**Application for Authorisation

MiFID Annex for VOP Applications - notes**

Providing the information requested in the MiFID Annex for VOP Applications will, together with information provided in other parts of this application pack enable you to:

* Comply with your obligation to provide information under Article 7(2) of MiFID. Please refer to the Regulatory Technical Standards (RTS) when completing this Annex.
* supply the FCA with everything we need to assess your application against the Threshold Conditions in FSMA.
* supply the FCA with everything we need to process the application and to prepare for the supervision of the firm (such as information relating to fees and prudential categories).

Please take time to read these notes carefully. They will help you to fill in the Annex correctly.

When completing the MiFID Annex and other application forms you will need to refer to the FCA Handbook, the MiFID II General Guidance, and relevant EU law requirements and guidelines.

A link to the Handbook is here: <https://www.handbook.fca.org.uk/handbook/>

You may also want to refer to the MiFID II General Guidance document that was prepared in January 2018: <https://www.fca.org.uk/publication/documents/mifid-ii-general-guidance.pdf>. However, please note that the MiFID II General Guidance document has not been updated to reflect changes resulting from the UK’s withdrawal from the EU, or to reflect the changes to prudential requirements brought about by the Investment Firms Prudential Regime.

If after reading these notes you need more help you can:

* check the FCA website: [www.fca.org.uk/](http://www.fca.org.uk/)
* call the FCA Customer Contact Centre on 0300 500 0597
* email the FCA Customer Contact Centre: Firm.Queries@fca.org.uk

 These notes, while aiming to help you, do not replace the rules and guidance in the Handbook.

**Important information**

At the point of authorisation we expect the applicant firm to be ready, willing and organised to start business.

Once authorised the applicant firm is required to pay regulatory fees even if it is not trading.

Firms must notify us immediately if any of their static data changes.

**Terms in these notes**

These notes use the following terms:

* 'you' refers to the person(s) signing the form on behalf of the applicant firm
* 'the applicant firm' refers to the firm applying for authorisation
* ‘we’, ‘us’, ‘our’ or ‘FCA’ refers to the Financial Conduct Authority
* ‘FSMA’ refers to the Financial Services and Markets Act 2000
* ‘MiFID’ refers to the Markets in Financial Instruments Directive (Directive 2014/65/EU of the European Parliament and of the Council)
* ‘FRN’ Firm’s Reference Number
* ‘RTS’ refers to the UK version of the Regulatory Technical Standard (EU) 2017/1945 of 19 June 2017
* ‘ITS’ refers to Implementing Technical Standards under Article 7(5) of MiFID II (Commission Implementing Regulation (EU) 2017/1945 of 19 June 2017: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R1945&from=EN>
* ‘MTF’ refers to Multilateral Trading Facility
* ‘ESMA’ refers to the European Securities and Markets Authority
* ‘OTF’ refers to Organised Trading Facility

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|  |  |
| --- | --- |
|  | The FCA Handbook |

The FCA Handbook sets out our legislative powers and other provisions made under powers given to us by the Financial Services and Markets Act 2000(FSMA).

In addition to the FCA Handbook, there are also Handbook guides and Regulatory guides.

Handbook Guides are guides for particular types of firms (indicated in the title), pointing them in the direction of material in the Handbook that applies to them.

Regulatory Guides are guides to particular regulatory topics within the Handbook.

In addition, GEN 2 (Interpreting the Handbook) helps readers to interpret the Handbook. It provides guidance on the way that the Handbook should be read in the light of the FCA’s particular regulatory responsibilities and powers.

The FCA Handbook also contains a Glossary of all the definitions used in the FCA Handbook.

The FCA Handbook can be found at: <https://www.handbook.fca.org.uk/handbook/>

|  |  |
| --- | --- |
|  | MiFID Authorisation Form |

The notes below will help you complete the MiFID Authorisation Form.

**Reference number**

This reference number should be the firms FRN.

**Date**

This should be the date that you are submitting the application.

**From**

This should be the name of the applicant firm and the address of the applicant firm’s principal place of business.

**Contact details of the designated contact person**

This should be the contact person at the applicant firm.

**To**

This should be the FCA’s details.

**Contact details of the designated contact point**

You should address the application to the Authorisations Support Team. Once a case officer is allocated they will contact you.

**Person in charge of preparing the application**

If this is the same person as the contact details supplied in Connect, please enter ‘see contact details on Connect’.

**Nature of the application**

No additional notes

**CONTENT**

You will be able to complete this form using the MiFID Annex for VOP Applications and the VOP form. Ensure you write under each section of the contents the relevant section(s) of the MiFID Annex for VOP Applications and/or other forms used for providing us with the RTS information referred to. For example, for section 3 of the MiFID Authorisation Form you may need to write: ‘The information specified in Article 3 of the RTS has been provided in Section 3 of the MiFID Annex for VOP Applications and the controller forms appended to the annex’.

Ultimately, it is your responsibility to ensure that you have provided us with all of the information specified in the RTS.

|  |  |
| --- | --- |
|  | List of members of the management body form |

The notes below will help you complete the List of members of the management body form.

**Reference number**

This reference number should be the firms FRN.

**Date**

Please enter the date that you are submitting the application.

**From**

This should be the name of the applicant firm and the address of the applicant firm’s principal place of business.

**Contact details of the designated contact person**

This should be the contact person at the applicant firm.

**To**

This should be the FCA’s details.

**Contact details of the designated contact point**

You should address the application to the Authorisations Support Team. Once a case officer is allocated they will contact you.

**Person in charge of preparing the application**

If this is the same person as the contact details supplied in Connect, please enter ‘See contact details on Connect’.

**List of members of the management body**

You must complete the details of each of the members of the management body. If you need additional space please use separate sheets of paper, clearly mark them and attach them to your application in Connect.

If you are completing a Form A for the individual, insert the individual’s name and then add ‘please see Form A for details’.

|  |  |
| --- | --- |
|  | Categories of investment firm |

The MiFID Annex has been designed for the following categories of investment firm:

* UK MiFID investment firms;
* Article 3 MiFID exempt firms;
* Non-UK MiFID investment firms.

You can find out more about these categories over the next few pages.

|  |  |
| --- | --- |
|  | UK MiFID investment firms |

These are UK firms that meet both of the following criteria:

1. their regular occupation or business is providing one or more investment services to third parties or performing investment activities in relation to MiFID financial instruments on a professional basis;
2. they are not exempt.

You can find more information about all of the concepts referred to above in PERG 13:

<https://www.handbook.fca.org.uk/handbook/PERG/13/?view=chapter>

Whilst we generally use “UK MiFID investment firms” to refer to this category of firms in authorisation forms, sometimes the FCA Handbook uses the terms “MiFID investment firm” or “MIFIDPRU investment firm” instead. Please note that these are similar concepts.

|  |  |
| --- | --- |
|  | Article 3 MiFID exempt firms |

Under Article 3 of MiFID, the UK exempted some firms from authorisation as MiFID investment firms. The article 3 exemption is available for firms that meet the conditions in regulation 6(3) of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2017. In summary, these are firms that:

* provide the activities of investment advice and / or receiving and transmitting orders
* do not hold client funds or securities in relation to MiFID business
* only receive and transmit client orders for transferable securities and collective investment schemes (CIS) units and/or provide related investment advice, and are only be allowed to transmit such orders to identified firms or funds

Only a UK firm may apply as an Article 3 MiFID exempt firm.

Article 3 MiFID exempt firms generally use the same authorisation process as UK MiFID investment firms. They are also subject to analogous regulatory requirements in many areas. However, for prudential purposes, Article 3 MiFID exempt firms are treated differently – see pages 22 to 23 of these notes for further information.

You can find more information about Article 3 MiFID exempt firms in PERG 13, Q48-53.

