiary of a UK parent entity. Its contribution to the consolidated own funds requirement of its UK parent entity which must be met by own funds is 15.
- (3) The sum of X's common equity tier 1 items and alternative tier 1 items is 15. This capital is fully owned by the UK parent entity.
- (4) X issues tier 2 instruments to external investors for 5 capital.
- (5) The total minority interest in X is therefore 5.

- (6) MIFIDPRU 2.5.10BR(5) limits how much of the 5 minority interest is eligible to count towards the UK parent entity's consolidated own funds.
- (7) To calculate the limit in MIFIDPRU 2.5.10BR(5):
 - (a) R, the contribution of X to the consolidated own funds requirement of its UK parent entity which must be met by own funds, is 15.
 - (b) P, the percentage of common equity tier 1 items, additional tier 1 items and tier 2 items owned by an external investor, is 25% (5/20*100).
 - (c) The amount eligible for inclusion in the consolidated own funds of the UK parent entity is therefore limited to R*P or 15*25% = 3.75.

...

Prudential consolidation in practice: own funds

2.5.23 G ...

- (2) ~~MIFIDPRU 2.5.10R applies the provisions on minority interests and additional tier 1 instruments and tier 2 instruments issued by subsidiaries in Title II of Part Two of the UK CRR to a UK parent entity, but with the modifications set out in that rule. MIFIDPRU 2.5.10BR to MIFIDPRU 2.5.10EG explain the circumstances in which the minority interest of an external investor in a subsidiary is eligible to count towards consolidated own funds.~~

...

...

2.6 The group capital test

...

Group capital test: requirements

2.6.2 R For the purposes of MIFIDPRU 2.6:

- (1) 'own funds instruments' means own funds as defined in MIFIDPRU 3, without applying the deductions referred to in ~~MIFIDPRU 3.3.6R(8), article 56(d), and article 66(d) of the UK CRR~~ MIFIDPRU 3.3A.27R, MIFIDPRU 3.4A.20R and MIFIDPRU 3.5A.15R for any relevant financial undertaking in the investment firm group;

...

...

2.6.4 G ~~MIFIDPRU 3.7~~ MIFIDPRU 3.7A contains *rules and guidance* on the composition of capital for *parent undertakings* subject to the *group capital test*.

2.6.5 R Where the *FCA* has granted an application under *MIFIDPRU 2.4.17R*, a *UK parent entity* and any other *GCT parent undertakings* in the *investment firm group* must hold own funds instruments sufficient to cover the sum of the following:

- (1) the sum of the full book value of their holdings, subordinated claims and instruments referred to in ~~*MIFIDPRU 3.3.6R(8)*, *article 56(d)*, and *article 66(d)* of the *UK CRR*~~ *MIFIDPRU 3.3A.27R*, *MIFIDPRU 3.4A.20R* and *MIFIDPRU 3.5A.15R* in *relevant financial undertakings* in the *investment firm group*; and

...

...

MIFIDPRU 3.1 (Application and purpose) is deleted in its entirety. The deleted text is not shown but the section is marked [deleted] as shown below.

3.1 ~~Application and purpose~~ [deleted]

Insert the following new section, MIFIDPRU 3.1A (Application, purpose and interpretation), after the deleted section, MIFIDPRU 3.1. All the text is new and is not underlined.

3.1A Application, purpose and interpretation

Application

3.1A.1 R This chapter applies to:

- (1) a *MIFIDPRU investment firm*; and
- (2) a *UK parent entity* that is required by *MIFIDPRU 2.5.7R* to comply with *MIFIDPRU 3* on the basis of its *consolidated situation*.

3.1A.2 R This chapter also applies to a *parent undertaking* that is subject to the *group capital test* in accordance with *MIFIDPRU 2.6.5R*, but with the following modifications:

- (1) the definitions in *MIFIDPRU 2.6.2R* apply when calculating the *own funds instruments* of the *parent undertaking* for the purposes of the *group capital test*; and

- (2) *MIFIDPRU 3.2A.4R* and *MIFIDPRU 3.2A.5R* do not apply, but *MIFIDPRU 3.7A* applies instead.

3.1A.3 R For the purposes of this chapter:

- (1) where this chapter applies to a *parent undertaking* that is not a *firm*, reference to a '*MIFIDPRU investment firm*' or a '*firm*' includes a reference to that *parent undertaking*; and
- (2) where this chapter applies on the basis of the *consolidated situation* of an entity under *MIFIDPRU 3.1A.1R(2)*, a reference in this chapter to a '*firm*' is a reference to the hypothetical single *MIFIDPRU investment firm* created under the *consolidated situation*.

Purpose

3.1A.4 G This chapter contains requirements for the calculation of a *MIFIDPRU investment firm's own funds*. *Own funds* is the term the *FCA* commonly uses to describe a *firm's* regulatory capital.

Principles underlying the definition of own funds

3.1A.5 G By requiring a *firm* to maintain an appropriate level of *own funds*, the *FCA* helps ensure that:

(1) a *firm* can absorb losses whilst continuing to operate as a going concern;

(2) a *firm* can absorb losses in *liquidation* in an orderly way that minimises harm to clients, markets and the wider financial system;

(3) *own funds* are calculated in a consistent and transparent way, allowing the *FCA* and other stakeholders to assess a *firm's* loss-absorbing capacity; and

(4) the interests of a *firm's* owners are appropriately aligned with the long-term interests of the *firm* itself.

Interpretation

3.1A.6 R A *firm* must categorise and value its assets and off-balance sheet items in accordance with the applicable accounting framework, unless a *rule* specifies otherwise.

3.1A.7 G Every provision in the *Handbook* must be interpreted in the light of its purpose (*GEN 2.2.1R*). A *firm* must therefore look beyond the legal form of its capital arrangements and consider their economic substance. This includes considering matters not set out in the terms of a capital instrument.

Mutual societies

- 3.1A.8 G The *FCA* recognises that a mutual society may require modification of certain requirements in this chapter. The *FCA* will generally use the *own funds* rules for mutual societies in the *PRA rulebook* as the starting point for such modifications, but will discuss this with relevant mutual societies.

MIFIDPRU 3.2 (Composition of own funds and initial capital) is deleted in its entirety. The deleted text is not shown but the section is marked [deleted] as shown below.

3.2 ~~Composition of own funds and initial capital~~ [deleted]

Insert the following new section, MIFIDPRU 3.2A (Composition of own funds and initial capital), after the deleted section, MIFIDPRU 3.2. All the text is new and is not underlined.

3.2A Composition of own funds and initial capital

- 3.2A.1 G The *FCA* divides *own funds* into categories, or tiers, reflecting differences in the extent to which the capital concerned meet the purposes set out in *MIFIDPRU* 3.1A.5G.
- 3.2A.2 R The *own funds* of a *firm* are the sum of its:
- (1) *common equity tier 1 capital*;
 - (2) *additional tier 1 capital*; and
 - (3) *tier 2 capital*.
- 3.2A.3 G The *FCA* generally prefers a *firm* to hold *common equity tier 1 capital* because it provides the highest quality of loss absorption and permanence. *Common equity tier 1 capital* can be used to meet a *firm's* capital requirements without limit. Other tiers of capital are subject to limits as set out in *MIFIDPRU* 3.2A.4R.
- 3.2A.4 R A *firm* must, at all times, have *own funds* that satisfy all the following conditions:
- (1) the *firm's common equity tier 1 capital* must be equal to or greater than 56% of the *firm's own funds requirement* under *MIFIDPRU* 4.3;
 - (2) the sum of the *firm's common equity tier 1 capital* and *additional tier 1 capital* must be equal to or greater than 75% of the *firm's own funds requirement* under *MIFIDPRU* 4.3; and
 - (3) the *firm's own funds* must be equal to or greater than 100% of the *firm's own funds requirement* under *MIFIDPRU* 4.3.
- 3.2A.5 R A *firm's initial capital* must be made up of *own funds*.

MIFIDPRU 3.3 (Common equity tier 1 capital) is deleted in its entirety. The deleted text is not shown but the section is marked [deleted] as shown below.

3.3 ~~Common equity tier 1 capital~~ [deleted]

Insert the following new section, MIFIDPRU 3.3A (Common equity tier 1 capital), after the deleted section, MIFIDPRU 3.3. All the text is new and is not underlined.

3.3A Common equity tier 1 capital

3.3A.1 G (1) *Common equity tier 1 capital* has the following core characteristics:

- (a) it is able to absorb losses as they occur;
- (b) it ranks below all other claims in *liquidation*;
- (c) it is permanent;
- (d) there is no obligation to make a *distribution*; and
- (e) the level of *distributions* is not capped.

(2) The remainder of *MIFIDPRU 3.3A* contains the detailed *rules* and *guidance* for calculating *common equity tier 1 capital*.

3.3A.2 R A *firm* must calculate its *common equity tier 1 capital* in accordance with the first column of the following table. The second column indicates where relevant *rules* and *guidance* are found.

Item		Relevant rules and guidance
<i>Common equity tier 1 items:</i>		
(1)	<i>common equity tier 1 instruments;</i>	<i>MIFIDPRU 3.3A.3R to MIFIDPRU 3.3A.16R</i>
(2)	share premium accounts related to the <i>common equity tier 1 instruments</i> ;	
(3)	<i>retained earnings</i> ;	
(4)	interim or provisional year-end profits;	<i>MIFIDPRU 3.3A.17R and MIFIDPRU 3.3A.18G</i>
(5)	<i>accumulated other comprehensive income</i> ;	

(6)	<i>other reserves;</i>	
<p>Note: (3) to (6) may only be recognised as <i>common equity tier 1 items</i> if they are available to the <i>firm</i> for unrestricted and immediate use to cover risks or losses as soon as these occur.</p>		
LESS		
Deductions from <i>common equity tier 1 items</i> :		<i>MIFIDPRU 3.3A.19G</i>
(7)	losses for the current financial year;	<i>MIFIDPRU 3.3A.20R</i>
(8)	<i>intangible assets;</i>	<i>MIFIDPRU 3.3A.21R</i>
(9)	deferred tax assets that rely on future profitability;	<i>MIFIDPRU 3.3A.22R</i>
(10)	defined benefit pension fund assets;	<i>MIFIDPRU 3.3A.23R</i>
(11)	direct, indirect and synthetic holdings of own <i>common equity tier 1 instruments</i> ;	<i>MIFIDPRU 3.3A.24R, 3.3A.30R and 3.3A.31G</i>
(12)	direct, indirect and synthetic holdings of <i>common equity tier 1 or comparable instruments</i> of <i>financial sector entities</i> where those entities have a <i>reciprocal cross-holding</i> with the <i>firm</i> ;	<i>MIFIDPRU 3.3A.25R, MIFIDPRU 3.3A.26G, and MIFIDPRU 3.3A.29R to MIFIDPRU 3.3A.31G</i>
(13)	direct, indirect and synthetic holdings of <i>common equity tier 1 or comparable instruments</i> of <i>financial sector entities</i> which are not held in the <i>trading book</i> ;	<i>MIFIDPRU 3.3A.27R to MIFIDPRU 3.3A.31G</i>
(14)	any excess of AT1 deductions above the <i>firm's additional tier 1 capital</i> ;	<i>MIFIDPRU 3.3A.32R</i>
(15)	foreseeable tax charges relating to <i>common equity tier 1 items</i> ;	<i>MIFIDPRU 3.3A.33R</i>
(16)	<i>qualifying holdings</i> outside the financial sector;	<i>MIFIDPRU 3.3A.34R</i>

(17)	(for <i>partnerships</i> or <i>limited liability partnerships</i>) excess withdrawals;	<i>MIFIDPRU</i> 3.3A.35R
ADJUSTED FOR		
Prudential filters for <i>common equity tier 1 capital</i> :		
(18)	cash flow hedges and changes in the value of own liabilities due to own credit standing; and	<i>MIFIDPRU</i> 3.3A.36R and <i>MIFIDPRU</i> 3.3A.37G
(19)	additional valuation adjustment for the <i>trading book</i> .	<i>MIFIDPRU</i> 3.3A.38R

Prior permission and notification of issuances of common equity tier 1 instruments

- 3.3A.3 R (1) A *firm* must not classify an issuance of a capital instrument as a *common equity tier 1 instrument* unless:
- (a) it has obtained prior permission from the *FCA*; or
 - (b) (i) it is issuing new instruments on terms which are substantially the same as instruments for which the *firm* has already received the *FCA*'s prior permission; and
 - (ii) it notifies the *FCA* sufficiently far in advance of classifying the new instruments as *common equity tier 1 instruments*.
- (2) The *FCA* will grant the permission in (1)(a) if it is satisfied that the capital instrument meets the criteria in *MIFIDPRU* 3.3A.5R to *MIFIDPRU* 3.3A.16R.
- (3) (a) A *firm* must obtain the permission in (1)(a) by completing the form in *MIFIDPRU* 3 Annex 2R and submitting it to the *FCA* using the *online notification and application system*.
- (b) A *firm* must notify under (1)(b) by completing the form in *MIFIDPRU* 3 Annex 3R and submitting it to the *FCA* using the *online notification and application system*.
- 3.3A.4 G The *FCA* generally expects to receive a notification of a new issuance of an existing form of *common equity tier 1 instrument* under *MIFIDPRU* 3.3A.3R(1)(b)(ii) at least 20 *business days* before the *firm* intends to classify that issuance as *common equity tier 1 instruments*.

Common equity tier 1 instruments: loss absorption

- 3.3A.5 R (1) A *common equity tier 1 instrument* must be classified as equity within the meaning of the applicable accounting framework.
- (2) A *firm's* obligations under the instrument must not constitute a liability (including a contingent or prospective liability) that would be relevant for the purposes of section 123(2) of the Insolvency Act 1986.
- (3) The holder of the instrument must not have any right, arising from the non-payment of any sums connected to the instrument, to petition for the winding up or administration of the *firm*, or any similar procedure.
- (4) The instrument must not be secured by, or subject to, a guarantee or other arrangement which enhances the legal or economic seniority of the claim.
- (5) (a) The *common equity tier 1 instruments* must rank below all other claims in the event of *liquidation*, except for claims from holders of other ordinary *shares* which rank *pari passu* with the instruments.
- (b) The *common equity tier 1 instruments* must entitle their owners to a claim on the residual assets of the *firm* which, in the event of *liquidation* and after payment of all senior claims, is proportionate to the amount of such instruments issued and is not fixed or subject to a cap, except that a claim specified as a percentage of residual assets does not constitute a fixed or capped claim.
- (c) Each *common equity tier 1 instrument* must absorb losses to the same degree as all other *common equity tier 1 instruments*, and all *common equity tier 1 instruments* must absorb losses before any other *own funds instruments* issued by the *firm*.
- 3.3A.6 R Whilst the conditions in *MIFIDPRU* 3.3A.5R(5) require *common equity tier 1 instruments* to absorb losses before any other *own funds instruments*, the fact that an *additional tier 1 instrument* or *tier 2 instrument* may be permanently written down does not prevent these conditions being met.
- 3.3A.7 R (1) A *common equity tier 1 instrument* must be fully paid and the proceeds of issue immediately and fully available to the *firm*.
- (2) Where an instrument is partly paid, only the paid-up portion is eligible as a *common equity tier 1 instrument*.
- 3.3A.8 G *MIFIDPRU* 3.3A.7R requires that the full amount of capital has been irrevocably received by the *firm*, is fully under the *firm's* control, and does

not directly or indirectly expose the *firm* to the credit risk of the investor. This condition is stricter than the definition of fully paid in the Companies Act 2006, which may be met by an undertaking to pay.

