

Quarterly Consultation

No 36

Consultation Paper

CP22/10

June 2022

How to respond

The Financial Conduct Authority invites comments on this Consultation Paper. Comments should reach us by 27 June for chapter 3 and 18 July for chapters 2, 4, 5 and 6.

Comments may be sent by electronic submission using the form on the FCA's website at (www.fca.org.uk/cp22-10-response-form).

Alternatively, please send comments in writing to:

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If you are responding in writing to several chapters please send your comments to Meghan Beller in the Handbook Team, who will pass your responses on as appropriate.

All responses should be sent to:

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1 Overview

Chapter No	Proposed changes to Handbook	Consultation Closing Period
2	A minor amendment to DEPP to reflect changes to the FCA's decision-making processes implemented on 26 November 2021	5 weeks
3	Amendments to the Compensation rules relating to the Financial Services Compensation Scheme in relation to funeral plans and to the Funeral Plan: Conduct of Business sourcebook	2 weeks
4	Updating annuitant mortality tables in COBS to provide better annuity income information to consumers	5 weeks
5	Changes to row 10(f) of the table in IPRU-INV 5.8.2R to clarify the items to be deducted as illiquid assets	5 weeks
6	Updates to our IFPR reporting forms and accompanying guidance	5 weeks

2 Proposed change to DEPP to align with amended decision-making procedures

Introduction

- 2.1** In Consultation Paper (CP) 21/25 we consulted on moving some decision making on statutory notices from the Regulatory Decisions Committee (RDC) to executive procedures so that the RDC would focus on contentious enforcement cases. Following the consultation, in Policy Statement (PS) 21/16, we confirmed that we were going to introduce the proposed changes to our decision-making procedures. The consequential changes to the Handbook (in the Decision Procedure and Penalties manual (DEPP) and the Enforcement Guide (EG) were implemented on 26 November 2021).
- 2.2** Decisions in certain authorisations, interventions, straightforward cancellation cases and decisions to commence civil and criminal proceedings are now made under executive procedures. These types of decision focus on areas where we need to prevent or stop harm to consumers or the market occurring or increasing, by preventing firms from offering financial services in the first place or intervening to restrict the financial services offered. In this Quarterly Consultation Paper (QCP), we are consulting on making 1 minor amendment to the decision maker in DEPP 2.5.10, in cases relating to the discontinuance of listing of securities on the FCA's own initiative.
- 2.3** Due to an administrative error, DEPP 2.5.10 had incorrectly been showing as deleted. This error has been corrected by a non-legal change to the Handbook. Following this correction, we now propose amending DEPP 2.5.10 to make FCA staff under executive procedures the relevant decision maker in cases relating to the discontinuance of listing of securities on the FCA's own initiative. The proposed change would align this category of decision with other areas of DEPP, where the statutory notice decision is now made under executive procedures. It would also align DEPP 2.5.10 to the decision maker set out in DEPP 2 Annex 2.

Summary of proposals

- 2.4** We propose amending DEPP 2.5.10 to change the decision maker from the RDC to executive procedures in cases relating to the discontinuance of listing of securities on the FCA's own initiative. This change will bring DEPP 2.5.10 into line with other areas of DEPP and reflect the wider changes to our decision-making procedures made on 26 November 2021 following PS21/16.

Q2.1: Do you agree with our proposed change to DEPP?

Cost benefit analysis

- 2.5** The proposal set out in this QCP does not impose additional obligations on firms. It does not relate to rule changes or guidance on rules. Under section 138I of the Financial Services and Markets Act 2000 (FSMA), when we wish to introduce any new rules, we must publish a cost benefit analysis along with the proposed rules. Since the requirements under section 138I are not applicable, we are not required to carry out a cost benefit analysis. In any event, we do not expect that the proposal to amend DEPP will lead to any increase in costs, or the cost increase will be of minimal significance.

Compatibility statement

- 2.6** Section 1B of FSMA requires us, when discharging our general functions, as far as is reasonably possible, to act in a way that is compatible with our strategic objective and advance one or more of our operational objectives. We also need to, so far as is compatible with acting in a way that advances the consumer protection objective or the integrity objective, carry out our general functions in a way that promotes effective competition in the interests of consumers. Our general functions include our functions in relation to the giving of general advice. In discharging our general functions, we must have regard to the regulatory principles in section 3B of FSMA. We are satisfied that the proposed changes are compatible with our objectives and regulatory principles.