<https://www.handbook.fca.org.uk/handbook/PERG/13/?view=chapter>

Whilst we generally use “Article 3 MiFID exempt firm” to refer to this category of firms in authorisation forms, in some places the FCA Handbook uses the term “MiFID optional exemption firm” instead. Please note that these are similar concepts.

|  |  |
| --- | --- |
|  | Non-UK MiFID investment firms |

Generally speaking, a non-UK firm is a firm that has its registered office (or, if it has no registered office, its head office) outside of the UK. Although, sometimes, the legal test is framed as one of “place of incorporation/principal place of business” instead.

Non-UK MiFID investment firms are subject to analogous regulatory requirements in many areas, and should refer in particular to GEN 2.2.22AR of the FCA Handbook. However, for prudential purposes, our approach to non-UK MiFID investment firms is different – see page 23 of these notes for further information.

Whilst we generally use “Non-UK MiFID investment firm” to refer to this category of firms in authorisation forms, in some places the FCA Handbook uses the terms “third country investment firm” or “third country MIFIDPRU investment firm” instead. Please note that these are similar concepts.

These firms may also wish to refer to the FCA’s Approach to International Firms document published in February 2021:

<https://www.fca.org.uk/publication/corporate/approach-to-international-firms.pdf>

|  |  |
| --- | --- |
| 1 | General informationPlease note that Article 7 of the RTS specifies that the information subject to the RTS should refer to both the head office of the firm and its branches and tied agents, in respect of Article 1. |

Please note some of the information in Article 1 of the RTS is collected through the Variation of Permission form on Connect.

 **1.1 Please confirm that any information that has not been provided in this section: (i) has already been provided to us and (ii) remains true, accurate and up-to-date**

If you have already provided us with any of the information specified in the RTS and/or the questions in this form, and if that information remains true, accurate and up-to-date, please confirm that here.  As long as that is the case, we do not expect you to provide us with the same information again.  Please refer to this declaration in the questions to which it is relevant.  Where we do not already have the information, or where we have been provided with information but it is no longer true, accurate and up-to-date, you must provide the information specified.

 **1.2 Principal place of business of applicant firm**

Once authorised, this address will appear on the firm's public entry on the Financial Services Register.

Please note that for this purpose the ‘principal place of business’ means the main place where work is performed or business is carried on. This information is important for consumer interest purposes and also ensures the accessibility of the firm.

 **1.3 Does the applicant firm have a head office?**

This address must be in the UK. See Article 1(a) of the RTS.

 **1.4 Is the applicant firm an incorporated company?**

If the applicant firm is a Limited Liability Partnership then you should answer yes to this question.

This address must be in the UK unless the applicant firm is a branch of an overseas company.

 **1.5 Please attach the following:**

**Certificate of incorporation**

**Copy of Partnership agreement deeds**

**Copy of Limited Liability Partnership agreement deeds**

See Article 1(c) of the RTS. These should be attached where applicable.

Please mark each copy 'this is a true copy of the original' and make sure it is signed and dated by the individual(s) who signs the application form.

 1.6 Does the applicant firm have a Legal Entity Identifier (LEI) code?

A Legal Entity Identifier (LEI) is a 20 character unique entity reference code. MiFID investment firms subject to transaction reporting obligations will require a LEI when executing a transaction, and firms trading as a client of a MiFID investment firm will also generally require a LEI. The LEI initiative is designed to create a global reference data standard that uniquely identifies every legal entity or structure across jurisdictions.

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This information is published on the FCA’s investment firms register. Note: We expect firms applying to undertake the following activities to have an LEI code prior to an application being approved by us:

* A1 Reception and transmission of orders in relation to one or more financial instruments
* A2 Execution of orders on behalf of clients
* A3 Dealing on own account
* A8 Operation of an MTF
* A9 Operation of an OTF

Branches

 1.7 Will the applicant firm have any branches in the UK that intend to conduct regulated activities?

If the applicant firm intends to have branches you should refer to both the head office and the branches in respect of the information required under Articles 1 and 6 of the RTS. See Article 1(a)(i) and Article 7 of the RTS.

**1.8** **You must complete the following table to supply a list of MiFID investment services and activities and financial instruments the applicant firm intends to provide.**

This information is required under Article 1(b) of the RTS.

**MiFID authorisation**

In addition to specifying the FSMA regulated activities for which it is seeking permission, a firm must also specify the MiFID investment services and activities it wishes to carry on. A person seeking authorisation under MiFID is required to provide this information under Article 1(b) of the ITS. We apply the same requirement to persons applying to be Article 3 exempt firms because we must apply at least analogous requirements to them (see above).

However, the Part 4A permission will describe the permission in terms of the FSMA regulated activities the firm is authorised to perform only. As such, the permission uses different terminology to that contained in MiFID. When authorised we will also confirm to you the MiFID investment services and activities that map with your Part 4A permission.

When completing the table in Question 1.8 you should map your proposed Part 4A permissions to the corresponding MiFID investment services and activities using the mapping process below.

The MiFID investments and activities (A1-9) listed below are those contained in Annex 1 Section A of MiFID. Terms shown in italics appear in the Glossary to the FCA’s Handbook.

**Reception and transmission of orders in relation to one or more financial instruments [A1]**

Firms with an ‘*arranging (bringing about) deals in investments*’permission in relation to one or more of the FCA *investment* permission categories identified below:

* *Share*
* *Debenture*
* *Alternative Debenture*
* *Government and public security*
* *Warrant*
* *Certificate representing certain securities*
* *Unit*
* *Emissions allowances*
* *Rights to or interests in investments (Security)*
* *Option (excluding a commodity future)*
* *Commodity Option*
* *Future (excluding a commodity future)*
* *Commodity Future*
* *Contract for Differences*
* *Binary Bet*
* *Spread Bet*
* *Rolling spot forex contract*
* *Rights to or interests in investments (Contractually Based Instruments)*

**Execution of orders on behalf of clients [A2]**

Firms with a ‘*dealing in investments as agent* or *dealing in investments as principal’* permission in relation to one or more of the FCA investment permission categories identified in A1 above, without an ‘Article 3 MiFID exempt*’* requirement.

**Dealing on own account [A3]**

Firms with a ‘*dealing in investments as principal’* permission in relation to one or more of the FCA investment permission categories identified in A1 above, without one or more of a ‘box management’, ‘’Article 3 MiFID exempt’ or ‘limited to *stock lending activity*’ limitation or requirement on their permission.

**Portfolio management [A4]**

Firms with a ‘*managing investments’* permission in relation to one or more of the FCA investment permission categories identified in A1 above without an ‘Article 3 MiFID exempt’requirement.

**Investment advice [A5]**

Firms with an ‘*advising on investments’* permission in relation to one or more of the FCA investment permission categories identified in A1 above.

**Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis [A6]**

Firms with a ‘*dealing in investments as principal*’ permission in relation to one or more of the FCA investment permission categories identified in A1 above, but without one or more of the following limitations/requirements:

* ‘box management’
* ‘limited to *stock lending activity’*
* *‘*Article 3 MiFID exempt’

**Placing of financial instruments without a firm commitment basis [A7]**

Firms with a ‘*dealing in investments as agent* or *arranging (bringing about) deals in investments’* permission in relation to one or more of the FCA investment permission categories identified in A1 above and which do not have a requirement preventing them from placing financial instruments without a firm commitment basis (ie the ‘Article 3 MiFID exempt’ requirement).

**Operation of an MTF [A8]**

Firms with an ‘*operating a multilateral trading facility’* permission in relation to one or more of the FCA investment permissions categories identified in A1 above.

**Operation of an OTF [A9]**

Firms with an ‘*operating a trading facility’* permission in relation to one or more of the FCA investment permissions categories identified in A1 above (except *shares*).

The regulated activity of *bidding in emissions auctions* relates only to the investment type of *emission auction products*. This activity maps across to A1 and A2 above.

|  |  |
| --- | --- |
| 2 | Information on capital – Article 3 MiFID exempt firms and non-UK MiFID investment firms only |

Please note some of the information in Article 2 of the RTS is collected through the Variation of Permission form on Connect.