- 3.3A.9 R (1) A *common equity tier 1 instrument* must not be funded directly or indirectly by the *firm* itself.
- (2) (1) does not apply if the funding is provided in the ordinary course of the *firm*'s business.
- 3.3A.10 G (1) MIFIDPRU 3.3A.9R prevents the artificial inflation of a *firm*'s own funds by prohibiting a *firm* from funding its own capital instruments. This includes situations where:
- (a) a *firm* grants a loan or other funding to an investor that is used to purchase the *firm*'s own capital instruments;
- (b) a *firm* grants any funding to an existing investor in its capital instruments;
- (c) a *firm* provides a guarantee, enters into a credit derivative, or enters into some other form of arrangement so that the credit risk in a capital instrument is or may be transferred to the *firm*; or
- (d) the funding in (a), (b) or (c) is provided to an external investor indirectly, for example by a member of the *firm*'s group or via another intermediary.
- (2) However, there is an exception for funding that is provided in the ordinary course of a *firm*'s business. This covers situations where:
- (a) funding is provided as part of a *firm*'s normal trading or business operations;
- (b) the terms are comparable to the terms the *firm* offers for third-party instruments; and
- (c) the funding is not designed to support the *firm*'s capital position.
- (3) For example, a market maker providing standard margin lending that happens to involve the market maker's own capital instruments is likely to qualify for the exception. However, a structured arrangement specifically designed to fund purchases of the *firm*'s capital instruments would not qualify.

Common equity tier 1 instruments: perpetuity

- 3.3A.11 R (1) A *common equity tier 1 instrument* must be perpetual, with a *reduction of capital* only permissible where:

- (a) the *firm* is in *liquidation*; or
 - (b) the *firm* carries out a *reduction of capital* which complies with *MIFIDPRU 3.6A.4R* or *MIFIDPRU 3.6A.6R*.
- (2) A *firm* must not do anything to create an expectation that it will or might carry out a *reduction of capital* under (1)(b) when it issues the instrument, and the statutory or contractual terms of the instrument must not contain any feature which would or might give rise to such an expectation.
- 3.3A.12 G (1) A *firm* generally has the right to carry out a *reduction of capital* under company law. However, *MIFIDPRU 3.6A.4R* requires that any *reduction of capital* is generally first approved by the *FCA*.
- (2) The *FCA* recognises that relevant documentation may acknowledge the fact that a *firm* is able to carry out a *reduction of capital*. However, the *firm* must not create an expectation that it would or might carry out a *reduction of capital* when it issues the relevant instrument.
- (3) An expectation that a *firm* would or might carry out a *reduction of capital* may be created by:
- (a) a term which creates an economic incentive for the *firm* to carry out a *reduction of capital* at a particular point in time;
 - (b) a term which suggests that a *reduction of capital* may be carried out at a particular point in time, or at the initiative of any *person* other than the *firm*, even if this is conditional upon the approval of the *firm's management body* and the *FCA*; or
 - (c) any other contractual or non-contractual indication that the *firm* would or might carry out a *reduction of capital* on a particular date, or in particular circumstances.

Common equity tier 1 instruments: perpetuity, partnerships and limited liability partnerships

- 3.3A.13 R (1) This *rule* applies to:
- (a) a *partner's* account in a *firm* that is a *partnership*; and
 - (b) a member's account in a *firm* that is a *limited liability partnership*.
- (2) References to a *partner* or a *partnership* in this *rule* include a member and a *limited liability partnership* respectively.

- (3) A *partner's* account satisfies the conditions in *MIFIDPRU* 3.3A.11R if:
- (a) capital contributed by *partners* is paid into the account; and
 - (b) the terms of the partnership agreement ensure that (otherwise than with prior *FCA* consent under *MIFIDPRU* 3.6A.4R or in the circumstances set out in *MIFIDPRU* 3.6A.6R) capital may only be withdrawn from the account by a *partner* ('A') if:
 - (i) A ceases to be a *partner* and an equal amount is contributed to another *partner's* account by A's former *partners* or any *person* replacing A as their *partner*;
 - (ii) any reduction in the capital credited to A's account is immediately offset by an equal contribution to other *partner* accounts by one or more of A's *partners* (including any *person* becoming a *partner* of A at the time that the additional contribution is made);
 - (iii) the *partnership* is wound up or dissolved; or
 - (iv) the *firm* ceases to be *authorised* or no longer has a *Part 4A permission*.

Common equity tier 1 instruments: distributions

- 3.3A.14 R A *common equity tier 1 instrument* must meet the following conditions regarding *distributions* (subject to *MIFIDPRU* 3.3A.16R):
- (1) the instrument must not provide or allow for the payment of preferential *distributions* over other *common equity tier 1 instruments* or any other capital instruments;
 - (2) the instrument must not include a cap on *distributions* or any other restriction on the maximum amount payable;
 - (3) the level of *distributions* must not be linked to the amount for which the instrument was purchased at issuance;
 - (4) there must be no circumstances in which *distributions* are obligatory, including where non-payment triggers some other obligation (for example to make payments in kind); and
 - (5) failure to make *distributions* must not constitute an event of default.
- 3.3A.15 G (1) *MIFIDPRU* 3.3A.14R(1) prohibits differentiated levels of *distributions*, or preferences in factors such as the order or timing of

distributions, subject to the exception for instruments with fewer or no voting rights in *MIFIDPRU* 3.3A.16R.

- (2) *MIFIDPRU* 3.3A.14R(5) means that a failure to make *distributions* must not have contractual or other consequences associated with an event of default, such as by engaging rights of termination, early repayment, additional voting rights, or other similar consequences.

Common equity tier 1 instruments: dividend multiples on instruments with fewer or no voting rights

3.3A.16 R A *common equity tier 1 instrument* may pay a dividend multiple relative to another *common equity tier 1 instrument* if:

- (1) the higher dividend multiple applies to *common equity tier 1 instruments* with fewer or no voting rights;
- (2) the dividend multiple is set contractually or under the *firm's* constitution;
- (3) the dividend multiple is not revisable;
- (4) the same dividend multiple applies to all instruments with a dividend multiple;
- (5) the dividend multiple is no more than 125% of the *distribution* on one voting *common equity tier 1 instrument*; and
- (6) the total amount of *distributions* paid on all *common equity tier 1 instruments* during a 1-year period does not exceed 105% of the amount that would have been paid if instruments with fewer or no voting rights received the same *distributions* as voting instruments.

Inclusion of interim profits or provisional year-end profits in common equity tier 1 capital

- 3.3A.17 R (1) A *firm* must not include interim profits or year-end profits in its *common equity tier 1 capital* before its formal decision confirming final profit or loss for the year, unless:
- (a) those profits have been verified by a *person* who is independent of the *firm* and is responsible for the auditing of the accounts of that *firm*;
 - (b) the verification provides an adequate level of assurance that those profits have been evaluated in accordance with the principles set out in the applicable accounting framework;
 - (c) the *firm* is satisfied that any foreseeable charge or dividend has been deducted from the amount of those profits on a prudent and conservative basis; and

- (d) the *firm* notifies the *FCA* as soon as reasonably practicable after including the profits in its *common equity tier 1 capital*.
 - (2) A *firm* must make the notification in (1)(d) by completing the form in *MIFIDPRU 3 Annex 1R* and submit it to the *FCA* using the *online notification and application system*.
- 3.3A.18 G (1) When deducting foreseeable dividends under *MIFIDPRU 3.3A.17R(1)(c)*, a *firm* should consider:
- (a) any formal decisions about dividends that have been taken by the *firm's management body*;
 - (b) the upper end of any dividend policy;
 - (c) the ratio of dividends to income paid out in previous years; and
 - (d) any other factors that might reasonably affect the *firm's* approach to *distributions* for the relevant period.
- (2) When deducting foreseeable charges under *MIFIDPRU 3.3A.17R(1)(c)*, a *firm* should consider:
- (a) any tax charges attributable to the profits being verified;
 - (b) any other charges that are attributable to the relevant period but have not yet been reflected in the *firm's common equity tier 1 capital* calculation; and
 - (c) any other factors that might reasonably be expected to affect the final profit or loss figure for the period.

Deductions and filters for common equity tier 1 capital

- 3.3A.19 G (1) Deductions and filters help to ensure that a *firm* measures its *own funds* in a way that reflects its ability to absorb losses in stressed conditions or *liquidation*.
- (2) They achieve this by adjusting accounting values, for example because those values:
- (a) are subject to significant valuation uncertainty;
 - (b) may not reflect realisable values in stressed conditions;
 - (c) include unrealised or market-value gains and losses that may reverse with changing market conditions; or
 - (d) are only realisable if the *firm* continues to operate as a going concern.

Deduction of losses for the current financial year

- 3.3A.20 R (1) A *firm* must deduct losses for the current financial year, save where the losses have already resulted in a reduction in its *common equity tier 1 items*.
- (2) For the purposes of (1), a *firm* must:
- (a) apply the same accounting policies and standards as used for the year-end financial report;
 - (b) prudently estimate and assign income and expenses to the interim period in which they are incurred;
 - (c) recognise material or non-recurrent events in full and without delay in the interim period during which they arise; and
 - (d) determine profits, gains and losses, and deduct any resulting losses, as they arise.

Deduction of intangible assets

- 3.3A.21 R (1) A *firm* must deduct *intangible assets*.
- (2) For the purposes of (1):
- (a) a *firm* must also deduct any *intangible assets* included in the valuation of its *qualifying holdings*;
 - (b) where the *qualifying holding* in (2)(a) is not wholly owned or controlled by the *firm*, the *firm* must only deduct the portion of *intangible assets* corresponding to its percentage of ownership or control; and
 - (c) a *firm* must reduce the amount to be deducted by the amount of associated deferred tax liabilities that would be extinguished if the *intangible assets* became impaired or were derecognised, under the applicable accounting framework.

Deduction of deferred tax assets that rely on future profitability

- 3.3A.22 R (1) A *firm* must deduct deferred tax assets that rely on future profitability.
- (2) For the purposes of (1):
- (a) a *firm* may offset deferred tax liabilities against associated deferred tax assets if:

- (i) the *firm* has a legally enforceable right to set off those current tax assets against current tax liabilities;
 - (ii) the deferred tax assets and the deferred tax liabilities arise from the same tax authority and for the same taxable entity; and
 - (iii) the deferred tax liabilities do not reduce the amount of *intangible assets* or defined pension fund assets deductible under *MIFIDPRU* 3.3A.21R or *MIFIDPRU* 3.3A.23R; and
- (b) for the calculation of deferred tax assets and liabilities at consolidated level, a taxable entity includes any number of entities which are members of the same tax group, fiscal consolidation, fiscal unity or consolidated tax return.

Deduction of defined benefit pension fund assets on the firm's balance sheet

- 3.3A.23 R (1) A *firm* must deduct the value of any defined benefit pension fund assets on its balance sheet.
- (2) For the purposes of (1):
- (a) a *firm* must net off pension fund assets against its obligations under the fund; and
 - (b) a *firm* must reduce the amount to be deducted by the amount of associated deferred tax liabilities which would be extinguished if the assets became impaired or were derecognised, under the applicable accounting framework.

Deduction of holdings of own common equity tier 1 instruments

- 3.3A.24 R (1) A *firm* must deduct direct, indirect and synthetic holdings of its own *common equity tier 1 instruments*.
- (2) For the purposes of (1):
- (a) a *firm* must also apply the deduction where it could be obliged to purchase its own *common equity tier 1 instrument* as a result of an existing contractual obligation;
 - (b) a *firm* must deduct its gross long position unless (2)(c) applies; and
 - (c) a *firm* may deduct its net long position if:
 - (i) the long and short positions are in the same underlying exposure;

- (ii) the short positions are cleared through an *authorised central counterparty* or subject to appropriate margining requirements; and
- (iii) the long and short positions are both held in the *trading book* or are both held outside the *trading book*.

Deduction of holdings of common equity tier 1 or comparable instruments where a firm has a reciprocal cross-holding designed artificially to inflate own funds

- 3.3A.25 R (1) A *firm* must deduct direct, indirect and synthetic holdings of the *common equity tier 1 or comparable instruments* of *financial sector entities* where those entities have a *reciprocal cross-holding* with the *firm* that is designed to inflate the *own funds* of the *firm* artificially.
- (2) For the purposes of (1), a *firm* must deduct holdings based on its gross long position.

- 3.3A.26 G The following factors indicate a *reciprocal cross-holding* designed to inflate *own funds* artificially:
- (1) the cross-holdings do not serve a genuine business purpose;
 - (2) the timing and circumstances of the cross-holding suggest an intention to boost regulatory capital; or
 - (3) other connections between relevant entities which might indicate coordinated capital management.

Deduction of holdings of common equity tier 1 or comparable instruments of financial sector entities

- 3.3A.27 R (1) A *firm* must deduct direct, indirect and synthetic holdings of *common equity tier 1 or comparable instruments* of *financial sector entities* which are held outside of the *trading book*, unless *MIFIDPRU 3.3A.28R* applies.
- (2) A *firm* must calculate holdings based on its gross long position unless (3) applies.
- (3) A *firm* may calculate holdings based on its net long position where:
- (a) (i) the maturity date of the short position is the same as, or longer than, the maturity date of the long position; or
 - (ii) the residual maturity of the short position is at least one year; and

- (b) the long and short positions are held outside of the *trading book*.

Holdings of common equity tier 1 instruments issued by a financial sector entity within an investment firm group

- 3.3A.28 R A *firm* is not required to deduct holdings of *common equity tier 1 instruments* of a *financial sector entity* under MIFIDPRU 3.3A.27R if all of the following conditions are met:
- (1) the *financial sector entity* forms part of the same *investment firm group* as the *firm*;
 - (2) there is no current or foreseen material, practical or legal impediment to the prompt transfer of capital or repayment of liabilities by the *financial sector entity*;
 - (3) the *investment firm group* is subject to prudential consolidation under MIFIDPRU 2.5; and
 - (4) the risk evaluation, measurement and control procedures of the *parent undertaking* include the *financial sector entity*.

