Consultation Paper

CP12/40**

Financial Services Authority

Financial Conglomerates Directive – Technical review amendments

HM TREASURY

FSA

December 2012

Preface

This is a joint consultation by the FSA and HM Treasury to transpose amendments to the Financial Conglomerates Directive, the Insurance Groups Directive, the Capital Requirements Directive and, in due course, the Solvency II Directive, into the FSA Handbook and HM Treasury Regulations.

Part 1 explains FSA proposals and contains the proposed Handbook text with which firms must comply.

Part 2 explains HM Treasury proposals to legislate for procedural aspects of the Directive and contains the proposed Statutory Instrument.

Contents

The Financial Services Authority invites comments on this Consultation Paper.

Comments should reach us by 21 March 2013.

Comments may be sent by electronic submission using the form on the FSA's website at: www.fsa.gov.uk/Pages/Library/Policy/CP/2012/cp12-40-response.shtml.

Alternatively, please send comments in writing to:

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HM Treasury invites comments on Part 2 of this Consultation Paper. Respondents are encouraged to reply via email to: michael.harvey@hmtreasury.gsi.gov.uk

Alternatively you can reply by post to:

Financial Conglomerates amending Directive Consultation,
c/o The Insurance and Savings Team,
HM Treasury,
1 Horse Guards Road,
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It is the FSA's policy to make all responses to formal consultation available for public inspection unless the respondent requests otherwise. A standard confidentiality statement in an email message will not be regarded as a request for non-disclosure.

A confidential response may be requested from us under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Tribunal.

Copies of this Consultation Paper are available to download from our website – www.fsa.gov.uk. Alternatively, paper copies can be obtained by calling the FSA order line: 0845 608 2372.

Part 1

Abbreviations used in this paper

AIFM	Alternative Investment Fund Manager
AIFMD	Alternative Investment Fund Managers Directive (2011/61/EC)
AMC	Asset Management Company
BCD	Banking Consolidation Directive
CBA	Cost Benefit Analysis
CP	Consultation Paper
CRD	Capital Requirements Directive (2006/48/EC)
CRR	Capital Requirements Regulation
CRR 2006	Capital Requirements Regulations 2006
EC	European Commission
ESAs	European Supervisory Authorities
FCA	Financial Conduct Authority
FHC	Financial Holding Company
FICOD	Financial Conglomerates Directive (2002/87/EC)
FICOD1	Financial Conglomerate Directive Technical review (2011/89/EU)
FICOD2	Financial Conglomerate Directive Fundamental review
FSMA	Financial Services and Markets Act 2000
GENPRU	General Prudential Sourcebook

IGD	Insurance Groups Directive (98/78/EC)
IHC	Insurance Holding Company
IPRU(INS)	Interim Prudential Sourcebook for Insurers
MFHC	Mixed Financial Holding Company
PRA	Prudential Regulation Authority
RTS	Regulatory Technical Standards
Solvency II	Solvency II Directive (2009/138/EC)
the Act	Financial Services Act 2012
the draft Regulations	The Financial Conglomerated and Other Financial Groups (Amendment) Regulations 2013
UCITS	Undertakings for Collective Investment in Transferable Securities Directive (2009/65/EC)
2004 Regulations	Financial Conglomerates and Other Financial Regulations 2004

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Overview of Parts 1& 2

Background and purpose of the technical review

1.1 The Financial Conglomerates Directive (FICOD) came into effect in 2005. It applies supplementary prudential supervision to mixed financial groups that carry out both banking/investment firm activities and insurance activities of a significant size.

1.2 The purpose of the Directive is to address risks which arise in a cross-sectoral context, in particular:

- the multiple use of capital by several entities;
- contagion risk, concentration risk, complexity and conflicts of interest; and
- regulatory arbitrage.

1.3 FICOD came into force with a review clause of the Directive scheduled for 2007. The review was later postponed so that supervisors could gain more experience with the implementation of the original Directive.

1.4 In 2008 the European Commission (EC) commenced the technical review known as 'FICOD1', which evaluated the effectiveness of FICOD, concentrating on technical issues following a stocktake of existing national implementation practices.

1.5 The main objective of this technical review was to correct unintended consequences and improve the effectiveness of the current rules, focusing on definitions, scope and internal control requirements.

1.6 On 16 November 2011, the European Parliament and Council adopted the amending Directive 2011/89/EU, which revised amongst other things the existing Financial Conglomerates Directive (2002/87/EC). The amending Directive entered into force on 9 December 2011. Member States are obliged to transpose the Directive into national legislation by 10 June 2013.

1.7 A more fundamental review of the Directive (FICOD2) is currently underway.

Summary of changes

1.8 This consultation sets out the way in which the UK intends to implement the amending Directive. Responsibility for this is shared between HM Treasury, which is required to amend secondary legislation including the Financial Conglomerates and Other Financial Groups Regulations 2004, and the FSA which is required to amend the FSA Handbook. This joint consultation paper contains two parts, each dealing with the separate areas of responsibility of the FSA and HM Treasury.

1.9 The key amendments are changes to the application of conglomerate supervision to ensure it does not substitute sectoral supervision when a group is headed by a bank, or insurance holding company. Amendments to conglomerate capital calculations methodology, the inclusion of asset management companies and alternative investment fund managers within the conglomerate identification process, and changes to conglomerate identification thresholds triggers. Proposals are also made for conglomerate stress testing.

Structure and content of Part 1 of this Consultation Paper (CP)

1.10 We are consulting on FICOD1 changes jointly with HM Treasury as both the Handbook and secondary legislation, in particular the Financial Conglomerates and Other Financial Groups Regulations 2004, will need to be amended.

1.11 We have set out the chapters as follows:

1.12 Chapter 2: Technical Review amendments. This chapter sets out our approach to the transposition of FICOD1 amendments and provides the background to these proposals.

1.13 Chapter 3: Policy proposals. This chapter sets out proposals made with respect to conglomerate capital adequacy methodology and stress testing.

1.14 Annex 1 and Annex 2 contain the cost benefit analysis and compatibility statement.

1.15 Annex 3 lists the consultation questions.

1.16 Appendix 1 contains the draft Handbook text.

1.17 Appendix 2 explains how the Handbook provisions will be designated between the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA).

Structure and content of Part 2 of this Consultation Paper (CP)

1.18 Chapter 1: This chapter sets out the amendments to HM Treasury legislation.

1.19 Annex 1 contains the draft HM Treasury Statutory Instrument.

Timetable and next steps

1.20 Comments on this CP should reach us by 21 March 2013.

We will review responses to the consultation: final rule instruments and policy statements will be issued by the new Prudential Regulation Authority and Financial Conduct Authority once they acquire their legal powers, as provided by the Financial Services Act 2012 (the Act). Amendments will also be made to HM Treasury legislation.

Regulatory Reform

1.21 On the basis that the rules proposed in this CP will be made by the new Prudential Regulation Authority and Financial Conduct Authority, we set out details of our regulatory reform in this section.

1.22 The Financial Services Bill was introduced in the House of Commons on 26 January 2012, it received Royal Assent on 19 December 2012 and has now become an Act of Parliament.

1.23 The Act (and the necessary secondary legislation that will support it) provides for the creation of the new UK regulatory architecture. The new Prudential Regulation Authority (PRA), a subsidiary of the Bank of England, will prudentially supervise deposit takers, insurers and a small number of significant investment firms. The Financial Conduct Authority (FCA) will be responsible for regulating conduct in retail and wholesale markets; supervising the trading infrastructure that supports those markets; and, for the prudential regulation of firms not prudentially regulated by the PRA.[1] The Act makes changes to the Financial Services and Markets Act 2000 (FSMA).

1.24 The FSA, PRA and FCA rulebooks, will come into effect when the new regulators acquire their legal powers (which we refer to as 'legal cutover'). This is expected to be 1 April 2013. The overall approach to amending the rulebook ready for legal cutover is based on only making the changes that are required to implement the Act and to support the creation of the new regulatory structure.

1.25 A key element of this approach is that when the PRA and FCA acquire their new legal powers, provisions in the existing FSA Handbook will be adopted, or 'designated' by the PRA, by the FCA or by both regulators, to form new PRA and FCA rulebooks. As a result, the majority of the provisions in the existing FSA Handbook will be carried forward to the new regulators in their respective rulebooks. Readers will be able to see which provisions have been adopted or 'designated' by each regulator to form new PRA and FCA rulebooks. From legal cutover, the PRA and FCA will amend those provisions in line with their respective objectives and functions, consulting and co-ordinating with each other as appropriate. More information can be found in a 'one minute guide' to designation, which was published in June 2012.[2]

1 Further detail on the proposed new UK regulatory framework has been set out in a number of papers published by the Government and by the FSA and Bank of England. Please see the FSA's webpages on regulatory reform at www.fsa.gov.uk/about/what/reg_reform. www.fsa.gov.uk/about/what/reg_reform.

2 www.fsa.gov.uk/smallfirms/resources/one_minute_guides/about_fsa/handbook-pra-fca.shtml

Equality and diversity

1.26 We have considered the equality and diversity issues that may arise from the proposals in this CP. We have concluded that the proposals do not give rise to discrimination or equality issues.

1.27 We would welcome any comments respondents may have on any equality and diversity issues they believe arise from our proposals.

Who should read this CP?

1.28 The content of this CP will be relevant to financial conglomerates and financial groups which carry out activities in both banking/investment and insurance sectors.

CONSUMERS

Our prudential requirements for cross-sectoral groups are a means of achieving our consumer protection and financial stability objectives. The introduction of new provisions under FICOD1 is considered a strengthening of the regime and therefore continuing to meet our objectives.

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Technical review amendments

2.1 The FICOD1 amendments are aimed at correcting specific technical problems that have been identified. They are not intended to constitute any change to the objective of conglomerate supervision, which remains to address cross-sectoral risks in large complex financial groups.

2.2 FICOD1 amends banking and insurance supervision legislation, namely the Capital Requirements Directive (CRD) (2006/48/EC), the Insurance Groups Directive (IGD) (98/78/EC) and Solvency II Directive (Solvency II) (2009/138/EC).

2.3 The changes to the existing regimes must come into effect by 10 June 2013. The amendments that FICOD1 makes in respect of alternative investment fund managers (AIFMs) have a delayed transposition date of 22 July 2013, in line with the transposition date for the AIFM Directive. Regarding Solvency II, Member States are required to bring into force the laws, regulations and administrative provisions necessary to comply with this Directive from 30 June 2013, with Member States required to apply the laws, regulations and administrative provisions from 1 January 2014. However, this implementation timetable will be subject to delay, with confirmation expected in early 2013, we do not intend to finalise Solvency II transposition at this stage. We will make the changes to Solvency II required by FICOD1 when we transpose Solvency II.

2.4 This CP deals with the transposition of the FICOD1 changes into the Handbook. There is limited scope to exercise discretion in this transposition, therefore, we intend broadly to take an approach of copying the Directive text into our Handbook without supplementary provisions or guidance in order to implement FICOD1.

2.5 The FICOD1 amendments for which we intend to take this approach are set out in the rest of this chapter. Areas where we have exercised a degree of discretion and provide more rules or guidance than are set out in the Directive text are set out in Chapter 3.

2.6 The five key FICOD1 amendments are as follows:

Amendments to restore supplementary supervision at holding company level

2.7 Currently, the application of FICOD and sectoral rules is affected by the structure of a conglomerate. A group headed by a regulated entity, either a bank or an insurance company, will be subject to both sectoral and FICOD supervision.

2.8 When a financial conglomerate is headed by a holding company, sectoral rules fall away at the level of the holding company because a sectoral holding company cannot also be a Mixed Financial Holding Company (MFHC). Therefore, the FICOD provisions substitute instead of supplementing the sectoral rules. This is an unintended consequence resulting from the interactions of holding company definitions and the application of sectoral provisions.

2.9 FICOD1 maintains mutually exclusive holding company definitions but amends the application of sectoral and FICOD rules to ensure all relevant regimes are applied to the entire group regardless of legal structure.

Inclusion of asset management companies (AMCs) and alternative investment fund managers (AIFMs) in the threshold calculations that identify a financial conglomerate

2.10 The FSA currently takes AMCs into account within the scope of supplementary supervision but not as part of the identification process of a financial conglomerate.

2.11 FICOD1 brings AMCs as defined in the UCITS Directive 2009/65/EC and AIFMs as defined in the AIFMD 2009/65/EC into the threshold calculations which identify a financial conglomerate. AMCs and AIFMs have been brought into the identification threshold because they form part of many complex groups and can pose potential risks to other group entities. Excluding them from the identification process can also distort the relative balance of a sector and make one sector appear artificially large in relation to the other.

2.12 FICOD1 requires that, if AMCs and AIFMs do not belong exclusively to one sector, they are to be added to the smallest sector when testing whether a group meets the size criteria to be defined as a financial conglomerate.

2.13 AMCs generally fall into two broad categories: those that provide intra-group services to regulated firms within the group and those that provide services to third parties. In the former case the AMC will normally be added to the larger sector and therefore be unlikely to affect the number of UK conglomerates identified while, in the latter case, the AMC will be added to the smaller sector and may potentially affect conglomerate identification.

2.14 Given that AIFMD is not currently in place, we have not been able to determine whether this change will affect the number of UK conglomerates identified.

2.15 Related to this amendment, FICOD currently sets out alternative criteria that can be used, in exceptional circumstances and by common agreement, to determine the significance of the financial sectors of a group. The balance sheet total measure can be replaced or supplemented with one or both of the following measures: 'income structure' and 'off-balance sheet

activities'. FICOD1 adds to this the further measure of 'assets under management'. This enables supervisors to assess the risks posed by the group which may not be apparent in the balance sheet.