 **2.1 Please confirm that any information that has not been provided in this section: (i) has already been provided to us and (ii) remains true, accurate and up-to-date**

If you have already provided us with any of the information specified in the RTS and/or the questions in this form, and if that information remains true, accurate and up-to-date, please confirm that here.  As long as that is the case, we do not expect you to provide us with the same information again.  Please refer to this declaration in the questions to which it is relevant.  Where we do not already have the information, or where we have been provided with information but it is no longer true, accurate and up-to-date, you must provide the information specified.

 2.2 Please confirm which of the following the applicant firm is applying as?

Please refer to the following flowchart

*Prudential categories of Article 3 MiFID exempt firm*

An Article 3 MIFID exempt firm may be a personal investment firm, securities and futures firm or investment management firm. Which category applies will generally depend on the nature of the regulated activities provided. Applicants should refer to the definitions of “personal investment firm”, “securities and futures firm” and “investment management firm” for more information. The prudential requirements for each category of firm are contained in IPRU-INV 13, 3 and 5 respectively.

Some examples:

1. a firm that primarily provides “corporate finance business” (e.g. advice to companies about buying and selling investments) is likely to be a “securities and futures firm” subject to IPRU-INV 3.
2. a firm that primarily advises or arranges in relation to packaged products (life policies, regulated collective investment schemes, investment trust saving schemes, stakeholder pension schemes, personal pension schemes) is likely to be a “personal investment firm” subject to IPRU-INV 13.
3. A small authorised UK AIFM that derives the most substantial part of its regulated income from managing AIFs, but which also carries on a small amount of advising or arranging, is likely to be an “investment management firm” subject to IPRU-INV 5.

You will be able to discuss this aspect of your application with us during the application process. If it is not clear which category applies to the applicant firm, it is possible for an applicant firm to apply for a requirement that establishes the applicable chapter of IPRU-INV.

Non-UK MiFID investment firms should refer to MIFIDPRU 1.1.3G and 1.1.4G, and the FCA’s Approach to International Firms document published in February 2021:

<https://www.fca.org.uk/publication/corporate/approach-to-international-firms.pdf>

 **2.3 If you answered Question 2.2 with “non-UK MiFID investment firm”, you should complete this question and then continue to Section 3.**

**Please provide details of the prudential regulation that the applicant firm is subject to in its home jurisdiction.**

No additional notes

Article 3 MiFID exempt firms

2.4 You must state the gross amounts of each item for your capital calculation in accordance with Chapter 3, 5 or 13 IPRU(INV)

We need to know the sources of the regulatory capital in the applicant firm and how these amounts are made up. Capital is the money or assets in your business.

The different chapters of IPRU (INV) use different terminology to refer to regulatory capital:

1. IPRU (INV) 3 uses the term “financial resources”. Securities and futures firms should refer to IPRU (INV) 3-61, and the rules that follow it, to calculate their regulatory capital.
2. IPRU (INV) 5 uses the terms “own funds” and “liquid capital”. Investment management firms should refer to IPRU (INV) 5.8 to calculate their regulatory capital.
3. IPRU (INV) 13 uses the term “capital resources”. Personal investment firms should refer to IPRU (INV) 13.15 to calculate their regulatory capital.

The different types are described briefly below.

* Ordinary share capital: these are ordinary shares that the applicant firm has been paid for in full. Ordinary shares are the most common type of share. They typically carry full voting and dividend rights and their owners are the owners of the company.
* Preference share capital: these are shares that pay a fixed dividend. Holders of preference shares receive their dividend before holders of ordinary shares. For the FCA definition please see the Handbook Glossary entry for preference share: <https://www.handbook.fca.org.uk/handbook/glossary/G1587.html>

They can only count as part of a firm’s capital if they satisfy the conditions laid out in the applicable chapter of IPRU(INV).

* Share premium account: this is a reserve of money set up in the applicant firm's accounts to account for the issue of new shares above their par value i.e. if you issue some shares at £1 each and you keep some back which you then sell at £1.50 each, you put the extra 50p into the share premium account.
* Profit and loss account (verified): no additional notes
* Partners’ current and capital accounts: no additional notes
* Sole trader capital: no additional notes
* Eligible LLP members’ capital: no additional notes
* (Audited) reserves: these are past earnings that the applicant firm has retained, as verified by its auditors. For firms not required to appoint an auditor for their accounts under the Companies Act 2006, these will be unaudited.
* Subordinated loans: these are loans that rank below other unsubordinated debt in the queue for repayment if the applicant firm is wound up. They can only count as part of its capital if they satisfy the conditions laid out in the applicable chapter of IPRU(INV)). We require more details about subordinated loans in Question 2.4.
* Approved bank bonds: no additional notes
* Approved undertakings: no additional notes
* Qualifying property: no additional notes

**2.5 What type of firm is the applicant firm?**

**Limited company**

Companies House Form SH01 specifies how the applicant firm's shares are allotted.

**Partnership**

You need to send us a statement of personal assets and liabilities for each partner. You also need to send us a statement of business assets and liabilities for each partner. The statement of assets and liabilities should detail all assets (ie anything with a positive value including money, property and investments) and all liabilities (anything with a negative value) (see page 15-16).

Where assets are included in the applicant firm's financial resources and they are subject to depreciation, you should take this into account when calculating the value of those assets.

**Limited Liability Partnership (LLP)**

An LLP is a vehicle incorporated under the Limited Liability Partnership Act 2000, which limits the liability of each of the partners to their respective capital contributions.

You must send a copy of the members' capital agreement with this form. For an example of a members’ capital agreement, please see page 17.

**Sole trader**

You need to send us a statement of your personal assets and liabilities, together with a statement of your business assets and liabilities. The statement of assets and liabilities should detail all assets (ie anything with a positive value including money, property and investments) and all liabilities (anything with a negative value) (see page 15-16).

Where assets are included in the applicant firm's financial resources and they are subject to depreciation, you should take this into account when calculating the value of those assets.

Statements of assets and liabilities – for completion by partnerships and sole traders

Before completing the statement of personal assets and liabilities or the statement of business assets and liabilities please note the points below.

* Only include your share of any assets and liabilities that are jointly owned by another party, such as your wife/husband.
* Current market value (not the price paid or nominal value) of quoted investments – only include readily realisable securities, unit trusts and other packaged products.
* Where applicable current market value (eg property) should be estimated.
* Guarantees – include the maximum liability of a personal guarantee given to a third party.

STATEMENT OF PERSONAL ASSETS AND LIABILITIES

|  |  |
| --- | --- |
| For  |  (full personal name) |
|  |
| as at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  |  (date) |
|  |  |  |  |
| **Assets** |  | **Liabilities** |  |
|  |  |  |  |
| House | \_\_\_\_\_\_\_ | Mortgage(s) | \_\_\_\_\_\_\_ |
|  |  |  |  |
| Other real property | \_\_\_\_\_\_\_ | Loan(s) | \_\_\_\_\_\_\_ |
|  |  |  |  |
| Contents | \_\_\_\_\_\_\_ |  | \_\_\_\_\_\_\_ |
|  |  |  |  |
| Motor vehicles | \_\_\_\_\_\_\_ |  | \_\_\_\_\_\_\_ |
|  |  |  |  |
| Investments (specify) | \_\_\_\_\_\_\_ |  | \_\_\_\_\_\_\_ |
|  |  |  |  |
| Bank balance(s) | \_\_\_\_\_\_\_ | Overdraft(s) | \_\_\_\_\_\_\_ |
|  |  |  |  |
| Cash deposits | \_\_\_\_\_\_\_ | Credit card balance(s) | \_\_\_\_\_\_\_ |
|  |  |  |  |
| Other assets (specify) | \_\_\_\_\_\_\_ | Other liabilities (specify) | \_\_\_\_\_\_\_ |
|  |  |  |  |
|  |  |  |  |
| **TOTAL** | **=======** | **TOTAL** | ======= |
|  |  |  |  |
|  |  | Guarantees (specify) | \_\_\_\_\_\_\_ |
|  |  |  |  |
|  |  | **TOTAL** | **=======** |
| Signed  |  |  |  |
|  |  |  |  |
| Date  |  |  |  |