Common equity tier 1 or comparable instruments

- 3.3A.29 R A *common equity tier 1 or comparable instrument* means:
- (1) (for an entity subject to MIFIDPRU) a *common equity tier 1 instrument*;
 - (2) (for an *insurer* subject to the Solvency II Firms part of the *PRA Rulebook*) ‘Tier 1 own funds’ as defined in the Own Funds (Solvency II Firms) part of the *PRA Rulebook*, the inclusion of which is not restricted by Own Funds 4A.3; and
 - (3) (for a *financial sector entity* not subject to (1) or (2)) any capital instrument that ranks below all other claims in *liquidation*.

Identifying and valuing indirect and synthetic holdings

- 3.3A.30 R For the purposes of MIFIDPRU 3.3A.24R, MIFIDPRU 3.3A.25R and MIFIDPRU 3.3A.27R:
- (1) an indirect holding means an economic exposure through an intermediate entity such as a holding company or special purpose vehicle.
 - (2) a *firm* must calculate the amount to be deducted for indirect holdings by:

- (a) identifying any intermediate entities or structures through which it may be exposed to a deductible *common equity tier 1 instrument*;
 - (b) making a prudent estimate of the full economic exposure of the intermediate entities or structures to deductible instruments; and
 - (c) deducting the proportion of economic exposure that is attributable to the *firm*.
- (3) a *firm* is not required to treat a holding in a *fund* as an indirect holding.
- (4) a synthetic holding means an economic exposure through a derivative instrument, guarantee, credit protection, or other similar arrangement.
- (5) a *firm* must calculate the amount to be deducted for synthetic holdings by determining the maximum potential loss that would arise if the underlying deductible *common equity tier 1 instrument* or equivalent economic exposure had zero value, taking into account:
- (a) all contractual obligations relating to the position; and
 - (b) any other features that could increase the *firm's* economic exposure.
- 3.3A.31 G (1) *MIFIDPRU* 3.3A.30R explains how a *firm* should identify and value any indirect or synthetic holdings for the purposes of *MIFIDPRU* 3.3A.24R, *MIFIDPRU* 3.3A.25R and *MIFIDPRU* 3.3A.27R.
- (2) The *FCA* generally considers it disproportionate to require a *firm* to look through a *fund* for these purposes, given the limited exposures to a *firm's* own capital instruments and those of other *financial sector entities* that are likely to arise through most *funds*.
- (3) However, *MIFIDPRU* 3.1A.7G reminds *firms* to consider the economic substance of its capital arrangements. The *FCA* does not expect to see *firms* entering into arrangements intended to arbitrage this or other such concessions. And where a *fund* has a purpose or mandate to invest mainly in the capital instruments of *financial sector entities*, a *firm* should apply the relevant capital deductions accordingly.

Deduction of excess AT1 deductions

- 3.3A.32 R A *firm* must deduct from *common equity tier 1 items* the amount by which any items required to be deducted from *additional tier 1 capital* under MIFIDPRU 3.4A.2R exceed *additional tier 1 items*.

Deduction of foreseeable tax charges relating to common equity tier 1 items

- 3.3A.33 R (1) This deduction applies if a *firm* does not calculate its *own funds* in accordance with *UK-adopted international accounting standards*.
- (2) Where this deduction applies, a *firm* must:
- (a) deduct any foreseeable current and deferred tax charges relating to *common equity tier 1 items* that are not yet accounted for in its *common equity tier 1 capital*;
 - (b) calculate the amount to be deducted using the approach in *UK-adopted international accounting standards*; and
 - (c) deduct the amount of foreseeable current and deferred tax charges without netting off against any unrecognised deferred tax assets.

Deduction of qualifying holdings outside the financial sector

- 3.3A.34 R (1) A *firm* must deduct any amounts in excess of the following limits:
- (a) a *qualifying holding* in a *non-financial sector entity* which exceeds 15% of the *firm's own funds*; and
 - (b) the total of all the *qualifying holdings* of the *firm* in *non-financial sector entities* which exceeds 60% of the *firm's own funds*.
- (2) When calculating the amounts in (1), a *firm* must treat a *fund* as a *non-financial sector entity*.
- (3) When calculating the amounts in (1), a *firm* must exclude:
- (a) shares held in the name of the *firm* on behalf of others; and
 - (b) shares held in the *trading book*.

Deduction of excess partnership withdrawals

- 3.3A.35 R A *firm* that is a *partnership* or a *limited liability partnership* must deduct the amount by which the aggregate of any amounts withdrawn by its *partners* or members exceeds the profits of the *firm*, except to the extent that the amount:
- (1) has already been deducted from the *firm's own funds* as a loss under MIFIDPRU 3.3A.20R;

- (2) was repaid in accordance with *MIFIDPRU* 3.3A.13R(3); or
- (3) is already reflected in a reduction of the *firm's own funds* that was permitted under *MIFIDPRU* 3.6A.4R or *MIFIDPRU* 3.6A.6R.

Adjustment for cash flow hedges and changes in the value of own liabilities

3.3A.36 R A *firm* must exclude the following from its *common equity tier 1 items*:

- (1) any unrealised gain or loss on cash flow hedges of financial instruments that are not measured at fair value, except where:
 - (a) the hedged item itself is measured at fair value; or
 - (b) the unrealised gain or loss represents effective net investment hedges of foreign operations; and
- (2) any gain or loss arising from changes in the value of its liabilities that are due to changes in the *firm's own credit standing*.

3.3A.37 G (1) *MIFIDPRU* 3.3A.36R(1) prevents unrealised gains or losses that arise from cash flow hedges from being included in *common equity tier 1 capital* where the hedged financial instruments are not measured at fair value. This filter is necessary because these hedge-related gains or losses may reverse over time, while not being matched by corresponding changes in the value of the hedged item in the regulatory capital calculation.

(2) *MIFIDPRU* 3.3A.36R(2) ensures that a deterioration in a *firm's own creditworthiness* does not increase its *common equity tier 1 capital*. For example, if a *firm's creditworthiness* deteriorates, this could result in the fair value of its liabilities decreasing, resulting in an accounting gain. This gain is counterproductive from a prudential perspective because the *firm's financial condition* is actually worsening. *MIFIDPRU* 3.3A.36R(2) filters this out to ensure capital reflects true loss-absorbing capacity.

Additional value adjustment for the trading book

3.3A.38 R (1) A *firm* with a *trading book* must deduct the additional valuation adjustment in (2) from its *common equity tier 1 items*.

(2) A *firm* must calculate the additional valuation adjustment as 0.1% of the base value of positions in the *trading book*.

(3) The base value of positions in the *trading book* is the sum of the absolute value of fair-valued assets and liabilities stated in its financial statements under the applicable accounting framework, except that:

- (a) exactly matching offsetting fair-valued assets and liabilities must be excluded;
- (b) where a change in the accounting valuation of fair-valued assets and liabilities would only partially be reflected in *common equity tier 1 capital*, the value of those assets or liabilities must only be included in proportion to the impact of the relevant valuation change on *common equity tier 1 capital*; and
- (c) where a change in the accounting valuation of fair-valued assets and liabilities would have no impact on *common equity tier 1 capital*, the value of those assets or liabilities must be excluded.

3.3A.39 G *MIFIDPRU* 4.11 (Trading book and dealing on own account: general provisions) contains additional requirements for managing and valuing positions in the *trading book*.

MIFIDPRU 3.4 (Additional Tier 1 capital) is deleted in its entirety. The deleted text is not shown but the section is marked [deleted] as shown below.

3.4 ~~Additional Tier 1 capital [deleted]~~

Insert the following new section, *MIFIDPRU* 3.4A (Additional Tier 1 capital), after the deleted section, *MIFIDPRU* 3.4. All the text is new and is not underlined.

3.4A Additional Tier 1 capital

- 3.4A.1 G (1) *Additional tier 1 capital* has the following core characteristics:
- (a) it converts into *common equity tier 1 capital*, or is written down, upon the occurrence of one or more trigger events;
 - (b) it has no fixed maturity;
 - (c) there is no inescapable obligation to make a *distribution*; and
 - (d) *distributions* do not accelerate when the *firm* experiences stress.
- (2) The remainder of *MIFIDPRU* 3.4A contains the detailed *rules* and *guidance* for calculating *additional tier 1 capital*.
- 3.4A.2 R A *firm* must calculate its *additional tier 1 capital* in accordance with the first column of the following table. The second column indicates where relevant *rules* and *guidance* are found.

Item		Relevant rules and guidance
<i>Additional tier 1 items:</i>		
(1)	<i>additional tier 1 instruments;</i>	<i>MIFIDPRU 3.4A.3R to MIFIDPRU 3.4A.16G</i>
(2)	share premium accounts related to the <i>additional tier 1 instruments;</i>	
LESS		
Deductions from <i>additional tier 1 items:</i>		
(3)	direct, indirect and synthetic holdings of own <i>additional tier 1 instruments;</i>	<i>MIFIDPRU 3.4A.17R and MIFIDPRU 3.4A.23R</i>
(4)	direct, indirect and synthetic holdings of <i>additional tier 1 or comparable instruments</i> of <i>financial sector entities</i> where those entities have a <i>reciprocal cross-holding</i> with the <i>firm;</i>	<i>MIFIDPRU 3.4A.18R, MIFIDPRU 3.4A.19G, MIFIDPRU 3.4A.22R and MIFIDPRU 3.4A.23R</i>
(5)	direct, indirect and synthetic holdings of <i>additional tier 1 or comparable instruments</i> of <i>financial sector entities</i> which are not held in the <i>trading book;</i>	<i>MIFIDPRU 3.4A.20R to MIFIDPRU 3.4A.23R</i>
(6)	any excess of tier 2 deductions above the <i>firm's tier 2 capital;</i> and	<i>MIFIDPRU 3.4A.24R</i>
(7)	foreseeable tax charges relating to <i>additional tier 1 items.</i>	<i>MIFIDPRU 3.4A.25R</i>

Additional tier 1 instruments: loss absorption

- 3.4A.3 R (1) Upon the occurrence of one or more trigger events, the full principal amount of the *additional tier 1 instrument* must be written down on a permanent or temporary basis, or the instrument converted into a *common equity tier 1 instrument*, in accordance with the requirements of *MIFIDPRU 3.4A.9R to MIFIDPRU 3.4A.12R*.
- (2) A *firm's* obligations under the instrument must not constitute a liability (including a contingent or prospective liability) that would

be relevant for the purposes of section 123(2) of the Insolvency Act 1986.

- (3) An *additional tier 1 instrument* must not be secured or subject to a guarantee or other arrangement which enhances the legal or economic seniority of the claim.
- (4) The instrument must rank below any *tier 2 instrument* in liquidation.
- (5) The instrument must not be subject to set-off or netting arrangements that would undermine its capacity to absorb losses.
- (6) The provisions governing the instrument must not include any feature that could hinder the recapitalisation of the *firm*.

3.4A.4 G For the purposes of *MIFIDPRU* 3.4A.3R(6), a feature that could hinder the recapitalisation of the *firm* includes:

- (1) a provision that requires the *firm* to compensate existing holders of capital instruments where a new capital instrument is issued; and
- (2) other terms that could discourage the *firm* from issuing new capital instruments for recapitalisation.

3.4A.5 R (1) An *additional tier 1 instrument* must be fully paid and the proceeds of issue must be immediately and fully available to the *firm*.

(2) Where an instrument is partly paid, only the paid-up portion is eligible as an *additional tier 1 instrument*.

3.4A.6 G The *guidance* in *MIFIDPRU* 3.3A.8G applies to *additional tier 1 instruments* as it applies to *common equity tier 1 instruments*.

3.4A.7 R (1) An *additional tier 1 instrument* must not be funded directly or indirectly by the *firm* itself.

(2) (1) does not apply if the funding is provided in the ordinary course of the *firm*'s business.

3.4A.8 G The *guidance* in *MIFIDPRU* 3.3A.10G applies to *additional tier 1 instruments* as it applies to *common equity tier 1 instruments*.

Additional tier 1 instruments: Trigger events

3.4A.9 R (1) A *firm* must specify one or more trigger events in the terms of an *additional tier 1 instrument*.

(2) The trigger events specified under (1) must include a trigger event that occurs where the *common equity tier 1 capital* of the *firm* falls below a level specified by the *firm* that is no lower than 64% of the *firm*'s own funds requirement.

- (3) The full principal amount of an *additional tier 1 instrument* must be written down or converted when a trigger event occurs.
- (4) The amount recognised for *additional tier 1 instruments* and any associated share premium accounts must not exceed the amount of *common equity tier 1 items* that would be generated if there was a write down or conversion.
- (5) Where a trigger event occurs, a *firm* must:
 - (a) convene the *management body* or other *relevant body* without delay to determine that a trigger event has occurred;
 - (b) immediately inform the *FCA*;
 - (c) inform the holders of the *additional tier 1 instruments*; and
 - (d) write down or convert the instruments without delay, and within 1 *month*.

- 3.4A.10 G (1) *MIFIDPRU 3.4A.9R* requires that the principal amount of an *additional tier 1 instrument* converts into *common equity tier 1 instruments* or is written down if the *firm's common equity tier capital* falls below a specified level.
- (2) This level must be set at no lower than 64% of the *firm's own funds requirement*, but a *firm* may set the relevant trigger at a higher level (such as 70% of its *own funds requirement*) if it wishes.
- (3) A *firm* may also specify additional trigger events alongside the required trigger event in *MIFIDPRU 3.4A.9R(2)*.

Additional tier 1 instruments: write down

- 3.4A.11 R Where a *firm* issues *additional tier 1 instruments* that write down:
- (1) the write-down must extinguish:
 - (a) the claim of the holder in *liquidation*;
 - (b) any amount required to be paid in the event of call or redemption of the instrument; and
 - (c) any *distribution* on the instrument;
 - (2) the write-down must apply to all holders of *additional tier 1 instruments* that include the same trigger; and
 - (3) in the case of a write-up after temporary write-down:

- (a) any write-up must be based on profits after the *firm* has taken a formal decision confirming the final profits;
- (b) any write-up must be at the full discretion of the *firm* (subject to (3)(c) to (3)(e) below), and there must be no obligation on the *firm* to operate or accelerate a write-up under specific circumstances;
- (c) write-up must be operated on a pro rata basis among *additional tier 1 instruments* with the same trigger that was subject to write-down;
- (d) the maximum amount that can be written up must be calculated using the formula:

$$M = P * A/T$$
 where:
 - M = the maximum amount that can be written up;
 - P = the profit of the *firm*;
 - A = the aggregate nominal value (before write-down) of all *additional tier 1 instruments* that were subject to a write-down; and
 - T = the sum of the *common equity tier 1 capital* and *additional tier 1 capital* of the *firm*; and
- (e) any write-up amount must be treated as a payment that reduces the *firm's common equity tier 1 capital*.