Equality and diversity

- 2.7** We have considered the equality and diversity issues that may arise from the proposed amendments. We do not think that the proposals in this chapter adversely impact any of the groups with protected characteristics under the Equality Act 2010 (ie, age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment). We will continue to consider the equality and diversity implications of the proposals during the consultation period and will revisit them when publishing the final amendments. In the meantime, we welcome comments on any equality and diversity considerations respondents believe may arise.

3 Amendments to the Compensation sourcebook in relation to funeral plans and to the Funeral Plan: Conduct of Business sourcebook

Introduction

- 3.1** On 5 July 2021, we published the final rules for the regulation of the pre-paid funeral plans market (see [PS21/8: Feedback to CP21/4 and final rules](#)) which will take effect from 29 July 2022 – when we become the statutory regulator for the market. In that publication, we confirmed that Financial Services Compensation Scheme (FSCS) protection would apply to funeral plan business once we began regulating funeral plan firms. Specifically, this protection applies where an authorised firm is declared 'in default' by the FSCS and the claims against it relate to acts or omission arising on or after 29 July 2022.
- 3.2** On 5 November 2021, following consultation, we published further rules (see [PS21/15: Regulation of funeral plans: Feedback to CP21/20 and final rules](#)) on the regulation of the funeral plans market. We also confirmed that, once the Government introduced associated legislative changes to the Financial Services and Markets Act 2000 (FSMA), we would introduce further rules in connection with the following:
- Enabling the FSCS to secure continuity of cover on materially the same terms or pay appropriate compensation if that is not possible: this would give the FSCS a range of available options when responding to the failure of a regulated funeral plan provider, to achieve appropriate consumer protection.
 - Giving the FSCS the right to vary existing rights or obligations for funeral plan providers' underlying trust and insurance arrangements to enable it to seek recoveries where appropriate: this would give the FSCS additional recovery rights and thereby help to reduce the impact of firm failure on FSCS levy-payers.
- 3.3** On 21 April 2022, the Government [announced](#) that it would lay legislation that would give us the powers for these rules to be made. We will therefore shortly be finalising the rules set out in [PS21/15](#) so that they are in place when funeral plans come under FCA regulation on 29 July 2022.
- 3.4** In addition to allowing us to finalise the rules that were previously consulted on and confirmed in [PS21/15](#), the Government also announced further legislation in line with which we are now consulting on further rules in 2 areas:
- cooperation of insolvency practitioners with the FSCS
 - transfers of contracts between funeral plan providers

- 3.5** The Government announced that it will introduce an additional statutory duty of cooperation on insolvency practitioners. The Government explained that the duty will require the insolvency practitioner of a failed regulated funeral plan provider – following an express request by the FSCS – to cooperate with the FSCS in securing continuity of cover or compensation for funeral plan holders. The FSCS would only be able to ask for assistance which it identifies as being necessary (ie, in order to carry out its statutory function).
- 3.6** The Government also confirmed that it would make a further amendment to FSMA to give the FCA the power to make rules enabling the FSCS to provide discretionary funding in respect of any costs that have been reasonably and exclusively incurred for the purposes of the insolvency practitioner complying with a request for assistance by the FSCS under the new duty.
- 3.7** Finally, the Government announced additional provisions to enable funeral plan providers to transfer their plans to an authorised provider for regulatory purposes in some circumstances ('deemed transfers'). These include both a permanent and a transitional mechanism. Both types are designed to help secure a transfer of contracts between providers in order to ensure consumers are not left without a funeral plan where their provider will no longer be able to deliver one.
- 3.8** The permanent mechanism allows deemed transfers of plans where the transferring provider has taken reasonable steps to secure customer consent for the proposed transfer but could not obtain that consent within a reasonable period. The transitional mechanism allows deemed transfers up to 31 October 2022 where the existing provider and the new provider consider that it would not be reasonably practicable to effect a transfer following the permanent mechanism (or a transfer by novation, assignment or operation of law). In both cases, the providers are required to notify us of the transfer (and that they consider the statutory conditions to be met).
- 3.9** We are now consulting on rules to ensure that the plan provider taking on the transfer issues a binding commitment to deliver customers' funerals, to ensure consumers are protected where firms make use of the provisions in Government legislation.
- 3.10** In this chapter, in light of the Government's changes to FSMA, we set out proposed changes to the Compensation sourcebook (COMP) in relation to the ability of the FSCS to provide funding in certain circumstances in relation to costs incurred for the purpose of the insolvency practitioner complying with the new duty. We also set out proposed changes to the Funeral Plan: Conduct of Business sourcebook (FPCOB) in relation to the transfer of funeral plans. These contain steps required of firms accepting plans by deemed transfer to give, and to publicise, a new binding undertaking to customers in replacement of the customer's original funeral plan contract.
- 3.11** Following new feedback from funeral plan providers seeking authorisation, we also set out a proposed change to FPCOB to permit a firm engaged in funeral plan distribution to accept cheques payable to the funeral plan provider, when received from customers as part of the sales process. These changes would amend rules made in PS21/15.