STATEMENT OF BUSINESS ASSETS AND LIABILITIES

|  |  |
| --- | --- |
| For |  (full trading name) |
|  |
| as at  |  (date) |
|  |  |  |  |
| **Assets** |  | **Liabilities** |  |
|  |  |  |  |
| Bank/cash deposits | \_\_\_\_\_\_\_\_\_\_ | Taxation | \_\_\_\_\_\_\_\_\_\_\_ |
|  |  |  |  |
| Commission due within 90 days | \_\_\_\_\_\_\_\_\_\_ | Credit cards | \_\_\_\_\_\_\_\_\_\_\_ |
|  |  |  |  |
| Other investments | \_\_\_\_\_\_\_\_\_\_ | Bank overdraft balance | \_\_\_\_\_\_\_\_\_\_\_ |
|  |  |  |  |
| Property | \_\_\_\_\_\_\_\_\_\_ | Indemnity commission | \_\_\_\_\_\_\_\_\_\_\_ |
|  |  |  |  |
| Motor vehicles | \_\_\_\_\_\_\_\_\_\_ | Unsecured loans | \_\_\_\_\_\_\_\_\_\_\_ |
|  |  |  |  |
| Office equipment | \_\_\_\_\_\_\_\_\_\_ | Hire purchase/secured loans | \_\_\_\_\_\_\_\_\_\_\_ |
|  |  |  |  |
|  | \_\_\_\_\_\_\_\_\_\_ | Other liabilities (please specify) | \_\_\_\_\_\_\_\_\_\_\_ |
|  |  |  |  |
| Other assets (specify) | \_\_\_\_\_\_\_\_\_\_ | Mortgage | \_\_\_\_\_\_\_\_\_\_\_ |
|  |  | Contingent liabilities | \_\_\_\_\_\_\_\_\_\_\_ |
|  |  | Guarantees | \_\_\_\_\_\_\_\_\_\_\_ |
|  |  |  |  |
| **TOTAL** | **=========** | **TOTAL** | ========== |
|  |  |  |  |
| Goodwill | \_\_\_\_\_\_\_\_\_\_ | Bank overdraft limit | \_\_\_\_\_\_\_\_\_\_\_ |
|  |  |  |  |
|  |  | **TOTAL** | **==========** |
| Signed |  |  |  |
| Date |  |  |  |

Members’ Capital Agreement

XYZ LLP

**EXAMPLE OF A MEMBERS' CAPITAL AGREEMENT**

* **IPRU (INV) sets out the financial resources requirements.**
* **XYZ LLP will meet these requirements as the Members of the LLP will transfer into the LLP the following assets as long-term capital:**

 **£**

**Cash**

**Other assets (list)**

 **……….**

 **TOTAL INITIAL CAPITAL**

 **……….**

* **We confirm that this initial capital is intended as long-term capital (ie not to be withdrawn within two years).**
* **We also confirm that the value of the other assets (listed above) is not less than the market value of those assets.**

**Signed by the Members:**

**………………………………………**

**………………………………………**

**………………………………………**

**………………………………………**

**Date …………………………**

Subordinated loans

 **2.6 Does the applicant firm have any subordinated loans?**

A subordinated loan is a loan that ranks below other unsubordinated debt in the queue for repayment should the applicant firm be wound up.

The prudential requirements in IPRU (INV) permit certain types of borrowings or facilities to be treated as part of a firm's regulatory capital. The most common example is that of a subordinated loan.

A subordinated loan may only count as part of a firm’s regulatory capital if it satisfies the conditions laid out in the relevant chapter of IPRU (INV).

For subordinated loan agreement forms see IPRU (INV) Annex D Required Forms.

Other funding

 **2.7 Does the applicant firm have other sources of external funding?**

This could include any additional sources of borrowed fund including other loans, line of credit, etc. Please refer to Article 2(d) of the RTS.

Personal Investment Firms

**2.8 If you answered Question 2.2 with ‘Personal Investment Firm subject to Chapter 13 of IPRU (INV)’, you should complete this question.**

We differentiate between our financial requirements by putting applicant firms in different prudential categories. The applicant firm will fall into at least one prudential category. And it may fall into more than one prudential category, depending on its proposed regulated activities.

[ ] [ ]

[ ] [ ] [ ]  Prudential category: **Personal investment firm**

Prudential sub-category: **B3 Firm** **with managing permissions**

Main regulated activities: a) managing investments in respect of portfolios containing only life policies or to delegate such activity to an investment firm,

b) arranging transactions in life policies and other insurance contracts,

c) advising on investments, and

d) receiving and transmitting, on behalf of investors orders in relation to securities and units in collective investment schemes.

Requirement: Not to hold or control client money.

Prudential Rules: A Category B3 firm’s capital resources must, at all times, be the greater of £20,000 or 10% of the investment business annual income plus the minimum capital requirement calculated under MIPRU (but ignoring the minimum amount that are specified in MIPRU for the particular activity).

(Capital resources must be calculated in line with IPRU(INV) table 13.15.3(1)).

Please refer to IPRU(INV) 13 for further details.

[ ] [ ]  Prudential category: **Personal investment firm**

Prudential sub-category: **B3 Firm without managing permission**

Main regulated activities: a) arranging transactions in life policies and other insurance contracts,

b) advising on investments, and

c) receiving and transmitting, on behalf of investors orders in relation to securities and units in collective investment schemes.

Requirement: Not to hold or control client money.

Prudential Rules: A category B3 firm’s capital resources must, at all times, be the greater of £20,000 or 5% of the investment business annual income.

(capital resources must be calculated in line with IPRU(INV) table 13.15.3(1))

Please refer to IPRU(INV) 13 for further details.

[ ]

**Home finance mediation firm category**

[ ] [ ]  Prudential category: **Home finance intermediary that does not hold
 client money**

Main regulated activities: a) advising on regulated mortgage contracts

b) arranging (bringing about) regulated mortgage contracts

c) making arrangements with a view to regulated mortgage contracts, and/or

d) advising on a home reversion plan,

e) arranging (bringing about) a home reversion plan

f) making arrangements with a view to a home reversion plan, and/or

g) advising on a home purchase plan

h) arranging (bringing about) a home purchase plan

i) making arrangements with a view to a home purchase plan,

and/or

j) advising on a regulated sale and rent back agreement

k) arranging (bringing about) a regulated sale and rent back agreement,

l) making arrangements with a view to a regulated sale and rent back agreement.

Requirement: Not to hold or control client money.

Prudential Rule: Maintain net assets, the greater of:

• £5,000,or

• 2.5% of its annual net brokerage income if not holding client money.

Please refer to MIPRU 4 for further details.

[ ]  Prudential category: **Home finance intermediary that does hold client money**

Main regulated activities: a) advising on regulated mortgage contracts

b) arranging (bringing about) regulated mortgage contracts

c) making arrangements with a view to regulated mortgage contracts, and/or

d) advising on a home reversion plan,

e) arranging (bringing about) a home reversion plan

f) making arrangements with a view to a home reversion plan,

and/or

g) advising on a home purchase plan

h) arranging (bringing about) a home purchase plan

i) making arrangements with a view to a home purchase plan,

and/or

j) advising on a regulated sale and rent back agreement

k) arranging (bringing about) a regulated sale and rent back agreement, and/or

l) making arrangements with a view to a regulated sale and rent back agreement.

Prudential Rule: Maintain net assets, the greater of:

• £10,000, or

• 5% of its annual net brokerage income.

Please refer to MIPRU 4 for further details.