Additional tier 1 instruments: conversion into common equity tier 1

- 3.4A.12 R Where a *firm* issues *additional tier 1 instruments* that convert into *common equity tier 1 instruments*, it must:
- (1) specify in the provisions governing the *additional tier 1 instruments* either:
 - (a) the rate of such conversion; or
 - (b) a range within which the instruments will convert into *common equity tier 1 instruments*;
 - (2) retain all necessary authorisations for converting all of its *additional tier 1 instruments* into *common equity tier 1 instruments*; and
 - (3) ensure there are no procedural impediments to conversion under its constitutional or contractual arrangements.

Additional tier 1 instruments: perpetuity

- 3.4A.13 R (1) An *additional tier 1 instrument* must be perpetual, with a *reduction of capital* only permissible where:
- (a) the *firm* is in *liquidation*; or
 - (b) the *firm* carries out a *reduction of capital* which:
 - (i) complies with *MIFIDPRU 3.6A.4R* or *MIFIDPRU 3.6A.6R*; and
 - (ii) does not take place before 5 years after the date of issuance, unless the conditions in *MIFIDPRU 3.6A.6R(1)* or (2) are met.
- (2) The *additional tier 1 instrument* must not include any incentive for the *firm* to carry out a *reduction of capital*.
- (3) A *firm* must not explicitly or implicitly indicate that the *additional tier 1 instrument* would be redeemed or repaid other than in *liquidation*, and the terms of the instrument must not provide such an indication.
- (4) Where the *additional tier 1 instrument* includes one or more early redemption options including call options, the options must be exercisable at the sole discretion of the *firm*.
- (5) A *firm* must not indicate explicitly or implicitly that the *FCA* would consent to a *reduction of capital*.
- 3.4A.14 G (1) An incentive to carry out a *reduction of capital* in *MIFIDPRU 3.4A.13R(2)* includes any feature that provides, at the date of issuance of a capital instrument, an expectation that the capital instrument is likely to be redeemed.
- (2) Examples of (1) include:
- (a) a term which creates an economic incentive for the *firm* to carry out a *reduction of capital* at a particular point in time; and
 - (b) marketing of the instrument in a way which suggests to investors that the instrument will be called.

Additional tier 1 instruments: distributions

- 3.4A.15 R An *additional tier 1 instrument* must meet the following conditions regarding *distributions*:
- (1) the *firm* must at all times have full discretion to cancel *distributions* on the instruments for an unlimited period and on a non-cumulative basis;

- (2) the *firm* must be able to use cancelled *distributions* to meet its obligations as they fall due, without restriction;
- (3) failure to make *distributions* must not constitute an event of default;
- (4) the *additional tier 1 instrument* must not include a requirement:
 - (a) to make a *distribution* in the event of a *distribution* being made on another instrument that ranks the same or more junior;
 - (b) that, if a *distribution* is not made on that instrument, a *distribution* cannot be made on another capital instrument; or
 - (c) substituting the obligation to make a *distribution* with any other obligation to make payment in any other form; and
- (5) the level of *distribution* must not change in a way that is linked to the credit standing of the *firm* or any member of the *firm's group*;

3.4A.16 G *MIFIDPRU* 3.4A.15R(3) means that a failure to make *distributions* must not have contractual or other consequences associated with an event of default, such as by engaging rights of termination, early repayment, additional voting rights, or other similar consequences.

Deduction of holdings of own additional tier 1 instruments

- 3.4A.17 R (1) A *firm* must deduct direct, indirect and synthetic holdings of its own *additional tier 1 instruments*.
- (2) For the purposes of (1):
- (a) a *firm* must also apply the deduction where it could be obliged to purchase the *additional tier 1 instrument* as a result of an existing contractual obligation;
 - (b) a *firm* must deduct its gross long position unless (2)(c) applies; and
 - (c) a *firm* may deduct its net long position if:
 - (i) the long and short positions are in the same underlying exposure;
 - (ii) the short positions are cleared through an *authorised central counterparty* or subject to appropriate margining requirements; and
 - (iii) the long and short positions are both held in the *trading book* or are both held outside of the *trading book*.

Deduction of holdings of additional tier 1 or comparable instruments where a firm has a reciprocal cross-holding designed to inflate own funds artificially

- 3.4A.18 R (1) A *firm* must deduct direct, indirect and synthetic holdings of the *additional tier 1 or comparable instruments* of *financial sector entities* where those entities have a *reciprocal cross-holding* with the *firm* designed to inflate the *own funds* of the *firm* artificially.
- (2) For the purposes of (1), a *firm* must calculate holdings based on its gross long position.
- 3.4A.19 G The factors in *MIFIDPRU* 3.3A.26G indicate a *reciprocal cross-holding* designed to inflate *own funds* artificially.

Deduction of holdings of additional tier 1 or comparable instruments of financial sector entities

- 3.4A.20 R (1) A *firm* must deduct direct, indirect and synthetic holdings of *additional tier 1 or comparable instruments* of *financial sector entities* which are held outside of the *trading book*, unless *MIFIDPRU* 3.4A.21R applies.
- (2) A *firm* must calculate holdings based on its gross long position unless (3) applies.
- (3) A *firm* may calculate holdings based on its net long position where:
- (a) (i) the maturity date of the short position is the same or later than the maturity date of the long position; or
- (ii) the residual maturity of the short position is at least one year; and
- (b) the long and short positions are held outside of the *trading book*.

Holdings of additional tier 1 instruments issued by a financial sector entity within an investment firm group

- 3.4A.21 R A *firm* is not required to deduct holdings of *additional tier 1 instruments* of a *financial sector entity* under *MIFIDPRU* 3.4A.20R if all of the following conditions are met:
- (1) the *financial sector entity* forms part of the same *investment firm group* as the *firm*;
- (2) there is no current or foreseen material, practical or legal impediment to the prompt transfer of capital or repayment of liabilities by the *financial sector entity*;

- (3) the *investment firm group* is subject to prudential consolidation under *MIFIDPRU 2.5*; and
- (4) the risk evaluation, measurement and control procedures of the *parent undertaking* include the *financial sector entity*.

Additional tier 1 or comparable instruments

3.4A.22 R An *additional tier 1 or comparable instrument* means:

- (1) (for an entity subject to *MIFIDPRU*) an *additional tier 1 instrument*;
- (2) (for an *insurer* subject to the Solvency II Firms part of the *PRA Rulebook*) ‘Tier 1 own funds’ as defined in the Own Funds (Solvency II) part of the *PRA Rulebook*, the inclusion of which is restricted by Own Funds 4A.3; and
- (3) (for a *financial sector entity* not subject to (1) or (2)) any capital instrument that does not rank below all other claims in *liquidation* but absorbs losses on a going concern basis.

Identifying and valuing indirect and synthetic holdings

3.4A.23 R *MIFIDPRU 3.3A.30R* (Identifying and valuing indirect and synthetic holdings) applies to holdings of *additional tier 1 instruments* as it applies to holdings of *common equity tier 1 instruments*.

Deduction of excess T2 deductions

3.4A.24 R A *firm* must deduct from *additional tier 1 items* the amount by which any items required to be deducted from *tier 2 items* under *MIFIDPRU 3.5A.2R* exceed *tier 2 items*.

Deduction of foreseeable tax charges relating to additional tier 1 items

- 3.4A.25 R
- (1) This deduction applies if a *firm* does not calculate its *own funds* in accordance with *UK-adopted international accounting standards*.
 - (2) Where this deduction applies, a *firm* must:
 - (a) deduct any current and deferred tax charges relating to *additional tier 1 items* that are not yet accounted for in its *common equity tier 1 capital*;
 - (b) calculate the amount to be deducted using the approach in *UK-adopted international accounting standards*; and
 - (c) deduct the amount of foreseeable current and deferred tax charges without netting off against any unrecognised deferred tax assets.

MIFIDPRU 3.5 (Tier 2 capital) is deleted in its entirety. The deleted text is not shown but the section is marked [deleted] as shown below.

3.5 ~~Tier 2 capital [deleted]~~

Insert the following new section, MIFIDPRU 3.5A (Tier 2 capital), after the deleted section, MIFIDPRU 3.5. All the text is new and is not underlined.

3.5A Tier 2 capital

- 3.5A.1 G (1) *Tier 2 capital* has the following core characteristics:
- (a) it ranks below ordinary creditors in *liquidation*;
 - (b) it has an original maturity of at least 5 years;
 - (c) it amortises over the final 5 years; and
 - (d) *distributions* do not accelerate when the *firm* experiences stress.
- (2) The remainder of *MIFIPDRU* 3.5 contains detailed *rules* and *guidance* for calculating *tier 2 capital*.
- 3.5A.2 R A *firm* must calculate its *tier 2 capital* in accordance with the first column of the following table. The second column indicates where relevant *rules* and *guidance* are found.

Item		Relevant rules and guidance
<i>Tier 2 items:</i>		
(1)	<i>Tier 2 instruments</i> ;	<i>MIFIDPRU</i> 3.5A.3R to <i>MIFIDPRU</i> 3.5A.11R
(2)	share premium accounts related to the <i>tier 2 instruments</i> ;	
LESS		
<i>Deductions from tier 2 items:</i>		
(3)	direct, indirect and synthetic holdings of own <i>tier 2 instruments</i> ;	<i>MIFIDPRU</i> 3.5A.12R and <i>MIFIDPRU</i> 3.5A.18R

(4)	direct, indirect and synthetic holdings of <i>tier 2 or comparable instruments of financial sector entities</i> where those entities have a <i>reciprocal cross-holding</i> with the <i>firm</i> ; and	<i>MIFIDPRU 3.5A.13R, MIFIDPRU 3.5A.14G, MIFIDPRU 3.5A.17R and MIFIDPRU 3.5A.18R</i>
(5)	direct, indirect and synthetic holdings of <i>tier 2 or comparable instruments of financial sector entities</i> which are not held in the <i>trading book</i> .	<i>MIFIDPRU 3.5A.15R to MIFIDPRU 3.5A.18R</i>

Tier 2 instruments: loss absorption

- 3.5A.3 R (1) The claim on the principal amount of a *tier 2 instrument* must be wholly subordinated to the claims of all non-subordinated creditors.
- (2) A *tier 2 instrument* must not be secured or subject to a guarantee or other arrangement which enhances the legal or economic seniority of the claim.
- (3) A *tier 2 instrument* must not be subject to set-off or netting arrangements that would undermine its capacity to absorb losses.
- 3.5A.4 R (1) A *tier 2 instrument* must be fully paid and the proceeds of issue immediately and fully available to the *firm*.
- (2) Where an instrument is partly paid, only the paid-up portion is eligible as a *tier 2 instrument*.
- 3.5A.5 G The *guidance* in *MIFIDPRU 3.3A.8G* applies to *tier 2 instruments* as it applies to *common equity tier 1 instruments*.
- 3.5A.6 R (1) A *tier 2 instrument* must not be funded directly or indirectly by the *firm* itself.
- (2) (1) does not apply if the funding is provided in the ordinary course of the *firm's* business.
- 3.5A.7 G The *guidance* in *MIFIDPRU 3.3A.10G* applies to *tier 2 instruments* as it applies to *common equity tier 1 instruments*.

Tier 2 instruments: duration

- 3.5A.8 R (1) A *tier 2 instrument* must have an original maturity of at least 5 years, with a *reduction of capital* prior to maturity only permissible where:

- (a) the *firm* is in *liquidation*; or
 - (b) the *firm* carries out a *reduction of capital* which:
 - (i) has been approved by the *FCA* under *MIFIDPRU* 3.6A.4R; and
 - (ii) does not take place before 5 years after the date of issuance, unless the conditions in *MIFIDPRU* 3.6A.6R(1) or (2) are met.
 - (2) A *tier 2 instrument* must not include any incentive for the principal amount to be redeemed or repaid prior to maturity, or a right to accelerate early redemption or repayment.
 - (3) A *firm* must not explicitly or implicitly indicate that the *tier 2 instrument* would be redeemed or repaid prior to maturity other than in *liquidation*, and the terms of the instrument must not provide such an indication.
 - (4) Where the *tier 2 instrument* includes one or more early redemption options including call options, the options must be exercisable at the sole discretion of the *firm*.
- 3.5A.9 G (1) An incentive for the principal amount to be redeemed or repaid in *MIFIDPRU* 3.5A.8R(2) includes any feature that provides, at the date of issuance of a capital instrument, an expectation that the capital instrument is likely to be redeemed before its stated maturity date.
- (2) An incentive under (1) includes:
- (a) a term which creates an economic incentive for the *firm* to reduce or repay the principal before maturity; and
 - (b) marketing of the instrument in a way which suggests to investors that the instrument will be called before maturity.

Tier 2 instruments: amortisation

- 3.5A.10 R Where a *tier 2 instrument* has a residual maturity of 5 years or less, the proportion of the instrument which qualifies as a *tier 2 item* must be calculated by multiplying A and B, where:
- A is the notional amount of the instrument on the first day of the final 5-year period of their contractual maturity divided by the number of *days* in that period; and
 - B is the number of remaining *days* of contractual maturity of the instrument.

Tier 2 instruments: distributions

3.5A.11 R A *tier 2 instrument* must meet the following conditions regarding *distributions*:

- (1) the holder of the instrument must have no right to accelerate the future scheduled payment of *distributions*, other than in *liquidation*; and
- (2) the level of *distribution* must not change in a way that is linked to the credit standing of the *firm* or any member of the *firm's group*

Deduction of holdings of own tier 2 instruments

- 3.5A.12 R (1) A *firm* must deduct direct, indirect and synthetic holdings of its own *tier 2 instruments*.
- (2) For the purposes of (1):
- (a) a *firm* must also apply the deduction where it could be obliged to purchase the *tier 2 instrument* as a result of an existing contractual obligation;
 - (b) a *firm* must deduct its gross long position unless (2)(c) applies; and
 - (c) a *firm* may deduct its net long position if:
 - (i) the long and short positions are in the same underlying exposure;
 - (ii) the short positions are cleared through an *authorised central counterparty* or subject to appropriate margining requirements; and
 - (iii) the long and short positions are both held in the *trading book* or are both held outside of the *trading book*.