Summary of proposals

FSCS proposals

- 3.12** The FSCS is the UK's statutory compensation scheme of last resort. The FSCS pays compensation, up to certain limits, to eligible claimants (which includes individual consumers and some businesses), in respect of a protected claim against a firm that is an authorised person (or its successor) and is in default. The FCA and the Prudential Regulation Authority (PRA) are jointly responsible for ensuring that the FSCS, as the scheme manager, is able to carry out its functions. The FCA and the PRA have responsibility for making rules concerning compensation made by the FSCS and the levies which fund the FSCS. The rules that the FCA is responsible for are set out in the COMP Sourcebook and Chapter 6 of the FEES Manual in our Handbook.
- 3.13** We propose to amend COMP 12A (Special cases) to include a new rule. The proposed new rule would allow the FSCS (where a funeral plan provider has been declared 'in default' by the FSCS) to make payments to, or on behalf of, a relevant funeral plan provider or to the administrator or liquidator of a funeral plan provider, in respect of any reasonable fees, costs, charges or other expenses incurred for the purpose of the administrator or liquidator of that funeral plan provider complying with a request of the FSCS under section 215B of FSMA (ie, the new duty which requires the administrator or liquidator of a relevant funeral plan provider to provide assistance to the FSCS in certain circumstances).
- 3.14** The proposed rule sets out that 'reasonable fees, costs, charges or other expenses' means those fees, costs, charges or other expenses that the FSCS is satisfied:
- have been reasonably incurred; and
 - have been exclusively incurred for the purpose of an administrator or liquidator complying with a request under section 215B of FSMA; and
 - only to the extent that such fees, costs, charges or other expenses cannot otherwise be met.
- 3.15** Accordingly, we would expect the FSCS to make payments to or on behalf of a relevant funeral plan provider, or to the administrator or liquidator of a funeral plan provider, only in cases where, in the FSCS's opinion, the costs are reasonable and necessary to ensure that the insolvency practitioner can assist the FSCS and where the cost could not otherwise be met.
- 3.16** We consider that the proposed funding mechanism may be necessary to maintain an appropriate degree of consumer protection in cases where the FSCS requires assistance from the insolvency practitioner to enable the FSCS to respond efficiently and effectively to the default of a funeral plan provider, particularly in cases where there may be minimal available resources in the estate of the failed funeral plan provider to meet the insolvency practitioner's costs. For example, the FSCS may require the insolvency practitioner's assistance in securing continuity of funeral plan contracts or in calculating the cost of compensation due to customers of the failed firm. If the insolvency practitioner is not able to provide assistance due to the lack of funds to meet its costs, the FSCS may not then be able to respond to the failure of the funeral plan provider in an optimal way. This may have an adverse impact on the customers of the funeral plan firm, who may be elderly or may have recently died and where the FSCS would need to respond promptly to meet the funeral costs due under the funeral plan held.

**Q3.1: Do you agree with the proposed changes to COMP?
Please provide reasons for your answer.**

FPCOB proposals relating to deemed transfers and acceptance of cheques

Deemed transfers

3.17 From 29 July 2022, Government legislation will allow funeral plan undertakings to be transferred for regulatory purposes by 'deemed transfer'. This will allow funeral plans to be treated as if they had been transferred by one provider to another for regulatory purposes, where either:

- a. the transferring provider has taken reasonable steps to seek express customer consent for the proposed transfer to the new provider, but could not obtain that consent within a reasonable period;
- b. the transferring provider and the new provider consider that it would not be reasonably practicable to effect a transfer following the mechanism at (a) or a transfer by novation, assignment or operation of law.

3.18 The mechanism at (b) is only available for a transitional window until 31 October 2022. In both cases, the providers must notify us of the transfer (and that they consider the conditions in the legislation to be met).

3.19 We propose to amend the FPCOB sourcebook to include new rules requiring the new provider to issue a legally binding undertaking to customers on equivalent or substantially similar terms to the original contract that it will provide them with a funeral. This will ensure that consumers receive the same protections as other customers, including from the FSCS.