2.16 FICOD1 also introduces common guidelines to converge supervisory practices for the thresholds which identify a financial conglomerate; this includes guidelines on specifying the alternative parameters.

New waiver provision to exclude groups whose smallest financial sector, taking the average ratio of the smallest financial sector to the total financial sector for a) solvency/capital requirements and b) total balance sheet assets, exceeds 10% but is less than €6 billion

2.17 Under the current FICOD Article 3.3, the relevant competent authorities may by common agreement choose not to regard a group as a financial conglomerate, or to disapply the FICOD rules on capital adequacy, risk concentration and intra-group transactions, if they believe that applying FICOD, or at least the rules mentioned above, would be unnecessary or inappropriate or misleading regarding the objectives of supplementary supervision. This current waiver is available when the group's smallest financial sector, when taking the average ratio of the smallest financial sector to the total financial sector for a) solvency/capital requirements and b) total balance sheet assets, is less than 10% but exceeds €6 billion.

2.18 FICOD1 introduces the new waiver provision as currently the 10% threshold can result in very small groups being subject to mandatory supplementary supervision. The intention of the new waiver provisions is to be more risk-based and permit waivers for small and heterogeneous groups if their risk profile justifies exemption and the supervisor assesses the group risks to be negligible.

2.19 Any waivers that fully or partially disapply the FICOD must be made public; it is likely the European Supervisory Authorities (ESAs) will publish a list of all identified conglomerates, highlighting those for which FICOD has been disapplied. All waivers will be annually reassessed.

Ability to exclude one or more participations in the smallest financial sector if they are decisive in identifying a conglomerate and are collectively of negligible interest with respect to the objectives of supplementary supervision

2.20 The review of the Directive revealed that the inclusion of participations within the scope of supplementary supervision can cause difficulties where participations in the smallest sector are the sole trigger for the identification of a group as a financial conglomerate. This is because it can be difficult for minority owners to access information, and consequently for supervisors to assess group risks. This amendment allows relevant competent authorities to assess and come to a common view on whether consolidating such participations is necessary or appropriate regarding the objectives of supplementary supervision.

Requirement for conglomerates to provide competent authorities with details of their legal structure and governance and organisational structure, and publicly disclose this information on an annual basis

2.21 This amendment is to ensure appropriate regulatory oversight and transparency to the market and consumers.

Q1: Do you agree with our approach to implementing these amendments by copying the text of the Directive?

3

Policy proposals

3.1 While we broadly intend to take an approach to implementing FICOD1 whereby we copy the Directive text directly into our Handbook, there some areas in which we have chosen to develop our policy further or differently to the way in which we previously applied it. In general this allows more flexibility in approach based on the judgements which individual supervisors will make regarding a group's particular circumstances. We propose:

a) Using current information powers under the Imposition of requirements by PRA section 55M or Imposition of requirements by FCA section 55L or by a rule to require firms to perform stress testing across the whole of a financial conglomerate.

b) Allowing financial conglomerates having consulted the PRA or FCA as appropriate to decide the calculation method they will apply.

c) Requiring financial conglomerates annually to report capital adequacy data in a way agreed with supervisors instead of using the current regulatory returns.

Financial conglomerate stress testing.

3.2 FICOD1 allows supervisors of the financial conglomerate to decide the appropriateness, parameters and timing of a stress test for the financial conglomerate as a whole. The ESAs, through the Joint Committee, may develop supplementary parameters for EU-wide stress tests, capturing group risks that materialise in a conglomerate. Where permitted by sectoral legislation it is expected that the results of the stress tests will be published by the Joint Committee. It is expected that the stress tests should take account of liquidity and solvency risks.

3.3 At present we do not require financial conglomerates to carry out stress tests, but we may do so in the future using our powers under the Imposition of requirements by PRA section 55M or Imposition of requirements by FCA section 55L or by a rule to require firms which are part of a conglomerate to carry out stress tests for the conglomerate as a whole using such parameters as are proposed by the ESAs. Our current stress testing rules set out in GENPRU

1.2, which apply to banks/investment firms and insurers, include the need to take account of group risks. Therefore, unless and until the ESAs develop specific proposals for EU-wide conglomerate stress testing, we do not envisage any significant changes to our supervisory practices. In effect this would mean that a stress test is carried out on the banking/investment sector and the insurance sector at the same time rather than in sector silos at differing times, taking account of any further conglomerate specific risks identified by the Joint Committee.

Q2: Do you agree with the manner in which we require conglomerate stress testing to be undertaken?

Amendments to the methods for calculating financial conglomerate group solvency

3.4 One of the objectives of the Directive is to address the multiple use of capital. It does this by requiring a conglomerate capital calculation using the methods prescribed in FICOD. Regulated entities within a conglomerate are required to ensure that they have sufficient capital at the level of the conglomerate to meet the sum of the sectoral capital requirements.

3.5 Our original implementation of FICOD in 2004 was designed to cause minimum change to the existing sectoral group regimes, taking into account the fact that these already addressed cross-sector holdings in a way that was compatible with FICOD. Currently, therefore, the same sectoral group rules apply equally to sectoral and conglomerate groups (according to whether they operate predominantly in the banking or insurance sector).

3.6 We have currently implemented the combination method (method 4) to calculate the financial conglomerates capital resources in the following way:

- For a banking/investment-led conglomerate:
  - the 'accounting consolidation' method for banking/investment firm entities (method 1); and
  - the 'higher of the book value and capital requirement deduction' method for insurance entities (method 3).
- For an insurance-led conglomerate:
  - the 'aggregation & deduction' method for banking and insurance entities (method 2); and
  - the 'higher of the book value and capital requirement deduction' method for ancillary services undertakings (method 3).

3.7 FICOD1 removes method 3 as an allowable method for calculating conglomerate solvency. Therefore we are required to change our rules to replace the current use of method 3 with one of the remaining methods.

3.8 In the last few months we conducted a survey amongst a few existing conglomerate groups (discussed in more detail in Annex 1), and found there is little or no difference in the solvency position as calculated under methods 1 and 2. However, there are limitations to the data collected as some groups struggled to calculate under method 2.

3.9 In replacing the current combination method, we propose that the financial conglomerate will choose which method it will apply, after consulting the PRA or FCA as appropriate. The PRA/FCA, as coordinator (after consulting other relevant competent authorities), may decide to impose a particular method by varying the firm's Part IV permission if we disagree with the choice of method used or consider the combination method would be more appropriate.

3.10 We expect in most cases that banking/investment-led conglomerates will use method 1 and that insurance-led conglomerates will use method 2, at least until Solvency II is implemented.

Q3: Do you agree that the financial conglomerate, having consulted the PRA/FCA, should choose which calculation method it will apply?

For the purpose of carrying out the conglomerate calculations, the Joint Committee of the European Supervisory Authorities has recently drafted Regulatory Technical Standards (RTS) on the uniform conditions of application of the FICOD consolidation calculation methods.

1.1 The Joint Committee recently consulted on draft RTSs for the calculation methods under Article 6.2 of FICOD (JC/CP/2012/02). These RTSs will be part of the single rulebook aimed at enhancing regulatory harmonisation in the European Union. The RTSs are to be submitted to the EU Commission by 1 January 2013.

1.2 The RTSs, drafted on the basis of CRD 4, CRR and Solvency II, set out specifications for institutions in a financial conglomerate to ensure uniform conditions of application of the calculation methods for determining the amount of capital required at the level of the financial conglomerate.

Conglomerate capital adequacy reporting changes.

3.11 FICOD currently requires the submission of the conglomerate solvency calculation at least once a year. We currently rely on:

- the regulatory return FSA003 for banking/investment-led conglomerates;
- forms 1, 2 and 3 in Appendix 9.1; and
- Insurance Group Capital Adequacy Reporting Form (Form 95) in Appendix 9.9 for insurance conglomerates to meet this requirement on an annual and semi-annual basis respectively.

3.12 Given that the calculation methods available will now require consolidation of insurers for banking/investment-led conglomerates and ancillary services undertakings for insurance-led conglomerates, the current reporting forms will become unusable.

3.13 Furthermore, as FICOD1 amendments are due to be implemented in June 2013, halfway through the financial year; the conglomerate capital adequacy return for 2013 will have to be reported on the new basis in Q1 2014. In addition, Solvency II and CRD 4/CRR may necessitate further changes to the calculation of group capital in the following year or shortly thereafter.

3.14 In the light of these uncertainties, the small number of conglomerates concerned, and the low frequency of reporting required we do not intend to introduce a new regulatory return. Rather, we will require conglomerates to agree with their supervisor the form in which sufficient data to show that the conglomerate capital requirements have been met is submitted. This should minimise the costs of a mid-year change to reporting requirements and avoid two significant changes in close succession.

Q4: Do you agree with the method by which we intend to collect conglomerate capital adequacy data?

Annex 1

Cost benefit analysis

1. This annex provides a cost benefit analysis of the policy changes outlined in the CP. We expect that the proposals set out in this CP will be made by the Boards of the new regulators, the PRA and FCA, rather than by the FSA. As a result, the relevant cost benefit analysis (CBA) requirements are those set out in sections 138I and 138J of the revised version of the FSMA rather than those in section 155 of the original version of the FSMA. This CBA is informed by a pre-consultation survey sent to a selected population of firms.

2. This CP deals with the transposition of the FICOD1 amendments, which aim to correct some identified unintended consequences of the FICOD. The amendments and policy proposals will apply to all entities deemed financial conglomerates in the UK. Currently, there are six financial conglomerates in the UK to which we apply supplementary supervision, including several large groups, with banking and insurance operations both in the domestic UK and broader global markets. Ongoing changes mean that financial conglomerates may move in and out of scope over time. Our CBA below is based on the current number and nature of financial conglomerates in the UK.

Key amendments for which we intend to take a copy-out approach

3. We intend to take a copy-out approach for the following FICOD1 amendments, which aim to address regulatory failure that arises due to unintended consequences of the current FICOD rules: (i) restoring supplementary supervision at holding company level; (ii) including AMCs and AIFMs in the threshold calculations for conglomerate identification; (iii) new waiver provisions; and (iv) excluding certain participations if they trigger the identification of a conglomerate.

4. Conglomerates will also be required to provide competent authorities with details of their legal and governance and organisation structure, as well as to disclose this publicly. If this amendment leads to additional information this could enhance supervisors' ability to assess group-wide risks. The additional information could also help in reducing costs associated with crisis situations and, in particular, with resolving complex organisations. The costs and benefits will depend on the extent to which such information is already available to

supervisors and how supervisors incorporate such information in their regular, ongoing evaluations. This amendment may help foster market discipline to the extent that this information is not already available to the market and that the market, including, for example, shareholders, creditors, or consumers, uses such information in its decision-making or price-setting processes.

Areas where we have chosen to exercise policy option

5. **Financial conglomerate stress testing.** The proposal is to carry out stress tests for the conglomerate as a whole, using such parameters as proposed by the ESAs to facilitate EU-wide stress testing. This could help identify group risks that manifest in a conglomerate whose primary business markets include the EU. Current requirements for stress testing under GENPRU 1.2 already require banking and insurance groups to undertake regular stress tests that account for wider group risks. Therefore, unless and until ESAs develop specific proposals for EU-wide conglomerate stress testing, we do not envisage significant changes to our supervisory practices.

6. There could be some impact on firms' compliance costs: on one hand, there could be a reduction as one stress test rather than two separate stress tests will be required; on the other hand, it could be very costly for firms to conduct a stress test covering the entire conglomerate given currently, stress testing for insurance and banking are not done at the same time. In addition, depending on the parameters used in conglomerate stress testing, there could also be implications on groups' capital and liquidity requirements. Therefore, the cost and benefit implication of this proposal will depend on the details of stress testing requirements.

7. **Revision to conglomerate capital calculation methodology.** FICOD1 removes the Book Value method (Method 3) as an allowable method for calculating conglomerate solvency. We propose allowing the financial conglomerate, after consulting the supervisors, to decide the calculation method. To help understand the impact, we carried out a survey of eight cross-sector groups and received five responses. Responses indicated that the impact produced a slight improvement in group solvency. For banking-led conglomerates the improvement ranged from 4% to 16%, depending on the insurance investment; for insurance-led conglomerates, the improvement was about 2.5%.

8. **Conglomerate capital adequacy reporting changes.** For an interim period, conglomerates discuss with supervisors the form in which the annual data on the conglomerate capital adequacy reporting is collected. This is a pragmatic approach as the current reporting forms will become unusable given the calculation methods available, and Solvency II and CRD 4/CRR may necessitate further changes to the calculation of group capital.

9. To the extent that mutuals can be financial conglomerates there is no difference in impact to them than to other authorised persons.

Q5: Do you agree with our cost benefit analysis?

Annex 2

Compatibility statement

Compatibility with the FSA's General Duties

1. This paper consults on rules which we expect to be made by the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA) in 2013. As such, this section sets out the compatibility of these rules with the PRA and FCA's general duties, in line with the amendments to the Financial Services and Markets Act 2000 (FSMA) as amended by the Financial Services Act 2012.

Compatibility with the Prudential Regulation Authority

2. We believe all proposed changes are compatible with this duty. The intention of the FICOD is to address cross-sectoral risks, and the amendments proposed strengthen supplementary supervision in large complex groups, furthering financial stability and policy-holder protection. The proposed policies to expand stress testing requirements for financial conglomerates act to improve the oversight and detection of key risks, which also increases the likelihood of financial stability and policyholder protection.

Compatibility with the Financial Conduct Authority's General Duties

3. In carrying out its general functions, the FCA must, so far as is reasonably possible, act in a way that: (a) is compatible with its strategic objective; and (b) advances one or more of its operational objectives (section 1B(1) FSMA, as amended by the Act). We believe the policy proposals and draft rules in this CP contribute to the proposed statutory and regulatory objectives of the FCA and are compatible with the draft principles of good regulation. We expect these draft rules to support our consumer protection by ensuring financial conglomerates are adequately capitalised and by ensuring that policyholders, investors and other market participants have access to information about the groups. Our proposals will generally improve the functioning of the markets used by financial conglomerates and financial groups.