[ ]

**Non-investment insurance contract firm categories**

[ ]  Prudential category: **Insurance intermediary**

Prudential sub-category: not applicable

Main regulated activities: a) advising on investments in relation to non-investment insurance contracts

b) arranging (bringing about) deals in investments in relation to non-investment insurance contracts

c) making arrangements with a view to transactions in investments in relation to non-investment insurance contracts

1. dealing as agent in non-investment insurance contracts, and/or
2. assisting in the administration and performance of a non-investment insurance contract.

Requirement: Not to hold or control client money.

Prudential Rule: Maintain net assets, the greater of:

• £5,000, or

• 2.5% of its annual net brokerage income if not holding client money or other client assets.

Please refer to MIPRU 4 for further details.

[ ] [ ]  Prudential category: **Insurance intermediary (that holds client money
 for its non-investment insurance business only)**

Prudential sub-category: not applicable

Main regulated activities: a) advising on investments in relation to non-investment insurance contracts,

b) arranging (bringing about) deals in investments in relation to non-investment insurance contracts

c) making arrangements with a view to transactions in investments in relation to non-investment insurance contracts

d) dealing as agent in non-investment insurance contracts, and/or

e) assisting in the administration and performance of a non-investment insurance contract.

Requirement: None

Prudential Rule: Maintain capital resources, the greater of:

• £10,000, or

• 5% of its annual net brokerage income if holding
client money or other client assets.

There is a capital requirement for insurance intermediaries wishing to segregate retail client money into a non-statutory trust of £50,000, or, if higher, 5% of the firm's annual income from regulated activities. Please see Chapter 5 of the Client Asset sourcebook (CASS) for further details.

 **2.9 What is the applicant firm’s resource requirement?**

**Requirements for prudential categories**

The capital requirements for each prudential category are contained in the Interim Prudential sourcebook for Investment Businesses (see IPRU(INV) 1 and 13) and Prudential sourcebook for Mortgage and Home Finance Firms and Insurance Intermediaries (MIPRU).

After identifying the applicant firm's prudential category or categories, you will need to look at the relevant prudential sourcebook for the prudential rules and guidance that apply.

It is important you consider the prudential category or categories carefully. The category will determine minimum capital and other risk management standards and aims to ensure the applicant firm can meet its liabilities and commitments at all times.

You can use the summary information in the Question with the FCA Handbook to work out which prudential category or categories the applicant firm will fall into.

The table below illustrates how a [category B3 firm](https://www.handbook.fca.org.uk/handbook/glossary/G2735.html) with [annual income](https://www.handbook.fca.org.uk/handbook/glossary/G1931.html) of £300,000 under IPRU (INV) and £100,000 from its [home finance mediation activity](https://www.handbook.fca.org.uk/handbook/glossary/G1909.html) (without holding [client money](https://www.handbook.fca.org.uk/handbook/glossary/G160.html)) should calculate its capital resources requirement.

|  |  |  |
| --- | --- | --- |
| **Requirement** | **Calculation** | **Amount** |
| The capital resources requirement is the higher of: |  |  |
| (1) £20,000; and | £20,000 | £20,000 |
| (2) The sum of: |  |  |
| 1. the amount that applies to it under IPRU(INV); and
 | As this is a [category B3 firm](https://www.handbook.fca.org.uk/handbook/glossary/G2735.html), the applicable calculation is 5% of £300,000. | £15,000 |
| 1. the capital resources requirement in MIPRU, after excluding the fixed amounts specified
 | For a [firm](https://www.handbook.fca.org.uk/handbook/glossary/G430.html) carrying on [home finance mediation activity](https://www.handbook.fca.org.uk/handbook/glossary/G1909.html) without holding [client money](https://www.handbook.fca.org.uk/handbook/glossary/G160.html), MIPRU specifies a requirement of 2.5% of £100,000 (excluding the fixed minimum amount of £5,000). | £2,500 |
|  | Total of part (2) of the capital resources requirement, which is £15,000 plus £2,500. | £17,500 |
|  | The capital resources requirement is the higher of part (1), which is £20,000, and part (2), which is £17,500. | £20,000 |

|  |  |
| --- | --- |
| 3 | Information on shareholders |

Please note some of the information in Article 3 of the RTS is collected through the Variation of Permission form on Connect.

**3.1 Please confirm that any information that has not been provided in this section: (i) has already been provided to us and (ii) remains true, accurate and up-to-date**

If you have already provided us with any of the information specified in the RTS and/or the questions in this form, and if that information remains true, accurate and up-to-date, please confirm that here.  As long as that is the case, we do not expect you to provide us with the same information again.  Please refer to this declaration in the questions to which it is relevant.  Where we do not already have the information, or where we have been provided with information but it is no longer true, accurate and up-to-date, you must provide the information specified.

**3.2 and 3.3**

This Section helps us to understand who owns the applicant firm and has control or influence over its business. The suitability of the controllers of an applicant firm must be assessed as part of the process for determining whether to grant a MiFID authorisation and a Part 4A permission.

Article 9 of the RTS sets out the criteria that we must take into account when assessing controllers. Article 3 of the RTS specifies the information that must be provided. It refers to information about both the proposed controllers themselves and, where applicable, any members of the management body of the proposed controllers, and it cross-refers to the detailed information specified in the RTS under Article 10a(8) of MiFID (the “Article 10a(8) RTS”) (see Article 3(b) of the RTS).

This information is to be provided through a combination of the MiFID Annex, the relevant controller forms and/or Form As (see Q 3.3 below). In particular, applicant firms must use the controller forms to provide the detailed information on controllers specified in the Article 10a(8) RTS.

The controllers of an applicant firm include the ultimate beneficial owners, who may be individuals or firms with an indirect shareholding in the applicant firm – for example, through their controlling interest in a parent of the applicant firm.

You must provide the information we ask for in the spaces provided or provide a structure chart so we can determine who the applicant firm's controllers are.[[1]](#footnote-1) The controller(s) will need to complete the appropriate Appendix providing their details. This is a requirement of the Act (Part XII Control over authorised persons).

Chapter 11 of the Supervision manual (SUP) in the Handbook gives further information about controllers ([www.handbook.fca.org.uk/handbook/SUP/](http://www.handbook.fca.org.uk/handbook/SUP/)). In particular, SUP 11.3 sets out the information which a controller or proposed controller must provide to us before becoming a controller.

For these purposes, a controller is, broadly speaking, an individual or firm that:

(1) holds 10% or more of the shares in the applicant firm or its parent, or

(2) is able to exercise significant influence over the management of the applicant firm through a controlling interest in the applicant firm or its parent, or

(3) is entitled to control or exercise control of 10% or more of the voting power in the applicant firm or its parent, or

(4) is able to exercise significant influence over the management of the applicant firm through their voting power in it or its parent

 **Controllers of Partnerships**

1. Partnership applicants should note that some (or sometimes all) individual partners may be controllers of the partnership. This usually depends on the number of partners and the terms of the partnership agreement, especially regarding voting power or significant influence. For example, in a five-person partnership where each partner has equal voting power, each partner will have 20% of the voting power and so will be a controller.
2. In a five-person partnership where two senior partners each have 40% of the voting power (and the same level of significant influence) and the remaining 20% is equally split between the other three partners (meaning that each of them has less than 10% of the voting power and significant influence), only the two senior partners would be deemed controllers.
3. In a ten-person partnership where each partner has equal voting power, each partner will have 10% of the voting power and will be a controller.
4. In an eleven-person partnership where all have equal voting power it might appear that none of the partners will be a controller (as no individual partner will have 10% or more of the voting power). However, one of the partners can still exercise significant influence. For example, if the partnership agreement requires significant decisions to be taken unanimously by the partners, a dissenting partner could exercise significant influence over the firm's management despite having less than 10% of the voting power. Applicant firms should have this in mind when considering whether a partner with less than 10% voting power could exercise significant influence over the firm's management.

This information will probably be set out in the applicant firm’s partnership agreement. [ ]

Controller forms

 **3.4 If the applicant firm has any new controllers you must submit with this application the appropriate controller forms for each of its new controllers. These forms can be found on the website (**[**https://www.fca.org.uk/firms/authorisation/apply-authorisation**](https://www.fca.org.uk/firms/authorisation/apply-authorisation) **) and should be attached to your application as a related document within Connect.**

Where a partnership is also a legal person, a Legal Person controllers form should be provided in respect of the partnership together with controller forms for each of the controlling partners.