3.20 We consider that a suitable format for this new undertaking would be a deed poll in favour of these customers or another form of undertaking which does not require customer acceptance for it to be binding on the new provider. We consider this necessary because, in this context, the original contract itself would not be transferred, so the new provider would not have a contractual relationship with the customer. The legally binding undertaking will need to be in place from the time of the transfer. The provider taking on the plans will also be required to notify the customer and nominated representative of:

- the transfer within 30 days
- any changes to the funeral arrangements within around 32 days of the completion of the transfer

3.21 We are also proposing other minor changes to the FPCOB rules to provide for how deemed transfers will work in practice. They will ensure that plan providers follow a clear process and include:

- giving minimum requirements for how firms should publicise the undertaking to deliver customers a funeral on equivalent or substantially similar terms to the original contract
- associated notification and record-keeping requirements

Use of cheques

3.22 We are also making minor changes to FPCOB 12 regarding the use of cheques. Through new feedback raised by plan providers currently seeking authorisation,

we have become aware that, for a significant proportion of their business, some distributors and appointed representatives routinely receive cheques payable to funeral plan providers when customers complete their application documents. We are amending our rules to allow them to do so. This is to ensure access to funeral plans is not limited for the substantial minority of consumers who wish to pay by cheque. The funeral plan intermediary or appointed representative must ensure that any cheque is either promptly paid into the funeral plan provider's account or forwarded to them. These rules work in conjunction with the remainder of our made rules in FPCOB 12 and, in particular, the requirement for funeral plan providers to ensure that distributors and appointed representative only accept payments where the conditions in FPCOB 12.2.1R are met.

**Q3.2: Do you agree with the proposed changes to FPCOB?
Please provide reasons for your answer.**

Cost benefit analysis

- 3.23** Section 138I(2)(a) of FSMA requires us to publish a cost benefit analysis (CBA) when making rules unless, in accordance with section 138L(3) of FSMA, we believe that there will be no increase in costs or that the increase will be of minimal significance.
- 3.24** Further, under section 138I(8) of FSMA, we are not required to publish an estimate of costs and benefits if these cannot be reasonably estimated or it is not reasonably practicable to estimate them.
- 3.25** As funeral plans will be a newly regulated sector from 29 July 2022, with no track record of the failure of authorised funeral plan firms, at this time we are not able to estimate the ongoing cost of potential FSCS compensation costs arising from the failure of funeral plan firms, or forecast how many firms could fail or what liabilities may be protected by the FSCS.
- 3.26** Further, if a funeral plan provider is declared in default by the FSCS, we are not able to estimate what proportion of firms the FSCS will be able to arrange continuity of funeral plans for, and what proportion of failures the FSCS will pay cash compensation.
- 3.27** Finally, we are not able to estimate the number of cases where the FSCS may be required to fund an insolvency practitioner under the rules that we are consulting on.
- 3.28** Accordingly, we are not able to estimate the impact on the FSCS's management expenses (costs which will ultimately be met by FSCS levy payers) arising from these proposals. However, in light of the small number of firms expected to become authorised (we are currently considering applications from around 30 firms), and with no expectation that the firms which become authorised will fail, we do not expect that the proposed rules will give rise to significant FSCS costs at this time.
- 3.29** In any cases where the FSCS is required to fund an insolvency practitioner using the proposed rules in the future, we would expect those costs to represent a small proportion of the overall compensation costs (including the cost of securing continuity) which need to be met to protect customers of that failed firm.

- 3.30** We consider that the proposed rules will increase the FSCS's ability to respond efficiently and effectively in the event that a funeral plan provider is declared in default by the FSCS. In particular, the proposed rules will increase the likelihood that the insolvency practitioner of a firm that is declared in default by the FSCS will be able to cooperate with the FSCS in cases where there are minimal company funds available to meet the insolvency practitioner's costs. This will increase the likelihood that the FSCS will be able to secure continuity of funeral plan contracts, or otherwise pay appropriate compensation to eligible customers. We are not able to quantify the value of this benefit, for the same reasons as set out above.
- 3.31** We do not expect firms to incur additional costs as a result of our proposals on giving a binding promise upon transfer. When firms transfer business, they would normally communicate this via their websites and are already obliged to provide written notification that the transfer has taken place. Our proposals benefit both customers and firms by providing the certainty needed that the transferred plans will be covered by FSCS protection.
- 3.32** Our proposals regarding acceptance of cheques do not result in additional costs and benefit firms and customers from the convenience offered.
- 3.33** Accordingly, having assessed the individual changes proposed in this chapter, we believe the exemption under section 138I(8)(a) and/or 138I(8)(b) of FSMA applies as, due to the reasons explained above, it is not reasonably practicable to produce an estimate of the costs or benefits arising from the proposed changes. Therefore, no CBA is required for the proposals in this chapter.