Annex 3

List of questions

Q1: Do you agree with our approach to implementing these amendments by copying the text of the Directive?

Q2: Do you agree with the manner in which we require conglomerate stress testing to be undertaken?

Q3: Do you agree that the financial conglomerate, having consulted the PRA/FCA, should choose which calculation method it will apply?

Q4: Do you agree with the method by which we intend to collect conglomerate capital adequacy data?

Q5: Do you agree with our cost benefit analysis?

Appendix 1

Draft Handbook text

FINANCIAL CONGLOMERATES DIRECTIVE (HANDBOOK AMENDMENTS NO X) INSTRUMENT 2013

Powers exercised

A. The Prudential Regulation Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 ("the Act"):

(1) section 137E (The PRA's general rules); and
(2) section 137R (General supplementary powers).

The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 ("the Act"):

(1) section 137A (The FCA's general rules);
(2) section 138D (Actions for damages);
(3) section 137R (General supplementary powers); and
(4) section 139A (Power of the FCA to give guidance).

B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force on [*date*].

Amendments to the Handbook

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

(1)	(2)
Glossary	Annex A
General Prudential Sourcebook for Banks, Building Societies, Insurers and Investment Firms (GENPRU)	Annex B
Prudential Sourcebook for Banks, Building Societies and Investment Firms (BIPRU)	Annex C
Prudential Sourcebook for Insurers (INSPRU)	Annex D
Interim Prudential Sourcebook: Insurers (IPRU(INS))	Annex E
Regulatory Processes Sourcebook for Supervision (SUP)	Annex F
Prudential sourcebook for Solvency II Insurers (SOLPRU)	Annex G

Citation

E. This instrument may be cited as the Financial Conglomerates Directive (Handbook Amendments No X) Instrument 2013.

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 all new and is not underlined.

alternative investment fund manager	a manager of alternative investment funds within the meaning of article 4(1)(b), (l) and (b) of Directive 2011/61/EU or an *undertaking* which is outside the *EEA* and which would require authorisation in accordance with if it had its registered office within the *EEA*.
FICOD 1	the European Parliament and Council Directive amending Directives 98/78/EC, 2002/87/EC, 2006/48/EC and 2009/138/EC regarding the supplementary supervision of financial entities in a financial conglomerate (No 2011/89/EU)
MFHC conglomerate	a *financial conglomerate* which is headed by a *mixed financial holding company*
ultimate mixed financial holding company	a *mixed financial holding company* which is not itself the *subsidiary undertaking* of another *mixed financial holding company, insurance parent undertaking,* or *financial holding company.*

Amend the following definitions as shown.

conglomerate capital resources	(in relation to a *financial conglomerate* with respect to which *GENPRU* 3.1.29R (Application of method~~s~~ 1~~, 2~~ or ~~3~~ 2 from Annex I of the *Financial Groups Directive*) applies) capital resources as defined in whichever of paragraphs 1.1~~,~~ or ~~3.1~~ 2.1 of *GENPRU* 3 Annex 1R (Capital adequacy calculations for financial conglomerates) applies with respect to that *financial conglomerate*.
conglomerate capital resources requirement	(in relation to a *financial conglomerate* with respect to which *GENPRU* 3.1.29R (Application of method~~s~~ 1~~, 2~~ or ~~3~~ 2 from Annex I of the *Financial Groups Directive*) applies) the capital resources requirement defined in whichever of paragraphs 1.3~~,~~ or ~~3.3~~ 2.4 of *GENPRU* 3 Annex 1R (Capital adequacy calculations for financial conglomerates) applies with respect to that *financial conglomerate*.

FSA regulated EEA financial conglomerate	a *financial conglomerate* (other than a *third-country financial conglomerate*) that satisfies one of the following conditions: (a) ~~*GENPRU* 3.1.26 or~~ *GENPRU* 3.1.29R (Capital adequacy calculations for *financial conglomerates*) applies with respect to it; or (b) a *firm* that is a member of that *financial conglomerate* is subject to obligations imposed through its *Part IV permission* to ensure that *financial conglomerate* meets levels of capital adequacy based or stated to be based on Annex I of the *Financial Groups Directive*.
investment services sector	a sector composed of one or more of the following entities: (a) an *investment firm*; (b) a *financial institution*; and (c) (in the circumstances described in GENPRU 3.1.39R (The financial sectors: Asset management companies and alternative investment fund managers)) an *asset management company* or an *alternative investment fund manager*
insurance parent undertaking	a *parent undertaking* which is: (a) a *participating insurance undertaking* which has a *subsidiary undertaking* that is an *insurance undertaking*; or (b) an *insurance holding company* or a *mixed financial holding company* which has a *subsidiary undertaking* which is an *insurer*; or (c) an *insurance undertaking* (not within (a)) which has a *subsidiary undertaking* which is an *insurer*.
regulated entity	one of the following: … An *asset management company* is treated as a regulated entity for the purposes described in *GENPRU* 3.1.39R (The financial sectors: *asset management companies*). An *alternative investment fund manager* is treated as a regulated entity for the purposes described in *GENPRU* 3.1.39R (The financial sectors: alternative investment fund managers).

Annex B

Amendments to the General Prudential Sourcebook for Banks, Building Societies, Insurers and Investment Firms (GENPRU)

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

Note to reader: Consequential changes to GENPRU 3 pursuant to the transposition of the Solvency II Directive were also proposed by CP12/33 (Transposition of Solvency II – Part 2).

3.1.1 R …

(3) *GENPRU* 3.1.25 R (Capital adequacy requirements: high level requirement), ~~*GENPRU* 3.1.29R (Capital adequacy requirements: application of Methods 1, 2 or 3 from Annex I of the Financial Groups Directive)~~ and *GENPRU* 3.1.35R (Risk concentration and intra group transactions: the main rule) do not apply with respect to a *third-country financial conglomerate*.

…

3.1.8 R …

(2) Any *mixed financial holding company* is considered to be outside the *overall financial sector* for the purpose of the tests set out in the boxes titled Threshold Test 1, Threshold Test 2, ~~and~~ Threshold Test 3 or Threshold Test 3A in the *financial conglomerate definition decision tree*.

(3) Determining whether the tests set out in the boxes titled Threshold Test 2 and in Threshold Test 3 or Threshold Test 3A in the *financial conglomerate definition decision tree* are passed is based on considering the consolidated and/or aggregated activities of the members of the *consolidation group* within the *insurance sector* and the consolidated and/or aggregated activities of the members of the *consolidation group* within the *banking sector* and the *investment services sector*.

3.1.9 R (3) The figure of six billion Euro in the box titled Threshold Test 3 or Threshold Test 3A is replaced by five billion Euro.

…

3.1.17 G Annex I of the *Financial Groups Directive* lays down ~~four~~ three methods for calculating capital adequacy at the level of a financial conglomerate. Those ~~four~~ three methods are implemented as follows:

…

(3) ~~Method 3 calculates capital adequacy using book values and the deduction of capital requirements. It is implemented by~~ *GENPRU* 3.1.29R ~~to~~ *GENPRU* 3.1.31R ~~and Part 3 of~~ *GENPRU* 3 Annex 1R

~~(4)~~ ~~Method 4~~ Method 3 consists of a combination of Methods ~~1, 2 and 3~~ 1 and 2 from Annex I of the *Financial Groups Directive*~~, or a combination of two of those Methods~~. ~~It is implemented by~~ GENPRU 3.1.26R ~~to *GENPRU* 3.1.28R,~~ GENPRU 3.1.30R ~~and Part 4~~ Part 3 of *GENPRU* ~~3 Annex 1.~~ It would be implemented by means of a *requirement* on the *firm's Part IV permission*.

3.1.18 G ~~Part 4 of *GENPRU* 3 Annex 1R (Use of Method 4 from Annex I of the Financial Groups Directive) applies the *FSA's sectoral rules* with respect to the *financial conglomerate* as a whole, with some adjustments. Where Part 4 of *GENPRU* 3 Annex 1R applies the *FSA's sectoral rules* for:~~

(1) ~~the *insurance sector*, that involves a combination of Methods 2 and 3; and~~

(2) ~~the *banking sector* and the *investment services sector*, that involves a combination of Methods 1 and 3Method.~~ [deleted]

…

3.1.20 G ~~(1) In the following cases, the *FSA* (acting as *coordinator*) may choose which of the four methods for calculating capital adequacy laid down in Annex I of the *Financial Groups Directive* should apply:~~

~~(a) where a *financial conglomerate* is headed by a regulated entity that has been authorised by the *FSA*; or~~

~~(b) the only *relevant competent authority* for the *financial conglomerate* is the *FSA*~~

~~(2) *GENPRU* 3.1.28R automatically applies Method 4 from Annex I of the *Financial Groups Directive* in these circumstances except in the cases set out in *GENPRU* 3.1.28R(1)(e) and *GENPRU* 3.1.28R(1)(f). The process in *GENPRU* 3.1.22G does not apply.~~ [deleted]

3.1.21 G ~~Where GENPRU 3.1.20G does not apply, the~~ The Annex I method to be applied ~~is~~ may be decided by the *coordinator* after consultation with the *relevant competent authorities* and the *financial conglomerate* itself. Where the *FSA* acts as coordinator, then the *financial conglomerate* itself may choose which of Method 1 or Method 2 from Annex I it will apply, unless the *firm's Part IV permission* contains a *requirement* obliging the

firm to apply a particular method.

3.1.22 ~~G~~ ~~The method of calculating capital adequacy chosen in respect of a *financial conglomerate* as described in *GENPRU* 3.1.17G will may be applied with respect to that *financial conglomerate* by varying the *Part IV permission* of a *firm* in that *financial conglomerate* to include a *requirement*. That *requirement* will have the effect of obliging the *firm* to ensure that the *financial conglomerate* has capital resources of the type and amount needed to comply with whichever of the methods in *GENPRU* 3 Annex 1R is to be applied with respect to that *financial conglomerate*. The powers in the *Act* relating to *waivers* and varying a firm's *Part IV permission* can be used to implement one of the methods from Annex I of the *Financial Groups Directive* in a way that is different from that set out in *GENPRU* 3.1 and *GENPRU* 3 Annex 1R if that is necessary to reflect the consultations referred to in *GENPRU* 3.1.21G.~~[deleted]

3.1.23 G ~~If there is more than one *firm* in a *financial conglomerate* with a *Part IV permission*, the *FSA* would not normally expect to apply the *requirement* described in GENPRU 3.1.22 G to all of them. Normally it will only be necessary to apply it to one.~~

[deleted]

3.1.24 G ~~The *FSA* expects that in all or most cases falling into *GENPRU* 3.1.21G, the *rules* in Part 4 of *GENPRU* 3 Annex 1R will be applied.~~ [deleted]

…

Capital adequacy requirements: application of ~~Method 4 from~~ Annex I of the Financial Groups Directive

3.1.26 G ~~If this *rule* applies under *GENPRU* 3.1.27R to a *firm* with respect to a *financial conglomerate* of which it is a member, the f*irm* must at all times have capital resources of an amount and type:~~

~~(1) that ensure that the *financial conglomerate* has capital resources of an amount and type that comply with the rules applicable with respect to that *financial conglomerate* under Part 4 of *GENPRU* 3 Annex 1R (as modified by that annex); and~~

~~(2) that as a result ensure that the firm complies with those *rules* (as so modified) with respect to that financial conglomerate.~~ [deleted]

3.1.27 R ~~*GENPRU* 3.1.26R applies to a *firm* with respect to a *financial conglomerate* of which it is a member if one of the following conditions is satisfied:~~

~~(1) the condition in *GENPRU* 3.1.28 R is satisfied; or~~

~~(2) this *rule* is applied to the *firm* with respect to that *financial conglomerate* as described in GENPRU 3.1.30 R.~~ [deleted]

~~Capital adequacy requirements: compulsory application of Method 4 from Annex~~

~~I of the Financial Groups Directive~~

3.1.28 R ~~(1)~~ ~~The condition in this *rule* is satisfied for the purpose of *GENPRU* 3.1.27R(1) with respect to a *firm* and a *financial conglomerate* of which it is a member (with the result that *GENPRU* 3.1.26R automatically applies to that *firm*) if:~~

~~(a) notification has been made in accordance with regulation 2 of the *Financial Groups Directive Regulations* that *the financial conglomerate* is a *financial conglomerate* and that the *FSA* is *coordinator* of that *financial conglomerate*~~

~~(b) the *financial conglomerate* is not part of a wider *FSA regulated EEA financial conglomerate*;~~

~~(c) the *financial conglomerate* is not an *FSA regulated EEA financial conglomerate* under another *rule* or under paragraph (b) of the definition of *FSA regulated EEA financial conglomerate* (application of supplementary supervision through a *firm's Part IV permission*);~~

~~(d) one of the following conditions is satisfied:~~

~~(i) the *financial conglomerate* is headed by a *regulated entity* that is a *UK domestic firm*; or~~

~~(ii) the only *relevant competent authority* for that *financial conglomerate* is the *FSA*;~~

~~(e) this *rule* is not disapplied under paragraph 5.7 of *GENPRU* 3 Annex 1R (No capital ties); and~~

~~(f) the *financial conglomerate* meets the condition set out in the box titled Threshold Test 2 (10% average of balance sheet and solvency requirements) in the *financial conglomerate definition decision tree*.~~

~~(2) Once *GENPRU* 3.1.26R applies to a *firm* with respect to a *financial conglomerate* of which it is a member under *GENPRU* 3.1.27R(1), (1)(f) ceases to apply with respect to that *financial conglomerate*. Therefore the fact that the *financial conglomerate* subsequently ceases to meet the condition in (1)(f) does not mean that the condition in this *rule* is not satisfied.~~ [deleted]

Capital adequacy requirements: application of Method~~s~~ 1~~, 2~~ or ~~3~~ 2 from Annex I of the Financial Groups Directive

3.1.29 R If~~,~~ with respect to a *firm* and a *financial conglomerate* of which it is a member, this rule ~~is applied~~ applies under *GENPRU* 3.1.29AR to the *firm* with respect to that *financial conglomerate* as described in *GENPRU* 3.1.30R, the *firm* must at all times have capital resources of an amount and type that ensures that the *conglomerate capital resources* of that *financial*

conglomerate at all times equal or exceed its *conglomerate capital resources requirement*.