Deduction of holdings of tier 2 or comparable instruments where a firm has a reciprocal cross-holding designed to inflate own funds artificially

- 3.5A.13 R (1) A *firm* must deduct direct, indirect and synthetic holdings of the *tier 2 or comparable instruments* of *financial sector entities* where those entities have a *reciprocal cross-holding* with the *firm* designed to inflate the *own funds* of the *firm* artificially.
- (2) For the purposes of (1), a *firm* must calculate holdings based on its gross long position.

3.5A.14 G The factors in *MIFIDPRU 3.3A.26G* indicate a *reciprocal cross-holding* designed to inflate *own funds* artificially.

Deduction of holdings of tier 2 or comparable instruments of financial sector entities

- 3.5A.15 R (1) A *firm* must deduct direct, indirect and synthetic holdings of *tier 2 or comparable instruments* of *financial sector entities* which are held outside of the *trading book*, unless *MIFIDPRU 3.5A.16R* applies.
- (2) A *firm* must calculate holdings based on its the gross long position unless (3) applies.
- (3) A *firm* may calculate holdings based on its net long positions where:
- (a) (i) the maturity date of the short position is the same or later than the maturity date of the long position; or
- (ii) the residual maturity of the short position is at least 1 year; and
- (b) the long and short positions are held outside of the *trading book*.

Holdings of tier 2 instruments issued by a financial sector entity within an investment firm group

- 3.5A.16 R A *firm* is not required to deduct holdings of *tier 2 instruments* of a *financial sector entity* under *MIFIDPRU 3.5A.15R* if all of the following conditions are met:
- (1) the *financial sector entity* forms part of the same *investment firm group* as the *firm*;
- (2) there is no current or foreseen material, practical or legal impediment to the prompt transfer of capital or repayment of liabilities by the *financial sector entity*;
- (3) the *investment firm group* is subject to prudential consolidation under *MIFIDPRU 2.5*; and
- (4) the risk evaluation, measurement and control procedures of the *parent undertaking* include the *financial sector entity*.

Tier 2 or comparable instruments

- 3.5A.17 R A *tier 2 or comparable instruments* means:
- (1) (for an entity subject to *MIFIDPRU*) a *tier 2 instrument*;
- (2) (for an *insurer* subject to the Solvency II Firms part of the *PRA Rulebook*):

- (a) ‘Tier 2 basic own funds’ as defined in the Own Funds (Solvency II Firms) part of the *PRA Rulebook*; and
- (b) ‘Tier 3 own funds’ that are ‘basic own funds’ as those terms are defined in the Own Funds (Solvency II Firms) part of the *PRA Rulebook*; and
- (3) (for a *financial sector entity* not subject to (1) or (2)) any subordinated instrument that does not absorb losses on a going-concern basis.

Identifying and valuing indirect and synthetic holdings

- 3.5A.18 R *MIFIDPRU* 3.3A.30R (Identifying and valuing indirect and synthetic holdings) applies to holdings of *tier 2 instruments* as it applies to holdings of *common equity tier 1 instruments*.

MIFIDPRU 3.6 (General requirements for own funds instruments) is deleted in its entirety. The deleted text is not shown but the section is marked [deleted] as shown below.

3.6 ~~General requirements for own funds instruments~~ [deleted]

Insert the following new section, *MIFIDPRU* 3.6A (General requirements for own funds instruments), after the deleted section, *MIFIDPRU* 3.6. All the text is new and is not underlined.

3.6A General requirements for own funds instruments

- 3.6A.1 R An *own funds instrument* must not provide or allow for the payment of *distributions* in a form other than cash or *own funds instruments*.
- 3.6A.2 R For the purposes of the deductions in *MIFIDPRU* 3.3A.24R, *MIFIDPRU* 3.3A.27R, *MIFIDPRU* 3.4A.17R, *MIFIDPRU* 3.4A.20R, *MIFIDPRU* 3.5A.12R and *MIFIDPRU* 3.5A.15R, a *firm* may reduce the amount of a long position in a capital instrument by the portion of a short position in an index that is made up of the same underlying exposure, provided that:
- (1) the positions are either both held in the *trading book*, or are both held outside of the *trading book*; and
 - (2) the positions are held at fair value on the *firm*’s balance sheet.
- 3.6A.3 R An *own funds instrument* and any associated share premium account immediately ceases to count towards *own funds* if it ceases to meet any applicable requirement in *MIFIDPRU* 3.

Reduction of own funds instruments

- 3.6A.4 R Save in the circumstances set out in *MIFIDPRU* 3.6A.6R, a *firm* must obtain the prior permission of the *FCA* to:
- (1) carry out a *reduction of capital* in relation to any of its *common equity tier 1 instruments*;
 - (2) reduce, distribute or reclassify as another *own funds* item the share premium accounts related to any of its *own funds instruments*;
 - (3) carry out a *reduction of capital* in relation to an *additional tier 1 instrument*, whether on a call date or otherwise; or
 - (4) carry out a *reduction of capital* in relation to a *tier 2 instrument* prior to maturity.
- 3.6A.5 R (1) To obtain the permission in *MIFIDPRU* 3.6A.4R, a *firm* must complete the form in *MIFIDPRU* 3 Annex 4R and submit it to the *FCA* using the *online notification and application system*.
- (2) The *FCA* will grant the permission in (1) if it is satisfied that the *firm* will continue to exceed its *own funds threshold requirement* by a margin sufficient to ensure adequate financial resilience for the foreseeable future.
- 3.6A.6 R A *firm* is not required to obtain the permission in *MIFIDPRU* 3.6A.4R if:
- (1) the instrument is being repurchased for market making purposes; or
 - (2) all of the following conditions are met:
 - (a) either of the conditions in *MIFIDPRU* 3.6A.7R are met;
 - (b) at least 20 *business days* before the *day* on which the *reduction of capital* is proposed to occur, the *firm* has notified the *FCA* of:
 - (i) the proposed *reduction of capital*; and
 - (ii) the basis on which the *firm* has concluded that either condition in (2) is satisfied;
 - (c) the notification in (2)(b) is made using the form in *MIFIDPRU* 3 Annex 5R and submitted using the *online notification and application system*; and
 - (d) the *FCA* has not notified the *firm* of any objection to the proposal before the *day* on which the *reduction of capital* is proposed to occur.
- 3.6A.7 R The conditions referred to in *MIFIDPRU* 3.6A.6R(2)(a) are that:

- (1) before or at the same time as the *reduction of capital*, the *firm* replaces the relevant *own funds instruments* with *own funds instruments* of equal or higher quality on terms that are sustainable for the income capacity of the *firm*, so that:
 - (a) the profitability of the *firm* will continue to be sound and will not see any negative change in the foreseeable future after the replacement of the original *own funds instruments* with *own funds instruments* of equal or higher quality; and
 - (b) the assessment of profitability in the foreseeable future in (2)(a) takes into account the *firm*'s profitability in stressed situations; or
- (2) the *firm* is redeeming *additional tier 1 instruments* or *tier 2 instruments* within 5 years of their date of issue and either:
 - (a) there is a change in the regulatory classification of the instruments that is likely to result in their exclusion from *own funds* or reclassification as a lower quality form of *own funds*, and both the following conditions are met:
 - (i) there are reasonable grounds to conclude that the change is sufficiently certain; and
 - (ii) the regulatory reclassification of the instruments was not reasonably foreseeable at the time of their issuance; or
 - (b) there is a change in the applicable tax treatment of those instruments which is material and was not reasonably foreseeable at the time of their issuance.

Notification of issuance of additional tier 1 and tier 2 instruments

- 3.6A.8 R (1) A *firm* must notify the *FCA* at least 20 *business days* before the intended issuance date of the *firm*'s intention to issue:
- (a) *additional tier 1 instruments*; or
 - (b) *tier 2 instruments*.
- (2) The notification requirement in (1) does not apply if:
- (a) the *firm* has previously notified the *FCA* of an issuance of the same class of *additional tier 1 instruments* or *tier 2 instruments*; and
 - (b) the terms of the new instruments are identical in all material respects to the terms of the instruments in the issuance previously notified to the *FCA*.

- (3) The notification under (1) must:
- (a) be submitted to the *FCA* through the *online notification and application system* using the form in *MIFIDPRU 3 Annex 6R*; and
 - (b) include the following:
 - (i) confirmation of whether the instruments are intended to be classified as *additional tier 1 instruments* or *tier 2 instruments*;
 - (ii) confirmation of whether the instruments are intended to be issued to external investors or only to other members of the *firm's group* or connected parties;
 - (iii) a copy of the term sheet and details of any features of the capital instrument which are novel, unusual or different from a capital instrument of a similar nature previously issued by the *firm* or widely available in the market;
 - (iv) confirmation from a member of the *firm's senior management* or *governing body* who has oversight of the intended issuance that the instrument meets the conditions in *MIFIDPRU 3.4A* or *MIFIDPRU 3.5A* (as applicable) to be classified as *additional tier 1 instruments* or *tier 2 instruments*; and
 - (v) a properly reasoned legal opinion from an appropriately qualified *individual*, confirming that the capital instruments meet the conditions in (iv).

3.6A.9 G *Firms* that are proposing to classify an issuance of capital instruments as *common equity tier 1 capital* should refer to the obligations and guidance in *MIFIDPRU 3.3A.3R* and *MIFIDPRU 3.3A.4G*. In particular, *firms* must obtain the *FCA's* prior permission for the first issuance of a class of instruments that is intended to comprise *common equity tier 1 capital*.

3.6A.10 G Submitting a notification in accordance with *MIFIDPRU 3.6A.8R* does not guarantee that the relevant instruments meet the required conditions in *MIFIDPRU 3.4A* or *MIFIDPRU 3.5A* to qualify as *own funds*. The *firm* or *parent undertaking* must ensure that an instrument continues to meet the conditions to be counted as *own funds*, including if its terms are varied on a later date.

MIFIDPRU 3.7 (Composition of capital for parent undertakings subject to the group capital test) is deleted in its entirety. The deleted text is not shown but the section is marked [deleted] as shown below.

3.7 ~~Composition of capital for parent undertakings subject to the group capital test~~ [deleted]

Insert the following new section, MIFIDPRU 3.7A (Composition of capital for parent undertakings subject to the group capital test), after the deleted section, MIFIDPRU 3.7. All the text is new and is not underlined.

3.7A **Composition of capital for parent undertakings subject to the group capital test**

- 3.7A.1 R This section applies to a *parent undertaking* in accordance with MIFIDPRU 3.1A.2R.
- 3.7A.2 R A *parent undertaking* must, at all times, have *own funds instruments* that satisfy the following conditions:
- (1) the *parent undertaking's common equity tier 1 capital* must be at least equal to:
 - (a) the sum of the book value of the *parent undertaking's* holdings of the *common equity tier 1 capital* of the *relevant financial undertakings* under MIFIDPRU 2.6.5R; plus
 - (b) the total amount of all the *parent undertaking's* contingent liabilities in favour of the *relevant financial undertakings* under MIFIDPRU 2.6.5R;
 - (2) the sum of *common equity tier 1 capital* and *additional tier 1 capital* of the *parent undertaking* must be at least equal to the sum of:
 - (a) the amounts in (1)(a) and (1)(b); plus
 - (b) the sum of the book value of the *parent undertaking's* holdings in the *additional tier 1 capital* of the *relevant financial undertakings* under MIFIDPRU 2.6.5R; and
 - (3) the sum of the *parent undertaking's own funds instruments* must be at least equal to the total requirement under MIFIDPRU 2.6.5R.
- 3.7A.3 G As explained in MIFIDPRU 2.6.6G, the *group capital test* effectively applies to each intermediate *parent undertaking*, as well as to the ultimate *parent undertaking* of the *investment firm group*.
- 3.7A.4 R (1) This *rule* applies where a *responsible UK parent* applies the approach in MIFIDPRU 2.6.7R(2)(a) in relation to an *undertaking* established in a *third country*.
- (2) Where this *rule* applies, a *responsible UK parent* must comply with MIFIDPRU 3.3A.3R or MIFIDPRU 3.6A.8R in relation to any

issuance of own funds instruments by the *undertaking* established in a *third country*.

Amend the following as shown.

3 Annex 1R ~~Application under MIFIDPRU 3.3.2R for permission~~ Notification under MIFIDPRU 3.3A.17R to include interim or year-end profits as CET1

Editor's note: The form can be found at this address:
[https://www.fca.org.uk/publication/form/\[xxx\]](https://www.fca.org.uk/publication/form/[xxx])

MIFIDPRU 3 Annex 1R

~~Application under MIFIDPRU 3.3.2R for permission~~ Notification under MIFIDPRU 3.3A.17R to include interim or year-end profits as common equity tier 1 (CET1) capital before the firm has taken a formal decision confirming the final profit and loss for the year

Details of Senior Manager responsible for this ~~application~~ notification:

If the ~~application~~ notification is being made in respect of a MIFIDPRU investment firm or another SMCR firm, we would expect the individual responsible for it to hold a senior management function (SMF).

Name of individual	
Job title / position	
Individual reference number (if applicable)	

1. Please confirm which of the following the ~~applicant firm~~ notifying entity is:
 - a. MIFIDPRU investment firm that is not a consolidating UK parent entity
 - b. MIFIDPRU investment firm that is a consolidating UK parent entity
 - c. Consolidating UK parent entity (other than a MIFIDPRU investment firm)

If the ~~application~~ notification concerns more than one firm in the investment firm group, please submit separate ~~applications~~ notifications for each firm.

For ~~applications~~ notifications on consolidated basis, references to firm/~~institution~~ should be interpreted as to a consolidated situation of the UK parent.

2. Please confirm whether the following apply and if so, provide supporting

evidence:

- a. The profits have been verified by persons independent of your ~~institution~~ firm, who are responsible for auditing the accounts of that ~~institution~~ firm:

Yes/No

- b. Any foreseeable charge or dividend has been deducted from the amount of those profits and the basis of this calculation:

Yes/No/Not applicable

Supporting evidence attached (e.g. an independent auditor's letter confirming the above)

3. Please provide the following:

- a. The start of your financial year:

DD/MM/YYYY

- b. The period in which the interim/year-end profits were earned:

- c. Profits as verified by auditors:

£

- d. Foreseeable charges/deductions (e.g. dividends):

£

- e. Amount to be included as profit:

£

- f. ~~Firm's total CET1 after the inclusion of any amounts to which this application relates (please complete for all that apply):~~

MIFIDPRU investment firm (solo CET1)	£
Consolidating UK parent undertaking basis (consolidated CET1)	£

- gf. If you have calculated expected dividend pay-out by using a pay-out range instead of a fixed value, please confirm that you have used the upper end of that range:

Yes/No

hg. If you have calculated expected dividend pay-out as a range, please confirm whether you ~~wish to exclude~~ excluded any exceptional dividends paid during the period covered by that range:

Yes/No

If you have responded "Yes", please attach further information, ~~and note that this will require a separate conversation with the FCA:~~

Further information attached

ih. Auditor's details (name, address, contact details):

4. Please confirm that the inclusion of the interim or year-end profits to which this ~~application~~ notification relates complies with the applicable material ~~in the UK CRR and in MIFIDPRU.~~

Yes

3 Annex 2R Application under ~~MIFIDPRU 3.3.3R(1)~~ MIFIDPRU 3.3A.3R(1)(a) - permission to classify capital instruments as CET1

Editor's note: The form can be found at this address:
[https://www.fca.org.uk/publication/form/\[xxx\]](https://www.fca.org.uk/publication/form/[xxx])

Application under ~~MIFIDPRU 3.3.3R~~ MIFIDPRU 3.3A.3R(1)(a) for permission to classify an issuance of capital instruments as common equity tier 1 (CET1) capital

1. Please confirm which of the following the applicant firm is:
 - a. MIFIDPRU investment firm that is not a consolidating UK parent entity or a GCT parent undertaking
 - b. MIFIDPRU investment firm that is a consolidating UK parent entity
 - c. MIFIDPRU investment firm that is a GCT parent undertaking
 - d. Consolidating UK parent entity (other than a MIFIDPRU investment firm)
 - e. GCT parent undertaking (other than a MIFIDPRU investment firm)

If the application concerns more than one firm in the investment firm group, please submit separate applications for each firm.