Please note that where the Article 10a(8) RTS requires information on criminal investigations and proceedings, we only expect you to submit information in relation to on-going criminal investigations and proceedings as indicated in the controller forms.

In addition, where as a result of the Article 10a(8) RTS an applicant is required to provide information relating to criminal records of members of the management body of a legal person, we do not expect information about spent convictions to be provided in relation to those particular individuals.  This is subject to where a member of the management body is themselves a controller, in which case they must provide all the information specified in the relevant controller form.

The Article 10a(8) RTS also requires controllers to provide declarations of honour in relation to on-going criminal investigations (Article 4(a)(1) and Article 5(1)(a)(1)). We consider that the declaration at the end of the controller forms will satisfy this requirement.

 You do not need to submit a natural person’s controller form for any individual controller who has also submitted a Form A to hold a senior management function with the applicant firm.

Definitions of the following terms can be found in the Handbook Glossary <https://www.handbook.fca.org.uk/handbook/glossary> :-

* controller
* control
* control function
* shares
* voting power
* aggregation of shares and acting in concert guidance
* parent undertaking
* firm
* regulatory body

Close links

Under MiFID we may not authorise an investment firm if close links prevent the effective exercise of our supervisory functions under that directive. This is also part of the effective supervision Threshold Condition specified in FSMA. Further detail on the concept of effective supervision is contained in Article 10 of the RTS.

 **3.5 Does the applicant firm have close links?**

You must notify us about any other firms or individuals that an applicant firm may have close links with – whether directly, or through a parent or a subsidiary – so we can be sure that we can supervise the applicant firm effectively. You will find below:

* a diagram (1) which sets out the types of relationships between firms and individuals that we consider to be close links, and
* a flowchart (2) which will help you in deciding if the applicant firm has close links

 **(1)**

**(2)**



For further guidance on close links please see:

SUP 11 <https://www.handbook.fca.org.uk/handbook/SUP/11>, and

Handbook Glossary <https://www.handbook.fca.org.uk/handbook/glossary>

**Overlap between controllers and close links**

There is often an overlap between an applicant firm's controllers and its close links. For example, an organisation that owns 20% of the voting power or capital of the applicant firm is both a controller and a close link. If you are asked to provide a structure chart for both controllers and close links, you can provide both in a single structure chart, but it must fully comply with the requirements of Article 3(c) of the RTS in respect of any corporate controllers.

**3.6 You must provide a structure chart to show**

* **the nature of the relationship between the applicant firm and each close link**
* **the business type of the close link**

The structure chart should clearly show:

(i) Name(s) of the close link(s).

(ii) Address(es) of the close link(s).

(iii) Category of each close link – a, b, c, d, e or f (please see diagram (1) above).

(iv) Details of any regulatory body that regulates each close link. Please include the address, telephone number, email address and a contact name at the regulator. (If a close link is regulated by us, please provide the firm’s reference number wherever possible.)

Please note you will need to complete the appropriate Controller Appendix (see Question 3.4 of this form) for any close links falling into category e (please see diagram (1)).

 **3.7 Are you aware of any information to suggest that any close link is likely to prevent our effective supervision of the applicant firm?**

Possible examples of the kind of issues that might impinge on our effective supervision include anything that might:

* affect the applicant firm’s ability to provide adequate information to us at any time,
* hinder the flow of information from the applicant firm or the applicant firm's close link(s) to us at any time, or
* prevent us from being able to assess the overall financial position of the applicant firm or their close link(s) at any time

Please consider in particular if such issues may arise because the close link is subject to the laws of a state outside the UK.

|  |  |
| --- | --- |
| 4 | Information on the management body and persons who direct the business |

Please note some of the information in Article 4 of the RTS is collected through the Variation of Permission form on Connect.

Section 4 and the Form As enable us to receive both the information required to perform our role in respect of senior management functions under the domestic Senior Managers and Certification Regime contained in Part V of FSMA and the information required to carry out the assessment of the management body under MiFID.

Firms must provide a general list of the individuals who will perform senior management functions plus the information specified in Article 4(b) of the RTS in section 4 of the MiFID Annex for VOP Applications. They must provide us with the detailed information about these individuals, as required for our approved persons regime, through the Form As.

To avoid duplication, the same Form As are to be used to provide us with the same information about the same individuals that is required under Article 4 of the RTS (ie information in respect of persons performing senior management functions who will also be members of the management body).

We have outlined below an indicative (but not exhaustive) list of those persons performing senior management functions who might be considered as members of the management body and/or those of persons who effectively direct the business of the firm for the purpose of the MiFID II requirements:

* SMF1 Chief Executive
* SMF2 Chief Finance
* SMF3 Executive Director
* SMF4 Chief Risk Officer
* SMF7 Group Entity Senior Manager
* SMF9 Chair
* SMF10 Chair of the Risk Committee
* SMF11 Chair of the Audit Committee
* SMF12 Chair of the Remuneration Committee
* SMF13 Chair of the Nomination Committee
* SMF14 Senior Independent Director
* SMF21 EEA Branch Senior Management Function
* SMF24 Chief Operating Officer
* SMF27 Partner

Applicants will note that the form at Annex II of the ITS requires them to provide us with similar information to the information specified in Article 4 of the RTS and our Form As. To save further duplication, firms should answer the relevant sections of the form at Annex II of the ITS with reference to the same Form As.

 **4.1 Please confirm that any information that has not been provided in this section: (i) has already been provided to us and (ii) remains true, accurate and up-to-date**

If you have already provided us with any of the information specified in the RTS and/or the questions in this form, and if that information remains true, accurate and up-to-date, please confirm that here.  As long as that is the case, we do not expect you to provide us with the same information again.  Please refer to this declaration in the questions to which it is relevant.  Where we do not already have the information, or where we have been provided with information but it is no longer true, accurate and up-to-date, you must provide the information specified.

Senior management functions

**4.2 List the names of the persons who will perform senior management functions. A person may perform more than one senior management function. Where the person for the role has not yet been recruited, please indicate this in the relevant box below. The type of firm you are will determine the table you will need to complete.**

 It is the responsibility of the firm to ensure that no person performs a senior management function until the applicant firm has been authorised by us and we have approved the person to perform senior management function(s). If granted, approval is effective from the date of authorisation.

**What is an approved person?**

An approved person is a person who is approved by us to perform a senior management function for an authorised firm or an appointed representative. To be approved and continued to be approved to perform a senior management function, a person must:

* meet, and maintain, our criteria for approval (the 'fit and proper test'); and then
* perform their senior management function(s) in line with the FCA Handbook; and FCA’s Code of Conduct (COCON).

**What is a senior management function?**

A senior management function is a function, relating to the carrying on of a regulated activity by the firm, which is specified in the table of FCA senior management functions. Some senior management functions are required for every firm; others will depend on the nature of your business. Senior management functions have their own unique identification number. You can find a full list of all the senior management functions and an explanation of each one at: [www.handbook.fca.org.uk/handbook/SUP/10C/](http://www.handbook.fca.org.uk/handbook/SUP/10C/)

You should review the description of each senior management function and identify those that apply to the applicant firm.

 **4.3 You must fill in ‘Form A - Application to perform controlled functions including senior management functions ’ for each person who will be performing a controlled function that you have listed in Question 4.1.1 to 4.1.3’ See** **<https://www.fca.org.uk/publication/forms/long-form-a-mifid.docx> for more information.**

You must also provide a Senior Management Regime: Statement of Responsibilities (<https://www.handbook.fca.org.uk/form/sup/SUP_10C_ann_5D_SOR_20160307.pdf> ) with each Form A and attach it to your application in Connect

No additional notes

 **4.4 Please briefly describe the human and financial resources the applicant firm intends to devote on an annual basis to the induction and training of the individuals who perform senior management functions**

No additional notes.