3.1.29A R *GENPRU* 3.1.29R applies to a *firm* with respect to the *financial conglomerate* of which it is a member if notification has been made in accordance with regulation 2 of the *Financial Groups Directive Regulations* that the *financial conglomerate* is a *financial conglomerate* and that the *FSA* is *coordinator* of that *financial conglomerate*.

3.1.30 R ~~With respect to a *firm* and a *financial conglomerate* of which it is a member~~ If *GENPRU* 3.1.29R (application of Method 1 or 2 from Annex I of the *Financial Groups Directive*) applies to a *firm* with respect to the *financial conglomerate* of which it is a member, then with respect to the *firm* and the *financial conglomerate*:

(1) ~~*GENPRU* 3.1.26R (Method 4 from Annex I of the *Financial Groups Directive*) is applied to the *firm* with respect to that *financial conglomerate* for the purposes of *GENPRU* 3.1.27R(2); or~~ the definitions of *conglomerate capital resources* and *conglomerate capital resources requirement* that apply for the purposes of that *rule* are the ones from whichever of Part 1 or Part 2 of *GENPRU* 3 Annex 1R the *firm* has indicated to the *FSA* it will apply, unless the *firm's Part IV permission* contains a *requirement* obliging the *firm* to apply a specific part of *GENPRU* 3 Annex 1R, in which case *GENPRU* 3.1.31R will apply; and

(2) ~~*GENPRU* 3.1.29R (Methods 1 to 3 from Annex I of the *Financial Groups Directive*) is applied to the *firm* with respect to that *financial conglomerate*;~~ the *firm* must indicate to the *FSA* in advance which Part of *GENPRU* 3 Annex 1R the *firm* intends to apply

~~If the *firm's Part IV permission* contains a *requirement* obliging the *firm* to comply with *GENPRU* 3.1.26R or, as the case may be, *GENPRU* 3.1.29R.~~

3.1.31 R If *GENPRU* 3.1.29 R (application of ~~Methods~~ methods ~~1-3~~ or 2 from Annex I of the *Financial Groups Directive*) applies to a *firm* with respect to a *financial conglomerate* of which it is a member, and the *firm's Part IV permission* contains a *requirement* obliging the *firm* to apply a specific part of *GENPRU* 3 Annex 1R, the definitions of *conglomerate capital resources* and *conglomerate capital resources requirement* that apply for the purposes of that *rule* are the ones from whichever of Part 1~~, Part 2 or Part 3~~ or Part 2 of *GENPRU* 3 Annex 1R is specified in the *requirement* ~~referred to in *GENPRU* 3.1.30R~~.

...

The financial sectors: asset management companies and alternative investment fund managers

3.1.39 R (1) In accordance with Articles 30 and 30a of the *Financial Groups Directive* (Asset management companies and Alternative investment fund managers), this *rule* deals with the inclusion of an *asset*

management company or an *alternative investment fund manager* that is a member of a *financial conglomerate* in the scope of regulation of *financial conglomerates*. ~~This rule does not apply to the definition of *financial conglomerate*~~.

(2) An *asset management company* or an *alternative investment fund manager* is in the *overall financial sector* and is a *regulated entity* for the purpose of:

(a) GENPRU ~~3.1.26 R~~ 3.1.29 R to GENPRU 3.1.36 R;

…

(3) In the case of a *financial conglomerate* for which the *FSA* is the *coordinator*, all *asset management companies* and all *alternative investment fund managers* must be allocated to one *financial sector* for the purposes in (2), being either the *investment services sector* or the *insurance sector*. But if that choice has not been made in accordance with (4) and notified to the *FSA* in accordance with (4)(d), an *asset management company* or an *alternative investment fund manager* must be allocated to the ~~*investment services sector*~~ *smallest financial sector.*

(4) The choice in (3):

(a) ….

(b) applies to all *asset management companies* and all *alternative investment fund managers* that are members of the *financial conglomerate* from time to time;

…

3 Annex 1 Capital adequacy calculations for financial conglomerates (GENPRU 3.1.26R and GENPRU 3.1.29R)

~~Table: PART 3: Method 3 of Annex I of the Financial Groups Directive (Book value/Requirement Method)~~ [deleted]

~~Capital resources~~	~~3.1~~	~~The *conglomerate capital resources* of a *financial conglomerate* calculated in accordance with this Part are equal to the capital resources of the *person* at the head of the *financial conglomerate* that qualify under paragraph 3.2.~~
~~-~~	~~3.2~~	~~The elements of capital that qualify for the purposes of paragraph 3.1 are those that qualify in accordance with the *applicable sectoral rules*. In particular, the portion of the *conglomerate capital resources requirement* attributable to a particular member of a *financial sector* must be met by capital~~

resources that would be eligible under the *sectoral rules* that apply to the calculation of its *solo capital resources*.

Capital resources requirement	3.3	The *conglomerate capital resources requirement* of a *financial conglomerate* calculated in accordance with this Part is equal to the sum of the following amounts for each member of the *overall financial sector*: (1) (in the case of the *person* at the head of the *financial conglomerate*) its *solo capital resources requirement*; (2) (in the case of any other member) the higher of the following two amounts: (a) its *solo capital resources requirement*; and (b) the book value of the interest of the *person* at the head of the *financial conglomerate* in that member.
-	3.4	A *participation* may be valued using the equity method of accounting.
Partial inclusion	3.5	The capital resources requirement of a member of the *financial conglomerate* in the *overall financial sector* must be included proportionally. If however the member has a *solvency deficit* and is a *subsidiary undertaking*, it must be included in full.
Accounts	3.6	The information required for the purpose of establishing whether or not a *firm* is complying with *GENPRU* 3.1.29R (insofar as the definitions in this Part are applied for the purpose of that *rule*) must be based on the individual accounts of members of the *financial conglomerate*, together with such other sources of information as appropriate.

4 Table: PART 4: Method 4 of Annex I of the Financial Groups Directive (Combination of Methods 1, 2 and 3) [deleted]

Applicable sectoral rules	4.1	The *rules* that apply with respect to a particular *financial conglomerate* under *GENPRU* 3.1.26R are those relating to capital adequacy and solvency set out in the table in paragraph 4.2.

5 Table: Paragraph 4.2: Application of sectoral consolidation rules [deleted]

Type of financial conglomerate	Applicable sectoral consolidation rules
Banking and investment	*BIPRU* 8 and *BIPRU* TP, subject to

~~*services conglomerate*~~	~~paragraph 4.5.~~
~~*Insurance conglomerate*~~	~~*INSPRU 6.1* amended in accordance with Part 5.~~

6 Table

Types of financial conglomerate	4.3	(1) This paragraph sets out how to determine the category of *financial conglomerate* ~~for the purposes of paragraphs 4.1 and 4.2~~.

…

8 Table: PART 5: Principles applicable to all methods

…

Application of sectoral rules: Banking sector and investment services sector	5.6	The following adjustments apply to the *applicable sectoral rules* for the *banking sector* and the *investment services sector* as they are applied by the *rules* in this annex. (1) References in those *rules* to *non-EEA sub-groups* do not apply. (2) (For the purposes of Parts 1 ~~to 3~~ and 2), where those *rules* require a group to be treated as if it were a single *undertaking*, those *rules* apply to the *banking sector* and *investment services sector* taken together. (3) Any *investment firm consolidation waivers* granted to members of the *financial conglomerate* do not apply. (4) (For the purposes of Part~~s 1 to 4~~ 3), without prejudice to the application of requirements in *BIPRU* 8 preventing the use of an *advanced prudential calculation approach* on a consolidated basis, any *advanced prudential calculation approach permission* that applies for the purpose of *BIPRU* 8 does not apply. (5) (For the purposes of Part~~s 1 to 4~~ 3), *BIPRU* 8.5.9R and *BIPRU* 8.5.10R do not apply. (6) (For the purposes of Part~~s 1 to 4~~ 3), where the *financial conglomerate* does not include a *credit institution*, the method in *GENPRU* 2 Annex 4R must be used for calculating the capital resources and *BIPRU* 8.6.8R does not apply.
	5.7	1) This *rule* deals with a *financial conglomerate* in which

some of the members are not linked by capital ties at the time of the notification referred to in *GENPRU* 3.1.28R(1) (Capital adequacy requirements: ~~Compulsory application of Method 4 from~~ Application of Annex I of the Financial Groups Directive).
(2) If:
(a) *GENPRU* 3.1.26R (Capital adequacy requirements: : ~~Compulsory application of Method 4 from~~ Application of Annex I of the Financial Groups Directive) would otherwise apply with respect to a *financial conglomerate* under *GENPRU* 3.1.28R; and
(b) all members of that *financial conglomerate* are linked directly or indirectly with each other by capital ties except for members that collectively are of negligible interest with respect to the objectives of supplementary supervision of *regulated entities* in a *financial conglomerate* (the "peripheral members");

9 Table: PART 6: Definitions used in this Annex

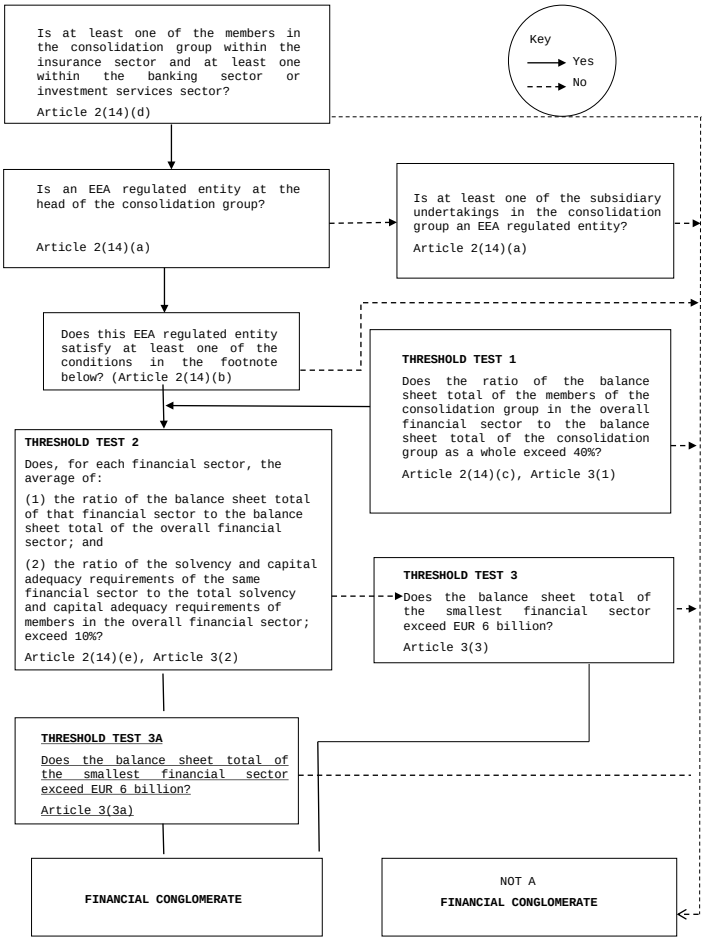
Defining the financial sectors	6.1	For the purposes of Parts ~~1 to 3~~ 1 and 2 of this annex ~~(but, not for the purposes of the definition of *most important financial sector*):~~ (1) an *asset management company* is allocated in accordance with *GENPRU* 3.1.39R; ~~and~~ (2) an *alternative investment fund manager* is allocated in accordance with *GENPRU* 3.1.39R; and (3) a *mixed financial holding company* must be treated as being a member of the *most important financial sector*.

…

…

3 Annex 4

{Insert below Threshold Test 3A)



Annex C

Amendments to the Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)

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

1 Application

…

1.3 Applications for advanced approaches and waivers

…

Article 129

1.3.3 G An *EEA parent institution* and its *subsidiary undertakings* or the *subsidiary undertakings* of its *EEA parent financial holding company* or the *subsidiary undertakings* of an *EEA mixed financial holding company* that wish to use any of the approaches listed in *BIPRU* 1.3.2G(1) in respect of its group, including members of its group that are *BIPRU firm*s, may apply for an *Article 129 permission.*

1.3.4 G The *Article 129 procedure* allows an *EEA parent institution* and its *subsidiary undertaking*s or the *subsidiary undertakings* of *its EEA parent financial holding company* or the *subsidiary undertakings* of an *EEA mixed financial holding company* to apply for permission to use the approaches in *BIPRU* 1.3.2G(1) without making separate applications to the *competent authority* of each *EEA State* where members of a *firm's* group are authorised.