For applications on consolidated basis, references to firm/~~institution~~ should be interpreted as to a consolidated situation of the UK parent.

2. For the instrument you would like to classify as CET1 capital, please provide the following information:
 - a. Type of instrument (e.g. ordinary shares, partnership capital):
 - b. If there is more than one class of the instrument, please list the different instrument classes:
 - c. Total number of shares/units of instrument that have been issued or will be issued:

d. Nominal value per share/unit of instrument:

£

e. Share premium per share, if applicable:

£

f. Total amount of capital being raised:

£

g. Proposed date to be issued:

h. Total expected CET 1 after the inclusion of the amounts to which this application relates (please complete for all that apply):

MIFIDPRU investment firm (solo CET1)	£
GCT parent undertaking (expected value of own funds instruments as specified in MIFIDPRU 2.6.2R(1))	£
Consolidating UK parent undertaking basis (consolidated CET1)	£

3. ~~For capital instruments to qualify as CET 1 instruments, the following conditions must be met (see article 28 of the UK CRR). Please confirm whether these conditions are met:~~

~~a. The instruments are issued directly by your institution, with prior approval of the owners or, if permitted by national law, the management body of the institution:~~

~~Yes/No~~

~~b. The instruments are paid up and their purchase is not funded directly or indirectly by your institution (indirect funding is defined in MIFIDPRU 3 Annex 7.20R):~~

~~Yes/No~~

~~c. The instruments meet all of the following conditions as regards their classification:~~

~~i.—they qualify as capital within the meaning of Art 28(1)(c)(i) of the UK CRR:~~

~~Yes/No~~

~~ii.—they are classified as equity within the meaning of the applicable accounting framework:~~

~~Yes/No~~

~~iii.—they are classified as equity capital for the purposes of determining balance sheet insolvency, where applicable under national insolvency law:~~

~~Yes/No~~

~~d.—The instruments are clearly and separately disclosed on the balance sheet in the financial statements of your institution:~~

~~Yes/No~~

~~e.—The instruments are perpetual:~~

~~Yes/No~~

~~f.—The principal amount of the instruments may not be reduced or repaid except in the following cases:~~

~~i.—the liquidation of your institution; or~~

~~ii.—discretionary repurchases of the instruments or other discretionary means of reducing capital (e.g. call, redemption or repayment), where your institution has been granted prior permission of the competent authority under article 77 of the UK CRR:~~

~~Yes/No~~

~~g.—The provisions governing the instruments do not indicate expressly or implicitly that the principal amount of the instruments would or might be reduced or repaid other than in the liquidation of your institution, and your institution does not otherwise provide such an indication prior to or at issuance of the instruments:~~

~~Yes/No~~

~~h.—The instruments meet the following conditions regarding distributions:~~

~~i.—there is no preferential distribution treatment regarding the order of distribution payments, including in relation to other Common Equity Tier 1 instruments, and the terms governing the instruments do not provide preferential rights to payment of distributions:~~

Yes/No

ii. ~~distributions to holders of the instruments may be paid only out of distributable items:~~

Yes/No

iii. ~~the conditions governing the instruments do not include a cap or other restriction on the maximum level of distributions:~~

Yes/No

iv. ~~the level of distributions is not determined on the basis of the amount for which the instruments were purchased at issuance:~~

Yes/No

v. ~~the conditions governing the instruments do not include any obligation for your institution to make distributions to their holders and your institution is not otherwise subject to such an obligation:~~

Yes/No

vi. ~~non-payment of distributions does not constitute an event of default of your institution:~~

Yes/No

vii. ~~the cancellation of distributions imposes no restrictions on your institution:~~

Yes/No

i. ~~Compared to all the capital instruments issued by your institution, the instruments absorb the first and proportionately greatest share of losses as they occur, and each instrument absorbs losses to the same degree as all other Common Equity Tier 1 instruments:~~

Yes/No

j. ~~The instruments rank below all other claims in the event of insolvency or liquidation of your institution:~~

Yes/No

k. ~~The instruments entitle their owners to a claim on the residual assets of your institution, which, in the event of its liquidation and after the payment of all senior claims, is proportionate to the amount of the instruments issued and is not fixed or subject to a cap:~~

Yes/No

- ~~l. The instruments are not secured, or subject to a guarantee that enhances the seniority of the claim by any of the following: (Answer yes if the instruments are not secured in this way)~~
- ~~i. your institution or its subsidiaries:~~
 - ~~ii. the parent undertaking of your institution or its subsidiaries:~~
 - ~~iii. the parent financial holding company or its subsidiaries:~~
 - ~~iv. the mixed activity holding company or its subsidiaries:~~
 - ~~v. the mixed financial holding company and its subsidiaries:~~
 - ~~vi. any undertaking that has close links with the entities referred to in points i. to v.:~~

Yes/No

- ~~m. The instruments are not subject to any arrangement, contractual or otherwise, that enhances the seniority of claims under the instruments in insolvency or liquidation: (Answer "yes" if the instruments are not subject to any arrangement in this way)~~

Yes/No

3. For capital instruments to qualify as CET 1 instruments, all of the conditions in MIFIDPRU 3.3A.5R to MIFIDPRU 3.3A.16R must be met. Please confirm that the following conditions are met by answering "yes" to confirm that the condition is met:

- a. The instruments meet all of the following conditions as regards their classification:

- i. The instruments are classified as equity within the meaning of the applicable accounting framework;

Yes/No

- ii. The firm's obligations under the instruments do not constitute a liability (including a contingent or prospective liability) that would be relevant for the purposes of section 123(2) of the Insolvency Act 1986.

Yes/No

- iii. The owners of the instruments have no right arising from the non-payment of any sums connected to the instrument to petition for winding up, administration or any similar procedure.

Yes/No

- iv. The instruments are not secured by, or subject to, a guarantee or other arrangement which enhances the legal or economic seniority of the claim.

Yes/No

- v. The instruments rank below all other claims in the event of liquidation, except for claims from holders of other ordinary shares which rank pari passu with the instruments.

Yes/No

- vi. The instruments entitle their owners to a claim on the residual assets of the firm which, in the event of liquidation and after payment of all senior claims, is proportionate to the amount of such instruments issued and is not fixed or subject to a cap, except that a claim specified as a percentage of residual assets does not constitute a fixed or capped claim.

Yes/No

- vii. Each instrument absorbs losses to the same degree as all other common equity tier 1 instruments, and all common equity tier 1 instruments absorb losses before any other own funds instruments issued by the firm.

Yes/No

- b. The instruments are fully paid and the proceeds of issue immediately and fully available to the firm (relevant guidance is provided in MIFIDPRU 3.3A.8G).

Yes/No

- c. The instruments are not funded directly or indirectly by the firm, unless funding is provided in the ordinary course of business (relevant guidance is provided in MIFIDPRU 3.3A.10G):

Yes/No

- d. The instruments are perpetual:

Yes/No

- e. The principal amount of the instruments may not be reduced or repaid except:

- i. in liquidation; or
- ii. in a reduction of capital which complies with MIFIDPRU 3.6A.4R or MIFIDPRU 3.6A.6R.

Yes/No

- f. The firm has not done anything to create an expectation that it will or might reduce or repay the principal amount, and the statutory or contractual terms of the instrument do not contain any feature which would or might give rise to such an expectation (relevant guidance is provided in MIFIDPRU 3.3A.12G):

Yes/No

- g. The instruments meet the following conditions regarding distributions:

- i. the instruments do not provide or allow for the payment of preferential distributions over other common equity tier 1 instruments or any other capital instruments (relevant guidance is provided in MIFIDPRU 3.3A.15G(1)):

Yes/No

- ii. the conditions governing the instruments do not include a cap or other restriction on the maximum amount payable:

Yes/No

- iii. the level of distributions is not linked to the amount for which the instruments were purchased at issuance:

Yes/No

- iv. there are no circumstances in which distributions are obligatory, including where non-payment triggers some other obligation (for example to make payments in kind):

Yes/No

- v. failure to make distributions does not constitute an event of default (relevant guidance is provided in MIFIDPRU 3.3A.15G(2)):

Yes/No

4. Partnership capital (this section should only be completed by partnerships).

Is the capital contributed in accordance with MIFIDPRU 3.3.16R or MIFIDPRU

~~3.3.17R~~ MIFIDPRU 3.3A.13R?

Yes/No

~~Material on how UK CRR article 28(1)(e) and (f) may be complied with can be found in MIFIDPRU 3.3.16R and 3.3.17R.~~

5. Please confirm whether the capital issuance to which this application relates meets the criteria required by the UK CRR (as applied by MIFIDPRU 3), including any relevant requirements in MIFIDPRU 3 Annex 7R.

Yes/No

Please note that the FCA may request a copy of the terms of the instrument, or further information.

3 Annex 3R Notification under ~~MIFIDPRU 3.3.3R(2)~~ MIFIDPRU 3.3A.3R(1)(b) - issuance of additional capital instruments that have already been approved as CET1 instruments

Editor's note: The form can be found at this address:
[https://www.fca.org.uk/publication/form/\[xxx\]](https://www.fca.org.uk/publication/form/[xxx])

MIFIDPRU 3 Annex 3R

Notification under ~~MIFIDPRU 3.3.3R(2)~~ MIFIDPRU 3.3A.3R(1)(b) of issuance of additional capital instruments that have already been approved as CET1 instruments

Details of Senior Manager responsible for this notification:

If the notification is being made in respect of a MIFIDPRU investment firm or another SMCR firm, we would expect the individual responsible for it to hold a senior management function (SMF).

Name of individual	
Job title / position	
Individual reference number (if applicable)	

1. Please confirm which of the following the notifying entity is:

- a. MIFIDPRU investment firm that is not a consolidating UK parent entity or a GCT parent undertaking
- b. MIFIDPRU investment firm that is a consolidating UK parent entity
- c. MIFIDPRU investment firm that is a GCT parent undertaking
- d. Consolidating UK parent entity (other than a MIFIDPRU investment firm)
- e. GCT parent undertaking (other than a MIFIDPRU investment firm)

2. Please provide the following details in respect of the proposed issuance:

a. Type of instrument (e.g. ordinary shares, partnership capital):

b. Name of instrument:

c. Date FCA permitted previous issuance to be treated as CET1:

d. Amount of additional instruments to be issued:

e. Proposed date on which the instruments will be classified as CET1
(*this should be at least 20 business days after this notification is sent to the FCA*):

3. Please confirm that the provisions governing the proposed issuance to which this notification relates are substantially the same as the provisions governing the issuance for which the firm has already received permission, and that you can provide supporting evidence if requested.

3 Annex 4R Application under ~~MIFIDPRU 3.6.2R~~ MIFIDPRU 3.6A.4R - permission to reduce own funds instruments when neither condition in ~~MIFIDPRU 3.6.4R~~ MIFIDPRU 3.6A.7R applies

Editor's note: The form can be found at this address:
[https://www.fca.org.uk/publication/form/\[xxx\]](https://www.fca.org.uk/publication/form/[xxx])

MIFIDPRU 3 Annex 4R

Application under ~~MIFIDPRU 3.6.2R~~ MIFIDPRU 3.6A.4R for permission to reduce own funds instruments where neither condition in ~~MIFIDPRU 3.6.4R~~ MIFIDPRU 3.6A.7R applies

Details of Senior Manager responsible for this application:

If the application is being made in respect of a MIFIDPRU investment firm or another SMCR firm, we would expect the individual responsible for it to hold a senior management function (SMF).

Name of individual	
Job title / position	
Individual reference number (if applicable)	

1. Please confirm which of the following the applicant firm is:
 - a. MIFIDPRU investment firm that is not a consolidating UK parent entity or a GCT parent undertaking
 - b. MIFIDPRU investment firm that is a consolidating UK parent entity
 - c. MIFIDPRU investment firm that is a GCT parent undertaking
 - d. Consolidating UK parent entity (other than a MIFIDPRU investment firm)
 - e. GCT parent undertaking (other than a MIFIDPRU investment firm)

If the application concerns more than one firm in the investment firm group, please submit separate applications for each firm.

For applications on consolidated basis, references to firm should be interpreted as to a consolidated situation of the UK parent.

2. Please confirm to which of the following the application relates:

- a. ~~Permission to reduce, redeem or repurchase any of its CET1 instruments~~ Carry out a reduction of capital in relation to any of its common equity tier 1 instruments
- b. ~~Permission to reduce~~ Reduce, distribute or reclassify as another own funds item the share premium accounts related to any of its own funds instruments
- c. ~~Permission to effect the call, redemption, repayment or repurchase of its additional tier 1 instruments or tier 2 instruments prior to the date of their contractual maturity~~ Carry out a reduction of capital in relation to an additional tier 1 instrument, whether on a call date or otherwise
- d. Carry out a reduction of capital in relation to a tier 2 instrument prior to maturity

3. Please provide the date of the intended capital reduction:

DD/MM/YYYY

4. Please confirm the amount of the intended reduction:

£

5. Please explain, in detail, the rationale for the reduction of own funds.

6. Please explain, and provide supporting calculations to demonstrate, how the firm ~~meets the conditions in Article 78 of the UK CRR~~ will continue to exceed its own funds threshold requirement by a margin sufficient to ensure adequate financial resilience for the foreseeable future, and in particular:

- a. will have sufficient capital resources to meet its capital resources requirement immediately after the capital reduction;
- b. will have sufficient financial resources to meet its own funds threshold requirement immediately after the capital reduction; and
- c. will be able to meet the requirements in (a) and (b) above at all times (including in stress scenarios), for a minimum of three years.