 **4.5 Will the applicant firm advise on derivatives to ‘retail clients’?**

We ask for this to enable us to assess the suitability of the relevant personnel. Please refer to the FCA Handbook TC 2.1 (<https://www.handbook.fca.org.uk/handbook/TC/2/?view=chapter> ).

Staff organisational structure chart

The applicant firm must demonstrate that it has an effective management structure and clear reporting lines to senior managers.

The structure chart should tell us about the applicant firm's 'mind and management' – in other words, the key officers and directors and their responsibilities within the structure of the firm. It should clearly show:

* The names of significant staff (eg directors, chief executive, managers).
* The senior management functions for each individual.
* Direct reporting lines into the board, including board committees, where applicable. If these change while we are considering this application, please tell us immediately.

For further guidance see SYSC 4:
<https://www.handbook.fca.org.uk/handbook/SYSC/4>

 **4.6 Is the applicant firm a sole trader or a sole director of a limited company with no employees?**

If the applicant firm is a sole trader or a sole director of a limited company with no employees, you must provide the details of the person that will be empowered to substitute you if you become incapacitated. This person should be of sufficiently good repute and have sufficient experience. For this person you will need to provide the information required in Article 8.

|  |  |
| --- | --- |
| 5 | Financial information – Article 3 MiFID exempt firms and non-UK MiFID investment firms only |

Please note some of the information in Article 5 of the RTS is collected through the Variation of Permission form on Connect.

 **5.1 Please confirm that any information that has not been provided in this section: (i) has already been provided to us and (ii) remains true, accurate and up-to-date**

If you have already provided us with any of the information specified in the RTS and/or the questions in this form, and if that information remains true, accurate and up-to-date, please confirm that here.  As long as that is the case, we do not expect you to provide us with the same information again.  Please refer to this declaration in the questions to which it is relevant.  Where we do not already have the information, or where we have been provided with information but it is no longer true, accurate and up-to-date, you must provide the information specified.

Planning assumptions

 **5.2 You must give details on the following**

You must provide the information detailed in question 5.2 that is applicable to the applicant firm in order to explain the firm’s planning assumptions, as required by Article 5(a)(ii) of the RTS.

 **5.3 Is the applicant firm currently trading?**

If the applicant firm is currently trading you must provide all the information detailed in question 5.3 and where applicable at consolidated and sub- consolidated level. If the applicant firm did not have a requirement to produce audited annual reports please provide the firm’s unaudited annual reports. See Article 5(b) of the RTS.

|  |  |
| --- | --- |
| 6 | Information on the organisation of the firmPlease note that Article 7 of the RTS specifies that the information subject to the RTS should refer to both the head office of the firm and its branches and tied agents, in respect of Article 6. |

Please note some of the information in Article 6 of the RTS is collected through the Variation of Permission form on Connect.

Please note:

* The information specified in Article 6(g) and 6(j) of the RTS will also be provided, where relevant, in the IT Self-Assessment Form, which you will be asked to complete through Connect.

 **6.1 Please confirm that any information that has not been provided in this section: (i) has already been provided to us and (ii) remains true, accurate and up-to-date**

If you have already provided us with any of the information specified in the RTS and/or the questions in this form, and if that information remains true, accurate and up-to-date, please confirm that here.  As long as that is the case, we do not expect you to provide us with the same information again.  Please refer to this declaration in the questions to which it is relevant.  Where we do not already have the information, or where we have been provided with information but it is no longer true, accurate and up-to-date, you must provide the information specified.

 **6.2 Please provide details of the business the applicant firm proposes to carry on for the first 3 years of authorisation**

This question is relevant to Article 6(a) of the RTS, which asks for general information on planned activities as part of the requirement to provide a programme of operations, and Article 6(c)(iv) of the RTS, which asks for information on how the applicant will satisfy its conduct requirements (to the extent such information has not been provided in other parts of the MiFID Annex).

We also need to know about these activities so we can ensure the applicant firm will have the correct permissions, investment types and client types, and to assess the adequacy of its resources.

We see the applicant firm's description of its proposed business as an important regulatory tool for the applicant firm and us. It helps us measure the applicant firm's business risk and control over any regulatory concerns. Applicant firms can find further information about this in SYSC 4

(<https://www.handbook.fca.org.uk/handbook/SYSC/4/> )

Bearing in mind the threshold conditions, we need to be satisfied the applicant firm can:

• identify all regulated activities and any unregulated activities it intends to carry on

• identify all the likely business and regulatory risk factors

• explain how it will monitor and control these risks, and

• take into account any intended future developments

Please remember that the applicant firm's description of its business is an important part of the overall application and integral to our decision making. The amount of detail submitted should be proportionate to the nature of the business the applicant firm intends to carry on. For example, for a small firm seeking to carry on a business with a risk the applicant firm perceives as low, the description of its business should be less complex and detailed than for a high-risk firm. The level of detail should also be appropriate to the risks to the applicant firm's clients.

You can find further information about our requirements and expectations for business plans at <https://www.handbook.fca.org.uk/handbook/COND/2/4.html>

**Platform charges**

Where an applicant firm is a platform service provider, it needs to be able to clearly disclose to the professional client and their retail client the firm’s charging structure and any fees, commissions and consultancy charges received in relation to the provision of its designated investment business. See COBS 6.1E.1R (www.handbook.fca.org.uk/handbook/COBS/6/1E.html)and COBS 2.3.1R (

<https://www.handbook.fca.org.uk/handbook/COBS/2/3.html> ) for further information.

Where an applicant firm is a platform service provider, it must provide full disclosure of both direct advice and platform fees via a durable medium to the adviser and the customer. They must also ensure that all adviser chargers are made available to the customer via a durable medium.

**Movement of customer portfolios between platform service providers**

Where an applicant firm is a platform service provider, it needs to provide clarification of the movement of ‘in specie’ assets between platforms. (See COBS 6.1G.1R (<https://www.handbook.fca.org.uk/handbook/COBS/6/1G.html>)

**6.3** **Does the applicant firm intend to passport into Gibraltar under MiFID by:**

**• providing cross-border services, and/or**

**• establishing a branch, and/or**

**• appointing a tied agent**

Article 6(a) requests detailed information on geographical and distributional activities of the applicant firm. We see this as including the firm’s intentions with regards to passporting MiFID business.

If the applicant firm plans to carry on business activities in Gibraltar it must complete the appropriate form on Connect.

You can find further information on our website: [www.the-fca.org.uk/firms/passporting](http://www.the-fca.org.uk/firms/passporting)

Clients

 **6.4 Describe (in terms of both geographical location and their own commercial/business activities) the types of individuals/businesses and their regulatory classification the applicant firm expects to become its clients.**

Article 6(a)(i) of the RTS requires information on the domicile of prospective customers and targeted investors.

Information on client types enables us to assess the regulatory requirements that will apply to the applicant firm. The applicant firm must explain how the various prospective clients are categorised as retail clients, professional clients and eligible counterparties, as appropriate. The client types identified here should correspond with the client types for which the applicant firm requests permission in Section 1 of this Annex.

For further guidance on client categories, see Section 1 notes.

 **6.5 Explain how the applicant firm will source its clients (referring to any existing contacts/relationships) and market its services to prospective new clients for the first 3 years**

See Article 6 (a)(ii) and Article 6(a)(iii) of the RTS.

Details of auditor / reporting accountant

 **6.6 Does the applicant firm have an auditor or reporting accountant?**

See Article 6(b) of the RTS.

Any applicant firm which falls within the table in SUP 3.1.2R is required to have an auditor. The table also sets out which sections of SUP will be applicable to the applicant firm. You can find the table at: <https://www.handbook.fca.org.uk/handbook/SUP/3/>

Auditors can act as a source of information for us in our ongoing supervision of firms. They will report, where required, on the financial resources of the firm, the accuracy of its reports to us and a firm's compliance with particular rules and requirements – for example, the client asset rules.