…

3 Standardised credit risk

…

3.2 The central principles of the standardised approach to credit risk

…

Zero-risk weighting for intra-group exposures: core UK group

…

3.2.25 R (1) Subject to *BIPRU* 3.2.35R, and with the exception of *exposures*

giving rise to liabilities in the form of the items referred to in *BIPRU* 3.2.26R, a *firm* is not required to comply with *BIPRU* 3.2.20R (Calculation of risk weighted exposures amounts under the standardised approach) in the case of the *exposures* of the *firm* to a counterparty which is its *parent undertaking*, its *subsidiary undertaking* or a *subsidiary undertaking* of its *parent undertaking* provided that the following conditions are met:

(a) the counterparty is

(i) a *core concentration risk group counterparty*; and

(ii) an *institution*, *financial holding company*, *mixed financial holding company*, *financial institution*, *asset management company* or *ancillary services undertaking* subject to appropriate prudential requirements;

…

4.2 The IRB approach: High level material

…

General approach to granting an IRB permission

…

4.2.3 R Where an *EEA parent institution* and its *subsidiary undertakings* or an *EEA parent financial holding company* and its *subsidiary undertakings* or an *EEA parent mixed financial holding company* and its *subsidiary undertakings* use the *IRB approach* on a unified basis, the question whether the *minimum IRB standards* are met is answered by considering the *parent undertaking* and its *subsidiary undertakings* together unless the *firm's IRB permission* specifies otherwise.

…

Combined use of methodologies: Basic provisions

…

4.2.26 R …

(6) A *firm* may apply the *standardised approach* to *exposures* of a *firm* to a counterparty which is its *parent undertaking*, its *subsidiary undertaking* or a *subsidiary undertaking* of its *parent undertaking* provided that the counterparty is an *institution*, a *financial holding company*, a *mixed financial holding company*, a *financial institution*, an *asset management company* or an *ancillary services undertaking*

subject to appropriate prudential requirements.

…

6 Operational risk

…

6.5 Operational risk: Advanced measurement approaches

…

Use of an advanced approach on a groupwide basis

6.5.31 R Where an *EEA parent institution* and its *subsidiary undertakings* or an *EEA parent financial holding company* and its *subsidiary undertakings* or an *EEA parent mixed financial holding company* and its *subsidiary undertakings* use an *advanced measurement approach* on a unified basis for the *parent undertaking* and its *subsidiary undertakings*, the qualifying criteria set out in *BIPRU* 6.5 may be met by the *parent undertaking* and its *subsidiary undertakings* considered together where permitted by the *AMA permission*.

6.5.32 G …

(1) the *subsidiary undertakings* have delegated to the *governing body* or *designated committee* of the *EEA parent institution* or *EEA parent financial holding company* or *EEA parent mixed financial holding company* responsibility for approval of the *AMA*;

(2) the *governing body* or *designated committee* of the *EEA parent institution* or *EEA parent financial holding company* or *EEA parent mixed financial holding company* approves either:

…

…

8 Group risk consolidation

…

8.2 Scope and basic consolidation requirements for UK consolidation groups

Main consolidation rule for UK consolidation groups

8.2.1 R A *firm* that is a member of a *UK consolidation group* must comply, to the extent and in the manner prescribed in *BIPRU* 8.5, with the obligations laid down in *GENPRU* 1.2 (Adequacy of financial resources), the *main BIPRU firm Pillar 1 rules* (but not the *base capital resources requirement*) and *BIPRU* 10 (Large exposures requirements) on the basis of the consolidated financial position of:

…

(2) where either Test 1C or Test 1D in *BIPRU* 8 Annex 1R apply, the *parent financial holding company in a Member State* or the *parent mixed financial holding company in a Member State*.

…

Definition of UK consolidated group

8.2.4 R A *firm's UK consolidation group* means a group that is identified as a *UK consolidation group* in accordance with the decision tree in *BIPRU* 8 Annex 1R (Decision tree identifying a UK consolidation group); the members of that group are:

(1) ….

(2) where either Test 1C or Test 1D in *BIPRU* 8 Annex 1R apply, the members of the *consolidation group* made up of the *sub-group* of the *parent financial holding company in a Member State* or the *parent mixed financial holding company in a Member State* identified in *BIPRU* 8 Annex 1R together with any other *person* who is a member of that *consolidation group* because of a *consolidation Article 12(1) relationship* or an *Article 134 relationship*;

in each case only *persons* included under *BIPRU* 8.5 (Basis of consolidation) are included in the *UK consolidation group*.

…

8.3 Scope and basic consolidation requirements for non-EEA sub-groups

Main consolidation rule for non-EEA sub-groups

8.3.1 R (1) A *BIPRU firm* that is a *subsidiary undertaking* of a *BIPRU firm* or of a *financial holding company* or of a *mixed financial holding company* must apply the requirements laid down in *GENPRU* 1.2 (Adequacy of financial resources), the *main BIPRU firm Pillar 1 rules* (but not the *base capital resources requirement*) and *BIPRU* 10 (Large exposures1 requirements) on a sub-consolidated basis if the *BIPRU firm*, or the *parent undertaking* where it is a *financial*

holding company or a *mixed financial holding company*, have a *third country banking or investment services undertaking* as a *subsidiary undertaking* or hold a *participation* in such an *undertaking*.

…

8.5 Basis of consolidation

Undertakings to be included in consolidation

8.5.1 R A *firm* must include only the following types of *undertaking* in a *UK consolidation group* or *non-EEA sub-group* for the purposes of this chapter:

…

(5) a *financial holding company*; ~~and~~

(6) a *mixed financial holding company*; and

(7) an *ancillary services undertaking*.

…

8.6 Consolidated capital resources

General

8.6.1 R (1) A *firm* must calculate the *consolidated capital resources* of its *UK consolidation group* or its *non-EEA sub-group* by applying *GENPRU* 2.2 (Capital resources) to its *UK consolidation group* or *non-EEA sub-group* on an accounting consolidation basis, treating the *UK consolidation group* or *non-EEA sub-group* as a single *undertaking*. The *firm* must adjust GENPRU 2.2 in accordance with this section for this purpose.

(2) Notwithstanding the provisions of this Chapter, if a *mixed financial holding company* is subject to equivalent provisions under the *Banking Consolidation Directive* and under the *Financial Groups Directive*, the *FSA* may, after consulting other *competent authorities* responsible for the supervisor of subsidiaries, apply only the relevant provisions of the *Financial Groups Directive* to *the mixed financial holding company*.

…

8 Annex 4 Text of Articles 125 and 126 of the Banking Consolidation Directive

Article 125	
1.	…
2.	Where the parent of a credit institution is a parent financial holding company in a Member State, a parent mixed financial holding company in a Member State ~~or~~ an EU parent financial holding company~~,~~ or an EU parent mixed financial holding company, supervision on a consolidated basis shall be exercised by the competent authorities that authorised that credit institution under Article 6.
Article 126	
1.	Where credit institutions authorised in two or more Member States have as their parent the same parent financial holding company in a Member State, the same mixed parent financial holding company in a Member State, ~~or~~ the same EU parent financial holding company or the same EU parent mixed financial holding company, supervision on a consolidated basis shall be exercised by the competent authorities of the credit institution authorised in the Member State in which the financial holding company ~~was set up~~ or mixed financial holding company is established.
	Where the parents of credit institutions authorised in two or more Member States comprise more than one financial holding company or mixed financial holding company which have their~~with~~ head offices in different Member States and there is a credit institution in each of these States, supervision on a consolidated basis shall be exercised by the competent authority of the credit institution with the largest balance sheet total.
2.	Where more than one credit institution authorised in the Community has as its parent the same financial holding company or the same mixed financial holding company and none of these credit institutions has been authorised in the Member State in which the financial holding company or the mixed financial holding company is established ~~was set up~~, supervision on a consolidated basis shall be exercised by the competent authority that authorised the credit institution with the largest balance sheet total, which shall be considered, for the purposes of this Directive, as the credit institution controlled by an EU parent financial holding company or an EU parent mixed financial holding company.
3.	In particular cases, the competent authorities may by common agreement waive the criteria referred to in paragraphs 1 and 2 if their application would be inappropriate, taking into account the credit institutions and the relative importance of their activities in different countries, and appoint a different competent authority to exercise supervision on a consolidated basis. In these cases, before taking their decision, the competent authorities shall give the EU parent credit institution, ~~or~~ EU parent financial holding company, the EU parent mixed financial holding company. or credit institution with the largest

	balance sheet total, as appropriate, an opportunity to state its opinion on that decision.	
4.	[Omitted]	
Note	…	
	(4a)	a reference to a EU parent mixed financial holding company should be read as being one to an *EEA parent mixed financial holding company*;
	…	…
	Parent financial holding company in a Member State, ~~and~~ *financial holding company*, *parent mixed financial holding company in a Member State*, and *mixed financial holding company* have the same meaning as they do in the *Glossary*.	

9 Securitisation

…

9.15 Requirements for investors

…

9.15.7 R Subject to *BIPRU* 9.15.8R, where an *EEA parent credit institution* or an *EEA financial holding company* or an *EEA parent mixed financial holding company*, or one of its *subsidiaries*, as an *originator* or a *sponsor*, *securitises exposures* from several *credit institutions*, *investment firms* or other *institutions* which are included within the scope of supervision on a consolidated basis, the requirement to retain a net economic interest referred to in *BIPRU* 9.15.3Rmay be satisfied on the basis of the consolidated situation of the related *EEA* parent credit institution or *EEA* financial holding company or *EEA parent mixed financial holding company*.

[**Note**: *BCD*, Article 122a, paragraph 2.]

9.15.8 R *BIPRU* 9.15.7R only applies where the credit institutions, investment firms or institutions which created the securitised exposures have committed themselves to adhere to the requirements in *BIPRU* 9.3.15R to *BIPRU* 9.3.17R and deliver, in a timely manner, to the originator or sponsor and to the *EEA* parent credit institution or an *EEA* financial holding company or an *EEA parent mixed financial holding company* the information needed to satisfy *BIPRU* 9.3.18R to *BIPRU* 9.3.20R.

[**Note**: *BCD*, Article 122a, paragraph 2.]

…

10 Large exposures requirements

…

10.8A Intra group exposures: core UK group

…

Definition of core UK group

10.8A2 R An *undertaking* is a member of a *firm's core UK group* if, in relation to the *firm*, that *undertaking* satisfies the following conditions

(1) …

(2) it is an *institution*, *financial holding company*, *financial institution*, *asset management company*, ~~or~~ *ancillary services undertaking* or *mixed financial holding company*;

(3) (in relation to a *subsidiary undertaking*) 100% of the voting rights attaching to the *shares* in its capital is held by the *firm*, ~~or a~~ *financial holding company* or *mixed financial holding company* (or a *subsidiary undertaking* of the *financial holding company* or *mixed financial holding company*), whether individually or jointly, and that *firm*, *financial holding company* or *mixed financial holding company* (or its *subsidiary undertaking*) must have the right to appoint or remove a majority of the members of the board of *directors*, committee of management or other governing body of the *undertaking*;

…

11 Disclosure (Pillar 3)

…

11.2 Basis of disclosures

…

Firms controlled by an EEA parent financial holding company

11.2.4 R A *firm* controlled by an *EEA parent financial holding company* or an *EEA parent mixed financial holding company* must comply with the obligations laid down in *BIPRU* 11.3 on the basis of the consolidated financial situation of that EEA parent financial holding company or *EEA parent mixed financial holding company*.

[**Note**: *BCD*, Article 72(2)]

11.2.5 R A *firm* which is a significant subsidiary of an *EEA parent financial holding company* or an *EEA parent mixed financial holding company* must disclose the information specified in *BIPRU* 11.4.5 R on an individual or sub-consolidated basis.

…

Disclosures: Significant

11.4.5 R A *firm* which is a significant subsidiary of:

(1) an *EEA parent institution*; ~~or~~

(2) an *EEA parent financial holding company*; or

(3) an *EEA parent mixed financial holding company*

[**Note**: *BCD* Annex XII Part 1 point 5]

Annex D

Amendments to the Prudential Sourcebook for Insurers (INSPRU)

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

6.1 Application

6.1.1 R *INSPRU* 6.1 applies to an *insurer* that is either:

(1) a *participating insurance undertaking*; or

(2) a member of an *insurance group* or an *MFHC conglomer*ate which is not a *participating insurance undertaking* and which is not:

…

…

Purpose

6.1.5 G The purpose of this section is to implement the *Insurance Groups Directive* on supplementary supervision of *firms* in an *insurance group*, as amended by the *Financial Groups Directive*, ~~and~~ the *Reinsurance Directive* and *FICOD 1*. ~~The *Financial Groups Directive* (by amending the *Insurance Directives* and the *Insurance Groups Directive*) introduces specific requirements for the treatment of *related undertakings* of an *insurance parent undertaking* or a *participating insurance undertaking* that are *credit institutions*, *investment firms* or *financial institutions*. The *Reinsurance Directive* (by amending the *Insurance Directives* and the *Insurance Groups Directive*) introduces supplementary supervision for *firms* that are *reinsurance undertakings* in an *insurance group*.~~

6.1.6 G *INSPRU* 6.1 sets out the *sectoral rules* for *insurers* for:

(1) *firms* that are *participating insurance undertakings* carrying out an adjusted solo calculation as contemplated by *GENPRU* 2.1.13R(2);

(2) *insurance groups*; ~~and~~

(3) *insurance conglomerates*~~.~~; and

(4) *MFHC conglomerates* in respect of which supervision under the *Insurance Groups Directive* has not been waived.

…

Scope - undertakings whose group capital is to be calculated and maintained

6.1.17 R The *undertakings* referred to in *INSPRU* 6.1.8R, *INSPRU* 6.1.9R, *INSPRU* 6.1.10R and *INSPRU* 6.1.15R are:

(1) for any *firm* that is not within (2), each of the following:

(a) its *ultimate insurance parent undertaking*;

(b) its *ultimate EEA insurance parent undertaking* (if different); and

(ba) the *mixed financial holding company* at the head of the *MFHC conglomerate*; and

(c) the *firm* itself, if it is a *participating insurance undertaking*; and

…

6.1.19 G If an application is made for a *waiver* contemplated by article 3(3) of the *Insurance Groups Directive*, it is the policy of the *FSA* to consider the effect, in the circumstances described in *INSPRU* 6.1.18G, of granting a *waiver* allowing the exclusion of a *related undertaking* from the calculation of *group capital resources* and the *group capital resources requirement* required by *INSPRU* 6.1.8R.