Supporting calculations attached

3 Annex 5R Notification under ~~MIFIDPRU 3.6.3R~~ MIFIDPRU 3.6A.6R(2) - intended reduction in own funds instruments where a condition in ~~MIFIDPRU 3.6.4R~~ MIFIDPRU 3.6A.7R applies

Editor's note: The form can be found at this address:
[https://www.fca.org.uk/publication/form/\[xxx\]](https://www.fca.org.uk/publication/form/[xxx])

MIFIDPRU 3 Annex 5R

Notification under ~~MIFIDPRU 3.6.3R~~ MIFIDPRU 3.6A.6R(2) of the intended reduction in own funds instruments where a condition in ~~MIFIDPRU 3.6.4R~~ MIFIDPRU 3.6A.7R applies

Details of Senior Manager responsible for this notification:

If the notification is being made in respect of a MIFIDPRU investment firm or another SMCR firm, we would expect the individual responsible for it to hold a senior management function (SMF).

Name of individual	
Job title / position	
Individual reference number (if applicable)	

1. Please confirm which of the following the notifying entity is:
 - a. MIFIDPRU investment firm that is not a consolidating UK parent entity or a GCT parent undertaking
 - b. MIFIDPRU investment firm that is a consolidating UK parent entity
 - c. MIFIDPRU investment firm that is a GCT parent undertaking
 - d. Consolidating UK parent entity (other than a MIFIDPRU investment firm)
 - e. GCT parent undertaking (other than a MIFIDPRU investment firm)

If the notification concerns more than one firm in the consolidated group, please submit separate notifications for each firm.

2. Please confirm to which of the following the application relates:
 - a. ~~Permission to reduce, redeem or repurchase any of its CET1 instruments~~ Carry out a reduction of capital in relation to any of its common equity tier 1 instruments;

- b. ~~Permission to reduce~~ Reduce, distribute or reclassify as another own funds item the share premium accounts related to any of its own funds instruments;
- c. ~~Permission to effect the call, redemption, repayment or repurchase of its additional tier 1 instruments or tier 2 instruments prior to the date of their contractual maturity.~~ Carry out a reduction of capital in relation to an additional tier 1 instrument, whether on a call date or otherwise; or
- d. Carry out a reduction of capital in relation to a tier 2 instrument prior to maturity.

3. Date of the intended capital reduction:

DD/MM/YYYY

The intended reduction must not take place until at least 20 business days after this notification is made.

4. The amount of the intended reduction:

£

5. A firm may only make use of this notification procedure if one of the conditions in ~~MIFIDPRU 3.6.4R~~ MIFIDPRU 3.6A.7R are met, otherwise it must apply for permission under ~~MIFIDPRU 3.6.2R~~ MIFIDPRU 3.6A.4R. Please explain the basis on which the firm has concluded that one of the conditions in ~~MIFIDPRU 3.6.4R~~ MIFIDPRU 3.6A.7R applies.

3 Annex 6R Notification under ~~MIFIDPRU 3.6.5R~~ MIFIDPRU 3.6A.8R of issuance of additional tier 1 or tier 2 instruments

Editor's note: The form can be found at this address:
[https://www.fca.org.uk/publication/form/\[xxx\]](https://www.fca.org.uk/publication/form/[xxx])

MIFIDPRU 3 Annex 6R

Notification under ~~MIFIDPRU 3.6.5R~~ MIFIDPRU 3.6A.8R of the intended issuance of AT1 or T2 instruments

Details of Senior Manager responsible for this notification:

If the notification is being made in respect of a MIFIDPRU investment firm or another SMCR firm, we would expect the individual responsible for it to hold a senior management function (SMF).

Name of individual	
Job title / position	
Individual reference number (if applicable)	

1. Please confirm which of the following the notifying entity is:
 - a. MIFIDPRU investment firm that is not a consolidating UK parent entity or a GCT parent undertaking
 - b. MIFIDPRU investment firm that is a consolidating UK parent entity
 - c. MIFIDPRU investment firm that is a GCT parent undertaking
 - d. Consolidating UK parent entity (other than a MIFIDPRU investment firm)
 - e. GCT parent undertaking (other than a MIFIDPRU investment firm)

2. Please confirm which of the following categories of instruments the notification relates to:
 - a. Additional tier 1 instruments
 - b. Tier 2 instruments

3. Please provide the following details of the intended issuance:

- a. Type of instrument

b. Name of instrument	
c. Amount of instruments to be issued	£
d. Proposed issuance date (<i>this must be at least 20 business days after this notification is sent to the FCA</i>)	DD/MM/YYYY

4. Please confirm whether the instruments are intended to be issued to external investors or only to other members of the firm’s group and connected parties:

a. only to other members of the firm’s group and connected parties	Yes/No
b. to other members of the firm’s group and connected parties, as well as external investors	Yes/No
c. external parties only	Yes/No

5. Please attach a copy of the term sheet and provide details of any features of the capital instrument which are novel, unusual or different from a capital instrument of a similar nature previously issued by the firm or widely available in the market.

Term sheet attached

6. Please confirm that the firm’s senior management or governing body who has oversight of the intended issuance are satisfied that the instrument meets the conditions in ~~MIFIDPRU 3.4 or MIFIDPRU 3.5 (as applicable, and including any conditions in the UK CRR applied by those sections)~~ MIFIDPRU 3.4A or MIFIDPRU 3.5A (as applicable) to be classified as AT1 or T2 instruments.

Yes/No

7. Please attach a legal opinion from an appropriately qualified individual, confirming that the capital instruments meet the conditions ~~MIFIDPRU 3.4 or MIFIDPRU 3.5 (as applicable, and including any conditions in the UK CRR applied by those sections)~~ MIFIDPRU 3.4A or MIFIDPRU 3.5A (as applicable).

Legal opinion attached

MIFIDPRU 3 Annex 7R (Additional provisions relating to own funds) and MIFIDPRU 3 Annex 8R (Prudent valuation and additional valuation adjustments) are deleted in their entirety. The deleted text is not shown but the section is marked [deleted] as shown below.

**3 Annex ~~Additional provisions relating to own funds~~ [deleted]
7R**

**3 Annex ~~Prudent valuation and additional valuation adjustments~~ [deleted]
8R**

Amend the following as shown.

4 Own funds requirements

...

4.5 Fixed overheads requirement

...

4.5.3 R ...

(2) The items that a *firm* may deduct from its total expenditure are:

...

(j) payments related to contract-based profit and loss transfer agreements according to which the *firm* is obliged to transfer its annual profit to the *parent undertaking* following the preparation of the *firm's annual financial statements*; and

(k) ~~payments into a fund for general banking risk in accordance with article 26(1)(f) of the UK CRR, as applied by MIFIDPRU 3.3.1R; and~~ [deleted]

(l) other expenses, to the extent that their value has already been reflected in a deduction from *own funds* under ~~MIFIDPRU 3.3.6R~~ MIFIDPRU 3.

...

8 Annex 1R Disclosure template for information required under MIFIDPRU 8.4.1R in respect of own funds

This annex consists of a template which can be found at the following link:

[*Editor's note*: insert link]

...

Own funds: main features of own instruments issued by the firm

...
Examples
...
Write-down features
<u>Position in capital structure</u>
<u>Description of any equal ranking arrangements with other instruments</u>
<u>Loss absorption mechanics where equal ranking exists</u>
<u>Proportion of residual assets claimed</u>
<u>How losses are shared between equally ranked instruments (where applicable)</u>
...

...

**9 Annex Data items for MIFIDPRU 9
1R**

This annex consists of a template which can be found at the following link:
[Editor's note: insert link]

MIF001 – Own funds

...

Own funds held

3	CET1 own funds held (net of deductions - see MIFIDPRU 3.3 MIFIDPRU 3.3A)	
4	AT1 own funds held (net of deductions - see MIFIDPRU 3.4 MIFIDPRU 3.4A)	
5	T2 own funds held (net of deductions - see MIFIDPRU 3.5 MIFIDPRU 3.5A)	

...

MIF007 – ICARA questionnaire

...

Part B: Assessing and monitoring the adequacy of own funds

Own funds held as at ICARA process reference date

7	CET1 own funds held (net of deductions - see MIFIDPRU 3.3 MIFIDPRU 3.3A)	number
8	AT1 own funds held (net of deductions - see MIFIDPRU 3.4 MIFIDPRU 3.4A)	number
9	T2 own funds held (net of deductions - see MIFIDPRU 3.5 MIFIDPRU 3.5A)	number
...		

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

MIF001 – Adequate financial resources (Own funds)

...

Own funds held

...

3A – Common Equity Tier 1 capital

FCA investment firms should enter the amount of CET1 capital they hold for their own funds. CET1 capital should be calculated in accordance with ~~Article 50 of the UK CRR as applied and modified by Section 3.3 of MIFIDPRU~~ MIFIDPRU 3.3A – Common equity tier 1 capital.

4A – Additional Tier 1 capital

FCA investment firms should enter the amount of AT1 capital they hold for their own funds. AT1 capital should be calculated in accordance with ~~Article 61 of the UK CRR as applied and modified by Section 3.4 of MIFIDPRU~~ MIFIDPRU 3.4A – Additional tier 1 capital.

...

5A – Tier 2 capital

FCA investment firms should enter the amount of T2 capital they hold for their own funds. T2 capital should be calculated in accordance with ~~Article 71 of the UK CRR as applied and modified by Section 3.5 of MIFIDPRU~~ MIFIDPRU 3.5A – Tier 2 capital.

...

MIF007 – ICARA Questionnaire

...

Own funds held as at the ICARA accounting reference date**7A – Common Equity Tier 1 capital**

FCA investment firms should enter the amount of CET1 capital they hold for their own funds. CET1 capital should be calculated in accordance with ~~Article 50 of the UK CRR as applied and modified by Section 3.3 of MIFIDPRU~~ MIFIDPRU 3.3A – Common equity tier 1 capital.

8A – Additional Tier 1 capital

FCA investment firms should enter the amount of AT1 capital they hold for their own funds. AT1 capital should be calculated in accordance with ~~Article 61 of the UK CRR as applied and modified by Section 3.4 of MIFIDPRU~~ MIFIDPRU 3.4A – Additional tier 1 capital.

...

9A – Tier 2 capital

FCA investment firms should enter the amount of T2 capital they hold for their own funds. T2 capital should be calculated in accordance with ~~Article 71 of the UK CRR as applied and modified by Section 3.5 of MIFIDPRU~~ MIFIDPRU 3.5A – Tier 2 capital.

...

...

TP 1 Own funds transitional provisions

...		
		Continuing application of certain UK CRR permissions
...		
1.6	R	This table belongs to <i>MIFIDPRU</i> TP 1.5R.

(A) UK CRR permission granted before 1 January 2022	(B) Deemed basis for permission on or after 1 January 2022
Article 26(2) <i>UK CRR</i> : inclusion of interim or year-end profits in <i>common equity tier 1 capital</i> before the <i>firm</i> has taken a formal decision confirming the final profit or loss for the year	<i>MIFIDPRU</i> 3.3.2R <u><i>MIFIDPRU</i> 3.3A.17R</u>
Article 26(3) <i>UK CRR</i> : classification of an issuance of capital instruments as <i>common equity tier 1 capital</i>	<i>MIFIDPRU</i> 3.3.3R <u><i>MIFIDPRU</i> 3.3A.3R</u>

1.7	G	The effect of <i>MIFIDPRU</i> TP 1.5 and <i>MIFIDPRU</i> TP 1.6 is that a permission that was initially granted under article 26(2) or 26(3) of the <i>UK CRR</i> will continue to produce an equivalent effect under the corresponding provisions in <i>MIFIDPRU</i> 3.3 <u><i>MIFIDPRU</i> 3.3A</u> . The duration of the original permission is not affected. For example, a permission granted on 1 June 2021 for a one-year duration will be treated from 1 January 2022 as if it had been granted under <i>MIFIDPRU</i> 3.3 <u><i>MIFIDPRU</i> 3.3A</u> , but will still expire on 1 June 2022.
-----	---	---

			Additional tier 1 capital instruments issued before 1 January 2022	
1.8	R	...		
		(2)	Where this <i>rule</i> applies, by no later than 1 February 2022, a <i>MIFIDPRU investment firm</i> must:	
			(a)	notify the <i>FCA</i> using the form in <i>MIFIDPRU TP 1 Annex 1R</i> , submitted via the <i>online notification and application</i> system, to confirm whether:
			(i)	the relevant instruments satisfy the conditions in <i>MIFIDPRU 3.4</i> <i>MIFIDPRU 3.4A</i> to be classified as <i>additional tier 1 instruments</i> ; or
			(ii)	the relevant instruments do not satisfy the relevant conditions in <i>MIFIDPRU 3.4</i> <i>MIFIDPRU 3.4A</i> and the <i>firm</i> has therefore ceased to recognise them as part of its <i>additional tier 1 capital</i> or has otherwise redeemed or replaced them; or
			(b)	apply to the <i>FCA</i> under section 138A of the <i>Act</i> for a modification of the relevant provisions in <i>MIFIDPRU 3.4</i> <i>MIFIDPRU 3.4A</i> to continue to allow the <i>firm</i> to classify the instruments as <i>additional tier 1 instruments</i> for the purposes of <i>MIFIDPRU</i> .
1.9	G	...		
		(2)	Although <i>MIFIDPRU 3.4</i> <i>MIFIDPRU 3.4A</i> contains provisions for the classification of instruments under <i>MIFIDPRU</i> as <i>additional tier 1 instruments</i> which are broadly equivalent to those in the <i>UK CRR</i> , the trigger event under article 54(1)(a) of the <i>UK CRR</i> does not apply under <i>MIFIDPRU</i> . This is because the <i>own funds requirement</i> under <i>MIFIDPRU</i> is calculated on a different basis and therefore the trigger event for conversion of <i>additional tier 1 instruments</i> under <i>MIFIDPRU</i> is defined by reference to different criteria.	
1.10	G	An <i>additional tier 1 instrument</i> issued before 1 January 2022 under the <i>UK CRR</i> may satisfy the conditions in <i>MIFIDPRU 3.4</i> <i>MIFIDPRU 3.4A</i> so that it can be classified as an <i>additional tier 1 instrument</i> for the purposes of <i>MIFIDPRU</i> . This may depend upon how the trigger events were defined in the terms of the relevant instrument and whether additional trigger events (i.e. over and above the mandatory <i>UK CRR</i> trigger event that was applicable at the time of issuance) were also included.		