If this section applies to the applicant firm, SUP 3 and (in particular) SUP 3.3, will provide guidance on appointing auditors.

Please note in certain limited circumstances, we may ask you to verify information that you have submitted or need to submit as part of the application. As part of the authorisation process we can require you to provide a report (on any aspect) by an auditor, reporting accountant, actuary or other qualified person approved by us. If this is needed during the process, we will discuss it with you at the earliest opportunity.

Details of the applicant firm’s organisational structure and internal control systems

 6.7 Please provide an organisational structure chart with details of the heads of internal functions.

See Article 6(c)(i) of the RTS.

The structure chart should tell us about the applicant firm's 'mind and management' – in other words, the key officers and directors and their responsibilities within the structure of the firm. It should clearly show:

* the names of significant staff (eg directors, chief executive, managers)
* the senior management functions for each individual, and
* direct reporting lines into the board, including board committees where applicable (if these change while we are considering this application, please tell us immediately)

For further guidance see SYSC: <https://www.handbook.fca.org.uk/handbook/SYSC/>

 6.8 Please provide a description of the resources allocated to the various regulated activities

See Article 6(c)(ii) of the RTS.

Provide a description of resources allocated both for regulated and unregulated activities.

Conflicts of Interest

See Article 6(f) of the RTS in relation to Questions 6.9 to 6.12.

 **6.9 How will the applicant firm be remunerated?**

No additional notes.

 **6.10 If the applicant firm's income will be derived other than by charging its clients, how it will disclose/explain to its clients its arrangements for receiving remuneration?**

This may occur, for example, where the applicant firm will advise a prospective investor, but will receive a fee from the investment provider rather than charging the prospective investor.

**6.11 What measures will the applicant firm use to identify and prevent or manage conflicts of interest?**

Please provide information on the measures that the applicant firm will take to identify, prevent or manage any conflicts of interest that arise in the course of providing regulated activities

**6.12 What arrangements of product governance will the applicant firm have in place?**

No additional notes

Locum arrangements

**6.13 Does the applicant firm have more than one adviser?**

You need to provide details of the locum’s experience, their reputation and their availability for this function (note that the locum arrangements must cover a broad range of permissions which the applicant firm will be authorised.

Questions 6.14 to 6.22 below relate to the information specified in Article 6(g) to 6(l) of the RTS. Please ensure you are satisfied that you have provided all of the information specified in this Article when completing these sections.

IT systems

**6.14 Please provide a description of the key IT systems in use at the applicant firm which will support regulated activities, including off-the-shelf and bespoke packages**

An off-the-shelf package is a simple 'one size fits all' package rather than a system that is tailor made specifically for the business.

**Business transaction reporting**

We appreciate that different types of firms will have different transactions and ways of recording those transactions, so please be as clear as possible in your explanation. An example of business transaction reporting could be the systems the applicant firm has in place, or will have in place, for recording a client's individual transaction details on their file, eg keeping your customer details up-to-date.

**Accounting system**

Examples of off-the-shelf accounting packages are SAGE and Quickbooks pro.

Business risks

**6.15 What are the main business risks for the applicant firm and how does it intend to manage those risks?**

Examples that should be considered, depending on the nature of the applicant firm’s business, include:

**External risks**:

The applicant firm should:

* identify competitors and assess their reaction to the applicant firm's presence in the market,
* Consider critical economic factors which should then be analysed and assessed (for example, it may be useful to explore the effect on the applicant firm's business if there were large-scale local redundancies, a recession in the economy, low interest rates or limited demand for its products/services)

**Internal risks:**

The applicant firm should:

* undertake a sensitivity analysis of various scenarios and the possible outcomes (this could be a reduction in business or an increase in business – for example, towards the end of a tax year)
* consider how the applicant firm would manage if it lost key staff
* prepare and maintain a contingency plan that deals with the applicant firm's identified key risks

Compliance monitoring programme

 6.16 You must confirm you have attached a compliance monitoring programme

This will need to be included as part of your application.

The compliance monitoring programme must be relevant to, and tailored to reflect, the applicant firm's proposed business. Each applicant firm's compliance monitoring programme will therefore be unique to itself.

A compliance monitoring programme must describe the actions that the holder of the compliance oversight function and their staff will take to ensure that the applicant firm complies with our rules and guidance at all times. In particular, it must describe:

* what checks will take place
* how often the checks will take place, as appropriate to the procedure being checked – this might be daily, weekly, monthly, quarterly, annually or another period specified by us,
* who will carry out the checks – this is the role of the person who will make the checks, such as the Compliance Officer, Training and Competence Officer or Money Laundering Reporting Officer, and
* what records of the checks will be kept to confirm they have taken place

An example of a compliance monitoring programme can be found below.

Please note that the applicant firm will need to devise its own compliance monitoring programme, based on its proposed business.

**Example of the contents of a compliance monitoring programme**

|  |  |  |  |
| --- | --- | --- | --- |
| **Business risks and regulatory requirements** | **Action to be taken by firm** | **Action to be undertaken by whom?** | **Frequency** |
| New business records are maintained. |  |  |  |
| Financial promotions undertaken are up-to-date and correct. This includes stationery and terms of business letter. |  |  |  |
| Status disclosed on all stationery. |  |  |  |
| Clients are properly classified and given the appropriate range of advice. |  |  |  |
| Adequate complaints records are kept |  |  |  |
| Adequate recruitment records are kept for new advisers. |  |  |  |
| Personal account dealing procedures are maintained. |  |  |  |
| Training and competence records are maintained (including Key Performance Indicators). |  |  |  |
| The fitness and propriety of individuals are established and the applicant firm ensures this is maintained. |  |  |  |
| Approved persons are approved by us and recorded under the correct senior management functions. |  |  |  |
| Conflict of interest records are kept. |  |  |  |
| Financial requirements are maintained . |  |  |  |
| The FCA is notified immediately of any material breaches of FCA principles/rules. |  |  |  |
| The FCA grants approval for changes to:• accounting date• permitted regulated activities, and• directors and partners |  |  |  |
| Adequate management information maintained and provided to senior management. |  |  |  |
| Documented compliance procedures maintained, used in conjunction with an up-to-date copy of the Handbook. |  |  |  |
| Anti-money laundering regulations are complied with. |  |  |  |

Internal control and risk management systems

**6.17 You must provide a brief description of the internal control and risk management systems**

This should include an overview of the monitoring system, internal audits and the advice and assistance functions (see Article 6(h) of the RTS). This includes information on the applicant’s systems, risk appetite, management information (MI), escalation procedures and any other relevant information on the applicant firm’s internal controls and risk management structures.

Financial crime

 **6.18 You must briefly describe the procedures the applicant firm has put in place to counter the risks that it might be used by third parties to further financial crime, including any offence involving:**

**a) fraud or dishonesty**

**b) misconduct in, or misuse of information relating to, financial markets**

**c) handling the proceeds of crime (SYSC 6.3)**

**d) terrorist financing**

This should summarise the applicant firm's anti-money laundering procedures, and may include the following:

* anti-money laundering controls (SYSC 6.3 gives details of the scope and application of the anti-money laundering regime)
* fraud (you could describe the procedures the applicant firm has put into place for notifying us if the firm identifies any irregularities in its accounting records, regardless of whether there is evidence of fraud (SUP 15.3))

Market conduct

 **6.19 You must briefly describe the steps the applicant firm has put in place to counter the risk that it or its staff may engage in activity which constitutes market abuse**

This should summarise the applicant firm's market conduct systems and controls, including monitoring procedures.

Records management

**6.20 You must provide a brief description of the records management policies and procedures the applicant firm will have in place, including record retention policies**

No additional notes.

Manual of procedures

**6.21 You must provide a brief description of the manual of procedures the applicant firm will have in place**

No additional notes.

1. Note the RTS refers to the structure chart as an “organisational chart” [↑](#footnote-ref-1)