…

Optional alternative method of calculation for firms subject to supplementary supervision by another EEA competent authority

6.1.23 R If the *competent authority* in an *EEA State* other than the *United Kingdom* has agreed to be the *competent authority* responsible for exercising supplementary supervision of an *insurance group* or an *MFHC conglomerate* of which a *firm* is a member under Article 4(2) of the *Insurance Groups Directive*, the *firm* may prepare the calculations required under *INSPRU* 6.1.8R in relation to the *ultimate EEA insurance parent undertaking* or *mixed financial holding company* in accordance with the requirements of supplementary supervision in that *EEA State*.

6.1.24 G The *FSA* will notify the *firm* if it has reached agreement with the *competent authority* in an *EEA State* other than the *United Kingdom* in accordance with Article 4(2) of the *Insurance Groups Directive*.

Non-EEA ultimate insurance parent undertakings or ultimate mixed financial holding companies

6.1.25 R Where the *ultimate insurance parent undertaking* or *ultimate mixed financial holding company* of a *firm* has its head office in a non-*EEA State*, the *firm* may:

(1) calculate the *group capital resources* and the *group capital resources requirement* of its *ultimate insurance parent undertaking* or *ultimate mixed financial holding company* in accordance with accounting practice applicable for the purposes of the regulation of *insurance undertakings* in the state or territory of the head office of the *ultimate insurance parent undertaking* or *ultimate mixed financial holding company* adapted as necessary to apply the general principles set out in Annex I (1) paragraphs B, C and D of the *Insurance Groups Directive*; and

…

6.1.27 R *INSPRU* 6.1.15R does not apply:

(1) in respect of the *group capital resources* of a firm's *ultimate insurance parent undertaking* if that *ultimate insurance parent undertaking* has its head office in a non-*EEA State*; or

(2) in respect of the *group capital resources* of the *mixed financial holding company* at the head of the *MFHC conglomerate*.

Proportional holdings

…

6.1.29 R In *INSPRU* 6.1.28R, the relevant proportion is either:

(1) the proportion of the total number of issued *shares* in the *regulated related undertaking* held, directly or indirectly, by the *undertaking* in *INSPRU* 6.1.17R; or

(2) where a *consolidation Article 12(1) relationship* exists between *related undertakings* within the *insurance group* or *MFHC conglomerate*, such proportion as the *FSA* determines in accordance with Article 28(5) of the *Financial Groups Directive* and Regulation 15 of the *Financial Groups Directive Regulations*.

…

Calculation of the GCRR

…

6.1.34 R For the purposes of *INSPRU* 6.1, an *individual capital resources requirement* is:

…

(7) in respect of an *insurance holding company* or *mixed financial holding company*, zero;

…

…

Calculation of GCR

…

6.1.38 R For the purposes of *INSPRU* 6.1.37R, the *sectoral rules* applicable to:

…

(2) an *insurance holding company* not within (1) or a *mixed financial holding company*, are the *sectoral rules* that would apply to it if, in connection with its activities, it were treated as an *insurer*;

…

6.1.39 R Where a *financial institution*, that is not a *regulated entity*, has invested in *tier one capital* or *tier two capital* issued by a *parent undertaking* that is:

(1) an *insurance holding company*; ~~or~~

(1A) a *mixed financial holding company*; or

…

…

6.1.42 G For the purposes of *INSPRU* 6.1.41R, in respect of an *insurance undertaking* that is a member of an *insurance group* or *MFHC conglomerate*, the assets of a *long-term insurance fund* are restricted assets within the meaning of *INSPRU* 6.1.41R. Any excess of assets over liabilities in the *long-term insurance fund* may only be included in the calculation of the *group capital resources* up to the amount of the *undertaking's individual capital resources requirement* which relates to the *long-term insurance business* in respect of which that *long-term insurance fund* is held.

…

Calculation of GCR - Limits on the use of different forms of capital

6.1.44 G As the various components of capital differ in the degree of protection that they offer the *insurance group* or *MFHC conglomerate*, restrictions are placed on the extent to which certain types of capital are eligible for inclusion in the *group capital resources* of the *undertaking* in *INSPRU* 6.1.17R. These restrictions are set out in *INSPRU* 6.1.45R.

Calculation of GCR - Assets in excess of market risk and counterparty exposure limits

…

6.1.78 R If B is itself either a *participating insurance undertaking* or an *insurance parent undertaking* or *mixed financial holding company*, the *admissible assets* of B for the purposes of *INSPRU* 6.1.74R(1) must be calculated as in *INSPRU* 6.1.75R but as if B were A.

Annex E

Amendments to the Interim Prudential Sourcebook: Insurers (IPRU(INS))

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

9.40 (1) Subject to (2), an *insurer* to which *INSPRU* 6.1 applies must, in respect of its *ultimate insurance parent undertaking*, ~~and~~ its *ultimate EEA insurance parent undertaking* (if different) and any *mixed financial holding company* at the head of the *MFHC conglomerate* of which it is a member, report:

…

(2) No report is required ~~if~~:

(a) ~~The~~ If the *insurer* is an *undertaking* listed in *INSPRU 6*.1.17R(2); or

(b) ~~Under~~ If under Article 4(2) of the *Insurance Groups Directive*, a *competent authority* of an *EEA State* other than the *United Kingdom* has agreed to be the *competent authority* responsible for exercising supplementary supervision in accordance with *INSPRU* 6.1.23R~~.~~; or

(c) In respect of the *parent undertaking* of a group (A) if the *insurer* is a member of more than one *group*, each being an *MFHC conglomerate*, or an *insurance group* headed by an *ultimate insurance parent undertaking* that has its head office outside the *EEA*, and any of these *groups*, A, is part of the *sub-group* of another of these *groups*.

(3) The report in (1) must:

…

(c) include a statement from the auditors of the *insurer* (or of an *insurer* under (4)) that, in their opinion, the report in (1) has been properly compiled in accordance with *INSPRU* 6.1 from information provided by members of the *insurance group* or *MFHC conglomerate* and from the *insurer's* own records.

(4) The reports in (1) and (1A) must be provided by either the *insurer* or on behalf of the *insurer* (the first *insurer*) by any other *insurer* to which *INSPRU* 6.1 applies and which is a member of the *insurance group* or *MFHC conglomerate* (the second *insurer*) where:

…

...

9.41A The reports in rule 9.40(2) and 9.41 are not required in respect of an *MFHC conglomerate*.

9.42 (1) The reports in rule 9.40(1) and rule 9.40(1A) must include information and calculations required by rule 9.40 and rule 9.41:

(a) as at the end of the *financial year* of:

… …

(iii) the *ultimate insurance parent undertaking*; or

(iv) the *mixed financial holding company*.

(b) subject to (2), as at the same date for every member of the *insurance group* or *MFHC conglomerate* to which the report relates. Where the *financial year* end of a member of the *insurance group* or *MFHC conglomerate* differs from the date chosen for the purposes of 1(a), interim calculations must be prepared for that member as at the date chosen for the purposes of 1(a); and

…

(2) If it is not practical to prepare interim calculations for a member of the *insurance group* or *MFHC conglomerate* whose *financial year* end differs from the date chosen for the purposes of 1(a), calculations as at the member's last *financial year* end may be used, provided that:

…

…

(4A) Where an *insurer's ultimate EEA insurance parent undertaking* or *ultimate mixed financial holding company* publishes annual consolidated accounts in accordance with accounting standards, policies and legislation applicable to it, the report required by rule 9.40(1A) must be submitted to the *FSA* by no later than the date which is 30 days after publication of those consolidated accounts or the final date of submission required by (4), whichever is the later.

…

9.42A

(2) (1) does not apply:

(a) to a *pure reinsurer* which became a *firm in run-off* before 10 December 2007 and whose *Part IV permission* has not subsequently been varied to add back the *regulated activity* of

effecting contracts of insurance; or

(b) in respect of the report under Rule 9.40 relating to the *MFHC conglomerate*.

Guidance

9.43 …

(3) Where several *insurers* to which rule 9.40 applies have the same *ultimate insurance parent undertaking*, ~~or~~ *ultimate EEA insurance parent undertaking*, *mixed financial holding company* or ~~both~~ any combination of those *parent undertakings*, rule 9.40 applies to all of them. In these circumstances one *insurer* may submit the reports in rule 9.40 on behalf of the other *insurers* in the ~~*insurance group*~~ relevant group as set out in rule 9.40(4). This should consist of one package of the relevant information with confirmation that the *insurer* submitting the information has made it available to the boards of directors of the other *insurers* in the ~~*insurance group*~~ relevant group. The purpose of this requirement is to ensure that all the *insurers* in the ~~*insurance group*~~ relevant group are aware of the relevance of the group information to themselves.

Annex F

Amendments to the Regulatory Processes Sourcebook for Supervision (SUP)

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

15.9 Notifications by members of financial conglomerates

…

15.9.5 R (1) A *firm* must, at the level of the *financial conglomerate*, regularly provide the *FSA* with details on their legal structure and governance and organisational structure, including all *regulated entities*, non-regulated subsidiaries and significant *branches*.

(2) A *firm* must disclose publicly, at the level of the *financial conglomerate*, on an annual basis, either in full or by way of references to equivalent information, a description of their legal structure and governance and organisational structure.

…

16.12 Financial Conglomerates

…

16.12.33 R Financial reports from a member of a financial conglomerate (see *SUP* 16.12.32R)

Content of Report	Form (Note 1)	Frequency	Due Date
Calculation of supplementary capital adequacy requirements in accordance with one of the three ~~four~~ technical calculation methods	Note 2	Note 5	Note 5
…			
Note 2		If Part 1 of *GENPRU* 3 Annex 1R (method 1), or Part 2 of *GENPRU* 3 Annex 1R (method 2),	

	or Part 3 of *GENPRU* 3 Annex 1R (method 3) applies, there is no specific form. Adequate information must be provided, specifying the calculation method used and each *financial conglomerate* for which the *FSA* is the *co-ordinator* must discuss with the *FSA* how to do this.
	~~If Part 4 of *GENPRU* 3 Annex 1R applies (method 4):~~ ~~(1) a *banking and investment services conglomerate* must use FSA003; and~~
	~~(2) an *insurance conglomerate* must use:~~ ~~(a) (where *SUP* 16.12.32R(1)(a) applies), Forms 1, 2 and 3 in Appendix 9.1 of *IPRU(INS)* prepared in accordance with *IPRU(INS)* 9.35(1); or~~ ~~(b) (in any other case),the Insurance Group Capital Adequacy Reporting Form (Form 95) in Appendix 9.9 of *IPRU(INS)*~~
	~~For the purposes of (b), *rules* 9.40(1), 9.40(1A), 9.40(3) and 9.40(4) of *IPRU(INS)* apply as they would if the *insurance conglomerate* were an *insurance group*.~~
Note 5	The frequency and due date will be as follows: (1) *banking and investment services conglomerate*: frequency is ~~half-~~yearly with due date 45 *business days* after period end (2) *insurance conglomerate*: frequency is yearly with due date four months after period end for the capital adequacy return and three months after period end for the report on compliance with GENPRU 3.1.35 R where it applies.

Annex G

Amendments to the Prudential sourcebook for Solvency II Insurers (SOLPRU)

Note to reader: The text in this Annex is based on SOLPRU as set out in the Appendix of CP11/22 (Transposition of Solvency II – Part 1) as amended by Appendix 1 of CP12/13 (Transposition of Solvency II – Part 2).

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

11 Group supervision

…

11.1 Application

…

11.1.2 R An *insurance group* exists where:

…

(2) the *parent undertaking* of a *UK Solvency II firm* is an *insurance holding company* or a *mixed financial holding company* which has its head office in an *EEA State*; or

(3) the *parent undertaking* of a *UK Solvency II firm* is an *insurance holding company* or a *mixed financial holding company* which does not have its head office in an *EEA State* or is a *third country insurance undertaking* or a *third country reinsurance undertaking*; or

…

11.1.3 R Where, in accordance with *SOLPRU* 11.1.2R, an *insurance group* exists, that *insurance group* consists of all *undertakings* within the relevant *group*, subject to *SOLPRU* 11.1.4R and *SOLPRU* 11.2 (Levels) and provided that:

…

(2) where *SOLPRU* 11.1.2R(2) applies, the definition of a *group* must be applied to the *insurance holding company* or *mixed financial holding company*, its *subsidiary undertakings*, the *undertakings* in which it holds a *participation* and *undertakings* to which it is linked by a *consolidation Article 12(1) relationship* or, where applicable, to the *undertakings* in a *mutual-type group*;

(3) where *SOLPRU* 11.1.2R(3) applies, the definition of a *group* must be applied to the *insurance holding company* or *mixed financial*

holding company, *third country insurance undertaking* or *third country reinsurance undertaking* (as applicable), its *subsidiary undertakings*, the *undertakings* in which it holds a *participation* and *undertakings* to which it is linked by a *consolidation Article 12(1) relationship* or, where applicable, to the *undertakings* in a *mutual-type group*; and

…

…

11.2 Levels

11.2.1 R If the *participating Solvency II undertaking* or the *insurance holding company* or *mixed financial holding company* referred to in *SOLPRU* 11.1.2R(1) or (2) is itself a *subsidiary undertaking* of another *Solvency II undertaking* or of another *insurance holding company* or *mixed financial holding company* which has its head office in an *EEA State*, then *SOLPRU* 11.3 to *SOLPRU* 11.9 (Group solvency) applies only at the level of the *ultimate EEA insurance parent undertaking*.