1.11	G	(1)	A <i>firm</i> may apply to the <i>FCA</i> under section 138A of the <i>Act</i> to modify the provisions of <i>MIFIDPRU 3.4</i> <i>MIFIDPRU 3.4A</i> for existing <i>additional tier 1 instruments</i> issued under the <i>UK CRR</i> before 1 January 2022, to allow those instruments to be recognised as <i>additional tier 1 instruments</i> under <i>MIFIDPRU</i> .
		...	
			Continuing validity of IFPRU own funds notifications
			...
1.13	R		The table belongs to <i>MIFIDPRU</i> TP 1.12R.

(A) IFPRU notification submitted before 1 January 2022	(B) Deemed notification for the purposes of MIFIDPRU on or after 1 January 2022
<i>IFPRU 3.2.10R</i> : notification of issuance of own funds instruments	<i>MIFIDPRU 3.6.5R(1)</i> <i>MIFIDPRU 3.6A.8R(1)</i> (for a <i>MIFIDPRU investment firm</i>) <i>MIFIDPRU 3.6.8R(1)(b)</i> (for a <i>UK parent entity</i> to which consolidation under <i>MIFIDPRU 2.5.7R</i> applies) <i>MIFIDPRU 3.7.4R(1)(b)</i> (for or a <i>parent undertaking</i> to which the <i>group capital test</i> applies)
<i>IFPRU 3.2.13R</i> : notification of issuance of ordinary <i>shares</i> or debt instruments under a debt securities programme	<i>MIFIDPRU 3.6.5R(1)</i> <i>MIFIDPRU 3.6A.8R(1)</i> (for a <i>MIFIDPRU investment firm</i>) <i>MIFIDPRU 3.6.8R(1)(b)</i> (for a <i>UK parent entity</i> to which consolidation under <i>MIFIDPRU 2.5.7R</i> applies) <i>MIFIDPRU 3.7.4R(1)(b)</i> (for or a <i>parent undertaking</i> to which the <i>group capital test</i> applies)

1.14	G	The effect of <i>MIFIDPRU</i> TP 1.12R and 1.13R is that a notification that was validly submitted for the purposes of the <i>rules</i> relating to the issuance of own funds in <i>IFPRU</i> is valid for the purposes of the notification requirements relating to the
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		issuance of <i>own funds</i> in <i>MIFIDPRU 3.6</i> or <i>3.7</i> <u><i>MIFIDPRU 3.6A</i></u> . This means that:
		...
		(2) where the <i>MIFIDPRU investment firm</i> or <i>parent undertaking</i> issues the same class of instruments on or after 1 January 2022, it can rely on the exemption from the notification requirement in <i>MIFIDPRU 3.6.5R(2)</i> <u><i>MIFIDPRU 3.6A.8R(2)</i></u> , provided that the instruments are identical in all material respects to the previous issuance notified to the <i>FCA</i> under <i>IFPRU</i> .
		...

...

...

TP 7 Transitional provision for own funds instruments without UK CRR approvals before 1 January 2022

...			
			Eligibility of pre-MIFIDPRU capital resources meeting requirements in MIFIDPRU 3 to qualify as own funds under MIFIDPRU without a separate permission or notification
7.4	R	...	
		(3)	A deemed permission or notification under (2) ceases to apply in relation to a capital instrument if the terms of the instrument are varied on or after 1 January 2022 and the instrument ceases to meet:
		(a)	in relation to an instrument being treated as <i>common equity tier 1 capital</i> , the conditions in <i>MIFIDPRU 3.3</i> <u><i>MIFIDPRU 3.3A</i></u> (other than the condition for prior <i>FCA</i> permission to classify the instrument as <i>common equity tier 1 capital</i>);
		(b)	in relation to an instrument being treated as <i>additional tier 1 capital</i> , the conditions in <i>MIFIDPRU 3.4</i> <u><i>MIFIDPRU 3.4A</i></u> ; and
		(c)	in relation to an instrument being treated as <i>tier 2 capital</i> , the conditions in <i>MIFIDPRU 3.5</i> <u><i>MIFIDPRU 3.5A</i></u> .

7.5	R	This table belongs to <i>MIFIDPRU</i> TP 7.4R.
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(A)	(B)
Requirement for permission or notification with which the <i>firm</i>, UK parent entity or parent undertaking is deemed to have complied	Conditions for deemed compliance to apply
<i>Individual MIFIDPRU investment firms</i>	
<p>Article 26(3) UK CRR (as applied and modified by <i>MIFIDPRU</i> 3.3.1R) and <i>MIFIDPRU</i> 3.3.3R <u><i>MIFIDPRU</i> 3.3A.3R:</u></p> <p>Requirement for prior FCA permission to classify an issuance of capital instruments by a <i>firm</i> as <i>common equity tier 1 capital</i></p>	<p>Immediately before <i>MIFIDPRU</i> began to apply or, if later, on the date on which the notification in <i>MIFIDPRU</i> TP 7.4R(2)(b) was made, the capital instruments met the conditions to be classified as <i>common equity tier 1 capital</i> in <i>MIFIDPRU</i> 3.3 <u><i>MIFIDPRU</i> 3.3A</u>, except for the requirement for prior FCA permission under article 26(3) of the UK CRR and <i>MIFIDPRU</i> 3.3.3R <u><i>MIFIDPRU</i> 3.3A.3R</u></p>
<p><i>MIFIDPRU</i> 3.6.5R(1)(a) <u><i>MIFIDPRU</i> 3.6A.8R(1)(a):</u></p> <p>Requirement to notify the FCA of the intention to issue <i>additional tier 1 instruments</i></p>	<p>Immediately before <i>MIFIDPRU</i> began to apply or, if later, on the date on which the notification in <i>MIFIDPRU</i> TP 7.4R(2)(b) was made, the capital instruments met the conditions to be classified as <i>additional tier 1 capital</i> in <i>MIFIDPRU</i> 3.4 <u><i>MIFIDPRU</i> 3.4A</u></p>
<p><i>MIFIDPRU</i> 3.6.5R(1)(b) <u><i>MIFIDPRU</i> 3.6A.8R(1)(b):</u></p> <p>Requirement to notify the FCA of the intention to issue <i>tier 2 instruments</i></p>	<p>Immediately before <i>MIFIDPRU</i> began to apply or, if later, on the date on which the notification in <i>MIFIDPRU</i> TP 7.4R(2)(b) was made, the capital instruments met the conditions to be classified as <i>tier 2 capital</i> in <i>MIFIDPRU</i> 3.5 <u><i>MIFIDPRU</i> 3.5A</u></p>
<i>UK parent entities to which consolidation under MIFIDPRU 2.5.7R applies</i>	
<p>Article 26(3) UK CRR (as applied and modified by <i>MIFIDPRU</i> 3.3.1R) and <i>MIFIDPRU</i> 3.6.8R, as they apply <u><i>MIFIDPRU</i> 3.3A.3R</u> as it applies on a <i>consolidated basis</i> under <i>MIFIDPRU</i> 2.5.7R(1):</p>	<p>Immediately before <i>MIFIDPRU</i> began to apply or, if later, on the date on which the notification in <i>MIFIDPRU</i> TP 7.4R(2)(b) was made, the capital instruments met the conditions to be classified as <i>common equity tier 1 capital</i> in <i>MIFIDPRU</i> 3.3 <u><i>MIFIDPRU</i> 3.3A</u> (as it applies on a consolidated basis), except for the requirement for prior FCA permission</p>

<p>Requirement for prior <i>FCA</i> permission to classify an issuance of capital instruments by a <i>UK parent entity</i> as <i>common equity tier 1 capital</i></p>	<p>under article 26(3) of the <i>UK CRR</i> and <i>MIFIDPRU 3.3.3R</i> <u><i>MIFIDPRU 3.3A.3R</i></u></p>
<p><i>MIFIDPRU 3.6.5R(1)(a)</i>, as modified by <i>MIFIDPRU 3.6.8R</i> <u><i>MIFIDPRU 3.6A.8R(1)(a)</i></u> as it applies on a <u><i>consolidated basis</i></u> under <u><i>MIFIDPRU 2.5.7R(1)</i></u>: Requirement to notify the <i>FCA</i> of the intention to issue <i>additional tier 1 instruments</i></p>	<p>Immediately before <i>MIFIDPRU</i> began to apply or, if later, on the date on which the notification in <i>MIFIDPRU TP 7.4R(2)(b)</i> was made, the capital instruments met the conditions to be classified as <i>additional tier 1 capital</i> in <i>MIFIDPRU 3.4</i> <u><i>MIFIDPRU 3.4A</i></u> (as it applies on a consolidated basis)</p>
<p><i>MIFIDPRU 3.6.5R(1)(b)</i>, as modified by <i>MIFIDPRU 3.6.8R</i> <u><i>MIFIDPRU 3.6A.8R(1)(b)</i></u> as it applies on a <u><i>consolidated basis</i></u> under <u><i>MIFIDPRU 2.5.7R(1)</i></u>: Requirement to notify the <i>FCA</i> of the intention to issue <i>tier 2 instruments</i></p>	<p>Immediately before <i>MIFIDPRU</i> began to apply or, if later, on the date on which the notification in <i>MIFIDPRU TP 7.4R(2)(b)</i> was made, the capital instruments met the conditions to be classified as <i>tier 2 capital</i> in <i>MIFIDPRU 3.5</i> <u><i>MIFIDPRU 3.5A</i></u> (as it applies on a <i>consolidated basis</i>)</p>
<p><i>Parent undertakings</i> to which the <i>group capital test</i> applies</p>	
<p>Article 26(3) <i>UK CRR</i> (as applied and modified by <i>MIFIDPRU 3.3.1R</i>) and <i>MIFIDPRU 3.3.3R</i>, as they apply <u><i>MIFIDPRU 3.3A.3R</i></u> as it applies to a parent undertaking under <i>MIFIDPRU 3.7.4R(1)(a)</i> <u><i>MIFIDPRU 3.7A</i></u>: Requirement for prior <i>FCA</i> permission to classify an issuance of capital instruments by a <i>parent undertaking</i> as <i>common equity tier 1 capital</i></p>	<p>Immediately before <i>MIFIDPRU</i> began to apply or, if later, on the date on which the notification in <i>MIFIDPRU TP 7.4R(2)(b)</i> was made, the capital instruments met the conditions to be classified as <i>common equity tier 1 capital</i> in <i>MIFIDPRU 3.3</i> <u><i>MIFIDPRU 3.3A</i></u>, except for the requirement for prior <i>FCA</i> permission under article 26(3) of the <i>UK CRR</i> and <i>MIFIDPRU 3.3.3R</i> <u><i>MIFIDPRU 3.3A.3R</i></u></p>
<p><i>MIFIDPRU 3.6.5R(1)(a)</i>, as modified by <i>MIFIDPRU 3.7.4R(1)(b)</i> <u><i>MIFIDPRU 3.6A.8R(1)(a)</i></u> as it applies to a <u>parent undertaking</u> under <u><i>MIFIDPRU 3.7A</i></u>:</p>	<p>Immediately before <i>MIFIDPRU</i> began to apply or, if later, on the date on which the notification in <i>MIFIDPRU TP 7.4R(2)(b)</i> was made, the capital instruments met the conditions to be classified as <i>additional tier</i></p>

Requirement to notify the FCA of the intention to issue additional tier 1 instruments	1 capital in MIFIDPRU 3.4 <u>MIFIDPRU 3.4A</u>
MIFIDPRU 3.6.5R(1)(b) , as modified by MIFIDPRU 3.7.4R(1)(b) <u>MIFIDPRU 3.6A.8R(1)(b)</u> as it applies to a parent undertaking under <u>MIFIDPRU 3.7A</u> : Requirement to notify the FCA of the intention to issue tier 2 instruments	Immediately before MIFIDPRU began to apply or, if later, on the date on which the notification in MIFIDPRU TP 7.4R(2)(b) was made, the capital instruments met the conditions to be classified as tier 2 capital in MIFIDPRU 3.5 <u>MIFIDPRU 3.5A</u>

7.6	G	Where a firm, UK parent entity or parent undertaking is deemed under MIFIDPRU TP 7.3R and 7.4R to have notified the FCA of its intention to issue additional tier 1 instruments or tier 2 instruments, MIFIDPRU 3.6.5R(2)(a) <u>MIFIDPRU 3.6A.8R(2)(a)</u> will apply to a subsequent issuance of the same class of instruments. In practice, this means that provided that the subsequent issuance of the same class is on terms that are identical in all material respects to the existing class of those instruments, a notification to the FCA under MIFIDPRU 3.6.5R(1) <u>MIFIDPRU 3.6A.8R(1)</u> is not required.
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...

...

Sch 2 Notification requirements

- Sch 2.1 G (1) The aim of the *guidance* in the following table is to provide an overview of the relevant notification requirements in *MIFIDPRU*.
- (2) It is not a complete statement of those requirements and should not be relied on as if it were.

Handbook reference	Subject of notification	Trigger events	Time allowed
...			
MIFIDPRU 3.3.3R(2) <u>MIFIDPRU 3.3A.3R(1)(b)</u>)	Notification of subsequent issuance of capital instruments qualifying as	Proposed issuance of capital instruments of an existing class of	No fewer than 20 <i>business days</i> before the issuance

	<i>common equity tier 1 capital</i>	<i>common equity tier 1 capital</i>	
<u><i>MIFIDPRU 3.3A.17R</i></u>	<u>Notification of inclusion of interim profits or year-end profits in <i>common equity tier 1 capital</i></u>	<u>Inclusion of such profits in <i>common equity tier 1 capital</i> before formal decision confirming final profit or loss for the year</u>	<u>As soon as reasonably practicable after inclusion</u>
<u><i>MIFIDPRU 3.6.3R</i></u> <u><i>MIFIDPRU 3.6A.6R(2)</i></u>	Notification of proposed reduction, repurchase, call or redemption of <i>own funds instruments</i> <u><i>reduction of capital</i></u> where conditions in <i>MIFIDPRU 3.6.4R</i> <u><i>MIFIDPRU 3.6A.7R</i></u> are met	Proposed redemption of <i>own funds instruments</i> <u><i>reduction of capital</i></u> where conditions in <i>MIFIDPRU 3.6.4R</i> <u><i>MIFIDPRU 3.6A.7R</i></u> are met	No later than the 20th <i>business day</i> before the <i>day</i> on which the reduction, repurchase, call or redemption <u><i>reduction of capital</i></u> will occur
<u><i>MIFIDPRU 3.6.5R</i></u> <u><i>MIFIDPRU 3.6A.8R</i></u>	Notification of proposed issuance of <i>additional tier 1 instruments</i> or <i>tier 2 instruments</i>	Proposed issuance of <i>additional tier 1 instruments</i> or <i>tier 2 instruments</i>	At least 20 <i>business days</i> before the intended issuance date
...			

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