[**Note:** article 215(1) of the *Solvency II Directive*]

…

Application of the calculation methods

11.4 Group solvency : choice of calculation method and basic principles

11.4.17 R (1) When calculating the group solvency of a *Solvency II undertaking* in an *insurance group* which holds a *participation* in a *related Solvency II undertaking*, a *third country insurance undertaking* or a *third country reinsurance undertaking*, through an *insurance holding company* or a *mixed financial holding company*, the situation of such an *insurance holding company* or a *mixed financial holding company* (an "intermediate insurance or mixed financial holding company") must be taken into account.

(2) For the sole purpose of that calculation, the intermediate ~~*insurance holding company*~~ insurance or mixed financial holding company must be treated as if it were a *Solvency II undertaking* subject to the rules laid down in *SOLPRU* 4 (SCR) in respect of the *SCR* and were subject to the same conditions as are laid down in *SOLPRU* 3 (Own funds) in respect of *own funds eligible for the SCR*.

(3) In cases where an intermediate ~~*insurance holding company*~~ insurance or mixed financial holding company holds subordinated debt or other *eligible own funds* subject to limitation in accordance with *SOLPRU* 3.3.10R to *SOLPRU* 3.3.13G (eligibility limits), they must be recognised as *eligible own funds* up to the amounts

calculated by application of the limits in *SOLPRU* 3.3.10R to *SOLPRU* 3.3.13G to the total *eligible own funds* outstanding at group level of the *insurance group* as compared to the *group SCR*.

(4) Any *eligible own funds* of an intermediate ~~*insurance holding company*~~ insurance or mixed financial holding company, which would require prior authorisation from a *supervisory authority* in accordance with *SOLPRU* 3.2.6R (approval of ancillary own funds) or the applicable *Solvency II EEA implementing measures* if they were held by a *Solvency II undertaking*, may be included in the calculation of the group solvency of the *insurance group* only in so far as they have been duly authorised by the *group supervisor*.

[**Note:** article 226 of the *Solvency II Directive*]

11.5 Calculation methods

…

11.5.4 R Any application for permission to calculate the consolidated *group SCR*, as well as the *SCR* of *Solvency II undertakings* in the *insurance group*, on the basis of an *internal model*, submitted by a *Solvency II undertaking* and its *related undertakings*, or jointly by the *related Solvency II undertakings* of an *insurance holding company* or a *mixed financial holding company*, must be submitted to the *group supervisor*.

[**Note:** article 231(1) of the *Solvency II Directive*]

…

11.5.9 R Any application for permission to calculate the *SCR* of *Solvency II undertakings* in the *insurance group*, on the basis of an *internal model*, submitted by a *Solvency II undertaking* and its *related undertakings*, or jointly by the *related undertakings* of an *insurance holding company* or a *mixed financial holding company*, must be submitted to the *group supervisor*.

[**Note:** article 233(5) of the *Solvency II Directive*]

…

11.6 Supervision of group solvency for Solvency II firms that are subsidiaries of an insurance holding company or a mixed financial holding company

11.6.1 R (1) Where *Solvency II undertakings* in an *insurance group* are *subsidiary undertakings* of an *insurance holding company* or a *mixed financial holding company*, the calculation of the solvency of the *insurance group* must be carried out at the level of the *insurance holding company* or *mixed financial holding company* applying *SOLPRU* 11.4.1R(2) to 11.5.9R (choice of method, inclusion of

proportional shares, elimination of double use of *eligible own funds*, elimination of the intra-group creation of capital, valuation, *related undertakings*, intermediate *insurance holding companies*, related *third country insurance and reinsurance undertakings*, certain *related undertakings*, non-availability of information, *method 1*, group internal models, group capital add-ons and *method 2*).

(2) For the purpose of that calculation, the *insurance holding company* or *mixed financial holding company* must be treated as if it were a *Solvency II undertaking* subject to *SOLPRU* 4 (SCR) as regards the *SCR* and *SOLPRU* 3 (Own funds) as regards the *own funds eligible for the SCR*, provided that the *relevant insurance group undertakings* remain responsible for discharging any obligations arising from the application of this paragraph (2).

[**Note:** article 235 of the *Solvency II Directive*]

11.7 Groups with centralised risk management

11.7.1 R *SOLPRU* 11.7.3R applies to any *Solvency II undertaking* in an *insurance group* which is a *subsidiary undertaking* of another *Solvency II undertaking* or of an *insurance holding company* where all of the following conditions are satisfied:

(1) … ;

…

(4) (a) the *parent undertaking*; or

(b) one or more *relevant insurance group undertaking*,

is permitted, under *SOLPRU* 11.9.4R(2) (group SFCR), to produce a single *SFCR* covering all relevant *Solvency II undertakings* and *insurance holding companies* and *mixed financial holding companies*; and

…

…

11.10 Third countries

11.10.1 R When calculating the solvency of an *insurance group* falling within *SOLPRU* 11.1.2R(3), the *parent undertaking* (being an *insurance holding company* or *mixed financial holding company* which does not have its head office in an *EEA State* or a *third country insurance undertaking* or a *third country reinsurance undertaking*) must, solely for the purposes of that calculation, be treated as a *UK Solvency II firm* to which *SOLPRU*

11.1.2R(1)(a) applies unless:

…

11.10.2 R Where the *parent undertaking* referred to in *SOLPRU* 11.1.2R(3) is itself a *subsidiary undertaking* of an *insurance holding company* or *mixed financial holding company* which does not have its head office in an *EEA State* or a *third country insurance undertaking* or a *third country reinsurance undertaking*, *SOLPRU* 11.10.1R applies at the level of either:

(1) the *ultimate parent undertaking* which is an *insurance holding company* or *mixed financial holding company* which does not have its head office in an *EEA State* or a *third country insurance undertaking* or a *third country reinsurance undertaking*; or

…

Appendix 2

Designation of Handbook Provisions

1. FSA Handbook provisions will be 'designated' to create a FCA Handbook and a PRA Handbook on the date that the regulators exercise their legal powers to do so. Please visit our website[1] for further details about this process.

2. We plan to designate the Handbook Provisions which we are proposing to create and/or amend within this Consultation Paper as follows. These designations are draft and are subject to change prior to the new regulators exercising their legal powers.

Glossary Provisions- new definitions

Handbook Provision	Designation
All new definitions	FCA and PRA

Glossary Provisions- existing definitions

Handbook Provision	Designation
Existing definitions	FCA and PRA

BIPRU

Handbook Provision	Designation
BIPRU 1.3.3	FCA and PRA
BIPRU 1.3.4	FCA and PRA

1 One-minute guide http://media.fsahandbook.info/latestNews/One-minute%20guide.pdf

BIPRU 3.2.25	FCA and PRA
BIPRU 4.2.3	FCA and PRA
BIPRU 4.2.26	FCA and PRA
BIPRU 6.5.31	FCA and PRA
BIPRU 6.5.32	FCA and PRA
BIPRU 8.2.1	FCA and PRA
BIPRU 8.2.4	FCA and PRA
BIPRU 8.3.1	FCA and PRA
BIPRU 8.5.1	FCA and PRA
BIPRU 8.6.1	FCA and PRA
BIPRU 8 Annex 4	FCA and PRA
BIPRU 9.15.7	PRA
BIPRU 9.15.8	PRA
BIPRU 10.8A2	PRA and FCA
BIPRU 11.2.4	FCA and PRA
BIPRU 11.2.5	FCA and PRA

GENPRU

Handbook Provision	**Designation**
GENPRU 3.1.1	FCA and PRA
GENPRU 3.1.1A	FCA and PRA
GENPRU 3.1.8	FCA and PRA
GENPRU 3.1.9	FCA and PRA
GENPRU 3.1.17	FCA and PRA
GENPRU 3.1.20	FCA and PRA
GENPRU 3.1.21	FCA and PRA
GENPRU 3.1.22	FCA and PRA
GENPRU 3.1.29	FCA and PRA
GENPRU 3.1.29A	FCA and PRA
GENPRU 3.1.30	FCA and PRA
GENPRU 3.1.31	FCA and PRA
GENPRU 3.1.39	FCA and PRA
GENPRU Annex 1	FCA and PRA
GENPRU Annex 4	FCA and PRA

SUP

Handbook Provision	**Designation**
SUP 15.9.5	FCA and PRA
SUP 16.12.33	FCA and PRA

INSPRU

Handbook Provision	Designation
INSPRU 6.1.1	PRA
INSPRU 6.1.5	PRA
INSPRU 6.1.5A	PRA
INSPRU 6.1.5.B	PRA
INSPRU 6.1.6	PRA
INSPRU 6.1.17	PRA
INSPRU 6.1.18	PRA
INSPRU 6.1.19	PRA
INSPRU 6.1.20	PRA
INSPRU 6.1.21	PRA
INSPRU 6.1.22	PRA
INSPRU 6.1.23	PRA
INSPRU 6.1.24	PRA
INSPRU 6.1.25	PRA
INSPRU 6.1.27	PRA
INSPRU 6.1.28	PRA
INSPRU 6.1.29	PRA
INSPRU 6.1.34	PRA
INSPRU 6.1.38	PRA
INSPRU 6.1.39	PRA
INSPRU 6.1.42	PRA
INSPRU 6.1.44	PRA
INSPRU 6.1.78	PRA

IPRU (INS)

Handbook Provision	Designation
IPRU (INS) 9.40	PRA
IPRU (INS) 9.41A	PRA
IPRU (INS) 9.42	PRA
IPRU (INS) 9.42A	PRA
IPRU (INS) 9.43	PRA

SOLPRU

Handbook Provision	Designation
SOLPRU 11.1.2	PRA
SOLPRU 11.1.2A	PRA
SOLPRU 11.1.3	PRA
SOLPRU 11.2.1	PRA
SOLPRU 11.4.17	PRA
SOLPRU 11.5.4	PRA
SOLPRU 11.5.9	PRA
SOLPRU 11.6.1	PRA
SOLPRU 11.7.1	PRA
SOLPRU 11.10.1	PRA
SOLPRU 11.10.2	PRA

Part 2

Transposing amending Directive 2011/89/EC – supplementary supervision of financial entities in a financial conglomerate – HM Treasury's legislation

1. Introduction

1.1 Part 1 of this consultation document described the main provisions of FICOD1 and how the FSA proposes to implement them.

1.2 This Part 2 deals with the amendments which HM Treasury is proposing to make to secondary legislation, notably the Financial Conglomerates and Other Financial Groups Regulations 2004 (the '2004 Regulations') and the Capital Requirements Regulations 2006 (the 'CRR 2006').[1] Those changes which FICOD1 makes to Solvency II[2], and which are not being transposed by the FSA by way of amendments to its rules, will be incorporated in the Treasury's legislation implementing Solvency II in due course.

1.3 The 2004 Regulations impose various procedural requirements on the FSA, including the requirement to notify identified financial conglomerates and the choice of the co-ordinating supervisor, and requirements to consult other competent authorities when exercising certain functions in the course of supplementary supervision. They also deal with the sharing of

1 S.I. 2004/1862 and S.I 2006/322.1
2 Directive 2009/138/EC (which is amended by Article 4 of FICOD1).

certain information by relevant competent authorities. These provisions, and relevant provisions in the CRR 2006 which deal with consolidated supervision of banking groups, need to be updated to take into account the amendments made by FICOD1. In particular to reflect the inclusion of alternative investment fund managers in the scope of supplementary supervision and the inclusion of groups headed by a mixed financial holding company in the provisions on consolidated supervision under the relevant sectoral directives. In addition, the 2004 Regulations are being updated to take into account amendments recently made to Part 12 of the Financial Services and Markets Act 2000 ('FSMA'), which deals with changes of control over authorised persons resulting from transposition of the Acquisitions Directive.[3]

1.4 The purpose of this consultation is to invite views on the changes the Treasury is making to UK legislation in order to transpose Directive 2011/89/EC. The Treasury does not propose to use the implementation process to make any changes beyond those required by Directive 2011/89/EC.

1.5 A draft of the statutory instrument – The Financial Conglomerates and Other Financial Groups (Amendment) Regulations 2013 ('the draft Regulations') – is set out in Part 2 Annex 1.

2. Inclusion of Alternative Investment Fund Managers (AFIMs) in the threshold calculations which identify a financial conglomerate and in the scope of supplementary supervision

2.1 As detailed in Part 1 Chapter 2, 2.11 of this CP, FICOD1 brings asset management companies (AMCs) into the threshold tests for identifying a financial conglomerate and also requires the inclusion of alternative investment fund managers (AIFM) in the threshold tests. These entities will also be subject to supplementary supervision under FICOD.

2.2 Inclusion of AMCs is addressed by the proposed changes to FSA Handbook rules. However, an amendment to the 2004 Regulations is necessary to include AIFMs in the definition of 'regulated entities' in the 2004 Regulations. The relevant amendment is made by regulation 3(b) of the draft Regulations, which amends the definition of 'regulated entity' in regulation 1 of the 2004 Regulations.

2.3 In addition, Part 3 of the 2004 Regulations implements various consultation requirements on the FSA when verifying whether regulated entities in third country financial conglomerates or banking groups are subject to equivalent supervision by third country supervisors as that provided by FICOD. As a result of FICOD1, the verification exercise will now include AIFMs which are members of the group. Relevant amendments to the 2004 Regulations are included in regulations 4, 6(4) and 7(4) of the draft Regulations.

3 Directive 2007/44/EC, transposed by S.I. 2009/534.

3. Introduction of the term 'mixed financial holding company'

3.1 As detailed in Part 1 Chapter 2, 2.7-2.9, it is necessary to introduce the term 'mixed financial holding company' to correct an unintended deficiency in the current rules, whereby in some cases national supervisors were obliged to choose either banking or insurance supervision under the sector-specific directives or supplementary supervision under the FICOD.

3.2 The Treasury therefore proposes to amend the relevant provisions in the CRR 2006 to reflect the position that credit institutions or investment firms, which have as their parent a mixed financial holding company, are to be included within the scope of consolidated supervision under the CRD. Similar amendments will be made to Solvency II implementing regulations in due course. The main amendments to the CRR 2006 to deal with this issue are in regulations 8 and 9 of the draft Regulations. This amends regulation 1(2) CRR 2006 which contains the relevant definitions.

4. Competent authority information sharing and consultation requirements

4.1 FICOD also imposes a number of consultation obligations on competent authorities which supervise regulated entities within a financial conglomerate before carrying out certain tasks, which are implemented by the 2004 Regulations. These include consultation obligations relating to the supervision of regulated entities whose parent company is established outside the EEA (third country groups). There are similar provisions in article 143 of the CRD in relation to third country banking and investment groups and FICOD1 amends these provisions where they occur in both FICOD and the CRD. FICOD1 provides that, where appropriate, co-operation between different competent authorities should take place through the colleges of supervisors established under the relevant sectoral directives. The Treasury proposes to make amendments to the CRR 2006 to allow all relevant competent authorities in relation to the regulated entities in a financial conglomerate to participate in colleges established in accordance with the BCD where appropriate. The amendment is made by regulation 12 of the draft regulations. Similar provision will be made in respect of colleges established under Solvency II in due course.

4.2 The Treasury is also amending regulation 11(3) of the CRR 2006 which deals with the provision of essential information by the FSA to other relevant competent authorities under the BCD. The amendment, set out at regulation 11 of the draft Regulations, implements changes made by FICOD1 to the nature of the information on a group's structure which must be provided

4.3 The Treasury anticipates making further consequential amendments in due course to the Financial Services and Markets Act 2000 (Consultation with Competent Authorities) Regulations 2001, which require the FSA to consult relevant competent authorities which

supervise members of a financial conglomerate in the event of a change of control of a UK member of such a group. These Regulations are themselves in the process of being revised to incorporate changes to Part 12 of FSMA made to implement Directive 2007/44/EC (the 'Acquisitions Directive'), so the text of the proposed amendments has not yet been finalised and is not subject to this consultation.

4.4 The Treasury is also proposing to update the definition of the 'conglomerates directive' in the Financial Services and Markets 2000 (Disclosure of Confidential Information) Regulations 2001, to ensure that confidential information which is subject to FICOD as amended by FICOD1, can continue to be exchanged in accordance with those Regulations. This amendment is made by regulation 14 of the draft Regulations.

5. Definitional and other amendments

5.1 As part of our approach to transposing FICOD1 the Treasury also proposes to update various references to the original FICOD and the BCD in legislation to ensure the amendments made by FICOD1 are correctly incorporated in those references. It should be noted that the 2004 Regulations already make clear that, unless otherwise provided, definitions used in FSMA apply for the purposes of those Regulations. Regulation 13 of the draft Regulations therefore updates the definition of the BCD in FSMA.

5.2 Separately, the Treasury also plans to amend FSMA as part of its transposition of the AIFM Directive so that it will include a definition of 'alternative investment fund manager' which will apply for the purposes of the 2004 Regulations. The amendments which FICOD1 makes in respect of AIFMs have a delayed transposition date of 22 July 2013, in line with the transposition date for the AIFM Directive (and this is reflected in regulation 1(3) of the draft Regulations).

5.3 The Treasury is also taking this opportunity to update cross-references in the 2004 Regulations to certain provisions of Part 12 of FSMA (control over authorised persons) to bring them into line with recent amendments made to that Part of FSMA to implement the Acquisitions Directive. The relevant changes are set out in regulations 5, 6 and 7 of the draft Regulations.

5.4 The Treasury plans to make any consequential amendments to the 2004 Regulations which may be necessary as a result of the Financial Services Act 2012, by way of a separate set of Regulations. So for example, those Regulations will make any necessary amendments to references to 'the Authority' in the 2004 Regulations to reflect the replacement of the FSA by the Prudential Regulation Authority and the Financial Conduct Authority. The draft Regulations in Annex 1 will be updated to reflect any consequential amendments, before they are made.

Q: Do you have any comments on the draft Regulations?

Public Sector Equality Duty

The Government has considered its obligations under section 149 of the Equalities Act 2010. We do not believe these measures will (or could potentially) impact upon discrimination, equality of opportunity or good relations between people who share relevant protected characteristics under that Act and those who do not, and do not consider that any opportunities to further the aims of the duties have been missed.

Part 2 Annex 1

HM Treasury draft Statutory Instrument

STATUTORY INSTRUMENTS

2013 No.

FINANCIAL SERVICES AND MARKETS

The Financial Conglomerates and Other Financial Groups (Amendment) Regulations 2013

Made - - - - ***

Laid before Parliament ***

Coming into force in accordance with regulation 1

The Treasury are a government department designated for the purposes of section 2(2) of the European Communities Act 1972(**a**) in relation to financial services(**b**).

The Treasury, in exercise of the powers conferred by section 2(2) of that Act [and sections 188(1), 191A(5), 417(1) and 428(3) of the Financial Services and Markets Act 2000(**c**)] make the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Financial Conglomerates and Other Financial Groups (Amendment) Regulations 2013.

(2) Subject to paragraph (3), these Regulations come into force on 10th June 2013.

(3) Regulations 3(b), 4, 6(4) and 7(4) come into force on 22nd July 2013.

Amendment of the Financial Conglomerates and Other Financial Groups Regulations 2004

2. The Financial Conglomerates and Other Financial Groups Regulations 2004(**d**) are amended as follows.

3. In regulation 1(2) (interpretation)—

(a) at the end of the definition of "the conglomerates directive" insert "as last amended by Directive 2011/89/EU of the European Parliament and of the Council(**e**);";

(b) in the definition of "regulated entity"—

(i) at the end of paragraph (c) delete "or";

(ii) at the end of paragraph (d) for "and" substitute "or";

(iii) at the end insert—

(**a**) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and the European Union (Amendment) Act 2008 (c.7), section 3(3) and Part 1 of the Schedule.
(**b**) S.I. 2012 /1759.
(**c**) 2000 c.8. Relevant amendments to this Act were made by S.I. 2009/534.
(**d**) S.I. 2004/1862, as amended by S.I. 2010/906 and S.I. 2010/2628.
(**e**) O.J. L 326 8.12.2011, p.113.

"(e) an alternative investment fund manager (as referred to in Article 4(1)(b), (l) or (ab) of Directive 2011/61/EU) or an undertaking which is outside the EEA but which would require authorisation in accordance with that Directive if it had its registered office in the EEA; and".

4. In regulation 7(1) (supervision of third-country financial conglomerates and third country groups - interpretation), before the definition of "asset management company" insert—

""alternative investment fund manager" means—

(a) any EEA firm falling within paragraph 5(h) of Schedule 3 to the Act; or

(b) any UK firm whose EEA right derives from the alternative investment fund managers directive(**a**)".

5.—(1) Regulation 8 (supervision of third-country financial conglomerates) is amended as follows.

(2) In paragraph (2)(c) for "section 185 of the Act (conditions attached to approval of change of control)(**b**)" substitute "section 187 of the Act (approval with conditions)".

(3) In paragraph (2)(d) for "section 186 or 187 of the Act (notice of objection to acquisition of, or existing, control)" substitute "section 191A (objection by the Authority) or section 191B (restriction notices) of the Act(**c**)".

6.—(1) Regulation 9 (supervision of third-country banking groups) is amended as follows.

(2) In paragraph (2)(c) for "section 185" substitute "section 187".

(3) In paragraph (2)(d) for "section 186 or 187" substitute "section 191A or 191B".

(4) After paragraph (5) insert—

"(6) Where the Authority has, for the purposes of Article 30a of the conglomerates directive (alternative investment fund managers), included an alternative investment fund manager in the scope of supervision of a credit institution in a third-country group, each reference in this regulation to a "credit institution" is to be treated as including a reference to that alternative investment fund manager.".

7.—(1) Regulation 10 (supervision of third-country groups subject to the capital adequacy directive) is amended as follows.

(2) In paragraph (3)(c) for "section 185" substitute "section 187".

(3) In paragraph (3)(d) for "section 186 or 187" substitute "section 191A or 191B".

(4) After paragraph (6) insert—

"(7) Where the Authority has, for the purposes of Article 30a of the conglomerates directive, included an alternative investment fund manager in the scope of supervision of—

(a) credit institutions and investment firms in a third-country group; or

(b) investment firms in a third-country group,

each reference in this regulation to an "investment firm" is to be treated as including a reference to that alternative investment fund manager.".

Amendments to the Capital Requirements Regulations 2006

8. The Capital Requirements Regulations 2006(**d**) are amended as follows.

9. In regulation 1(2) (interpretation)—

(**a**) Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on alternative investment fund managers, O.J. L 174, 1.7.2011, p 1.
(**b**) Section 185 was substituted by S.I. 2009/534.
(**c**) Sections 186 and 187 were substituted by S.I. 2009/543.
(**d**) S.I. 2006/3221, as amended by S.I. 2010/2628 and S.I 2012/917.

(a) omit the definition of "banking consolidation directive";

(b) in paragraph (c) of the definition of "EEA consolidated supervisor" after "EEA parent financial holding company" insert "or EEA parent mixed financial holding company";

(c) after the definition of "EEA parent financial holding company" insert—

""EEA parent mixed financial holding company" means a parent mixed financial holding company in an EEA State which is not a subsidiary of another credit institution or investment firm authorised in any EEA State or of another financial holding company or mixed financial holding company set up in any EEA State;";

(d) in paragraph (c) of the definition of "national consolidated supervisor" after "parent financial holding company in an EEA State" insert "or parent mixed financial holding company in an EEA State";

(e) in the definitions of "parent credit institution in an EEA State" and "parent investment firm in an EEA State" in each case after "financial holding company" insert "or mixed financial holding company";

(f) after the definition of "parent financial holding company in an EEA State" insert—

""parent mixed financial holding company in an EEA State" means a mixed financial holding company which is not itself a subsidiary of a credit institution or investment firm authorised in the same EEA State, or of another mixed financial holding company or financial holding company set up in the same EEA State;";

(g) after the definition of "proposal" insert—

""regulated entity" has the meaning given by article 2(4) of Directive 2002/87/EC of the European Parliament and of the Council on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate;";

(h) in the definition of "relevant competent authority"—

(i) replace "or" with ","; and

(ii) at the end insert "or a subsidiary of an EEA parent mixed financial holding company".

10. In regulation 2(2)(c) (application for permission) after "EEA parent financial holding company" insert "or EEA parent mixed financial holding company".

11. For regulation 11(3)(a) and (b) (the Authority's duties as an EEA consolidated supervisor: provision of essential information) substitute—

"(a) the legal structure and the governance and organisational structure of the group, including all regulated entities, non-regulated subsidiaries and significant branches belonging to the group, and the parent undertakings;

(b) the relevant competent authorities and the competent authorities responsible for the supervision of regulated entities in the group;".

12. At the end of regulation 12A(3) (the Authority's duties as an EEA consolidated supervisor: requirement to establish a college of supervisors) insert—

"(e) competent authorities responsible for the supervision of other regulated entities in the group.".

Amendments to the Financial Services and Markets Act 2000

13. In paragraph 2 of Schedule 3 to the Financial Services and Markets Act 2000(**a**) (EEA passport rights: meaning of banking consolidation directive) for "on 24th November 2010 by Directives 2010/76/EU and 2010/78/EU" substitute "by Directive 2011/89/EU".

(**a**) 2000 c.8. Paragraph 2 of Schedule 3 was amended by S.I. 2012/917.

Amendments to the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001

14.—(1) The Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001(**a**) are amended as follows.

(2) In regulation 2(**b**) (interpretation) at the end of the definition of "conglomerates directive" insert "as last amended by Directive 2011/89/EU of the European Parliament and of the Council".

Amendments to the Financial Services and Markets Act 2000 (Consultation with Competent Authorities) Regulations 2001

15. *[These Regulations are in the process of being updated so it is not possible to prepare and consult on relevant future amendments at this stage.]*

Names
Date

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations implement, in part, Directive 2011/89/EU of the European Parliament and of the Council amending Directives 98/78/EC, 2002/87/EC, 2006/48/EC and 2009/138/EC as regards the supplementary supervision of financial entities in a financial conglomerate (OJ L 326/113 8.12.2011). The Financial Services Authority (the "Authority") is responsible for implementing other parts of this Directive.

Regulations 2 to 7 amend the Financial Conglomerates and Other Financial Groups Regulations 2004 (S.I. 2004/1862) to update various definitions and include alternative investment fund managers within the definition of "regulated entity" to which supplementary supervision applies. They also update references to Part 12 of the Financial Services and Markets Act 2000 (control over authorised persons).

Regulations 8 to 12 amend the Capital Requirements Regulations 2006 (S.I. 2006/3221) to include references to mixed financial holding companies in various definitions, to amend the requirement on the Authority to provide essential information to other relevant competent authorities, and to enable the competent authorities of all regulated entities within a group to participate in colleges of supervisors.

Regulations 13 and 14 amend the Financial Services and Markets Act 2000 and the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 respectively, to update definitions.

[Regulation 15]

Transposition tables setting out how Directives 2002/87/EC and 2006/48/EC (as amended by Directive 2011/89/EU) are transposed into UK law are available from the Banking and Credit Team, HM Treasury, 1 Horseguards Road, London, SW1A 2HQ and on HM Treasury's website (www.hm-treasury.gov.uk).

(**a**) S.I. 2001/2188.
(**b**) Regulation 2 was amended by S.I. 2004/1862. There are other amendments not relevant to these Regulations.

PUB REF: 003106

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