Impact on mutual societies

- 3.34** Section 138K(2) of FSMA requires us to state whether, in our opinion, our proposed rules have a significantly different impact on authorised persons who are mutual societies, compared to other authorised persons.
- 3.35** We are aware of a number of mutual societies which are active in the funeral plans market. These proposals impact on those societies in the same way that they impact on other authorised persons and do not impact on mutual societies differently.

Compatibility statement

- 3.36** When consulting on our rules, we are required by section 138I(2)(d) of FSMA to explain why we believe that making the proposed rules is consistent with our duties under sections 1B(1) and (5)(a) of FSMA.
- 3.37** Under section 1B(1) of FSMA, in discharging our general functions, we must (so far as is reasonably possible) act in a way which is compatible with our strategic objective and advances one or more of our operational objectives. Under section 1B(5)(a) of FSMA, in discharging our general functions, we must have regard to the regulatory principles in section 3B of FSMA. In addition, when making rules, we must (so far as is compatible with acting in a way which advances our consumer protection or integrity operational objectives) act in a way that is compatible with our duty to promote effective competition in the interests of consumers (section 1B(4) of FSMA). We are

also required to have regard to the principles in the Legislative and Regulatory Reform Act 2006 and the Regulators' Compliance Code when we issue guidance.

- 3.38** We are satisfied that the proposed amendments are compatible with our strategic objective and advance our operational objectives of securing an appropriate degree of consumer protection and promoting market integrity, by helping to ensure consumers have confidence to transact with firms. We are also satisfied that, so far as is compatible with advances these operational objectives, the proposed amendments are compatible with our duty to promote effective competition in the interests of consumers.
- 3.39** In developing the proposals in this chapter, we have had regard to the regulatory principles. We consider that any burdens or restrictions which may be imposed on regulated firms as a result of our proposed changes are proportionate to the benefits expected to result from these impositions. In respect of the proposed amendments to our guidance, we have given due regard to the Regulators' Compliance Code and consider that we are exercising our regulatory functions in a transparent, accountable, proportionate and consistent way, targeting areas where action is needed.

Equality and diversity

- 3.40** We have considered the equality and diversity issues that may arise from the proposed amendments. We do not think that the proposals in this chapter adversely impact any of the groups with protected characteristics under the Equality Act 2010 (ie, age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment).
- 3.41** The proposed changes to COMP are expected to increase the prospect that the FSCS will be able to respond efficiently and effectively if a funeral plan provider is declared in default by the FSCS, while the proposed changes to FPCOB are likely to benefit consumers who do not respond to certain communications (eg, letters or emails). Consumers who benefit may include categories of consumer in vulnerable circumstances. Therefore, we would expect these proposals to have a positive impact insofar as they ensure that all consumers, potentially including consumers in vulnerable circumstances, are not left with plans which cannot be transferred or protected by the FSCS. We will continue to consider the equality and diversity implications of the proposals during the consultation period and will revisit them when publishing the final rules. In the meantime, we welcome comments on any equality and diversity considerations respondents believe may arise.

4 Changes to annuitant mortality tables in COBS

Introduction

- 4.1** In our Conduct of Business sourcebook (COBS), we have rules which require firms to use specific mortality assumptions when they provide consumers with information about the income that could be provided by an annuity. The mortality assumptions in the Handbook are intended to be broadly representative of the mortality assumptions that firms use in annuity pricing.
- 4.2** In general, we expect firms will use recent annuitant mortality experience together with expected mortality improvements for pricing annuities. As new annuitant mortality tables have been published by the Continuous Mortality Investigation (CMI), reflecting more recent experience, we consider that it is appropriate to update the Handbook rules to require firms to use the most up-to-date tables available when providing consumers with information about annuity income.

Summary of proposals

- 4.3** When firms prepare a projection for a pension to show the amount that might be available in retirement, we require them to illustrate the annuity income that could be generated by the projected pot. Pension providers will undertake projections when preparing key features illustrations at point of sale and may provide projections at other times. We want consumers to receive estimates of annuity income that reflect the mortality assumptions used by annuity providers. We think that the best way to achieve this is to use the most recent annuitant mortality tables (the '16' series tables) published by the CMI.
- 4.4** We propose the same update to the mortality tables used when preparing a transfer value comparator (TVC). Firms must give consumers a TVC when they give defined benefit (DB) transfer advice. The TVC estimates the amount consumers would need in their pot to replicate the benefits of their DB scheme, using an annuity.
- 4.5** The mortality assumptions are a combination of the relevant mortality tables and future improvement factors. The existing rules require firms to update the improvement factors annually each 6 April, even when the mortality table remains unchanged. We propose that firms must use the new mortality tables in projections prepared from 6 April 2023. This means that firms will need to replace the mortality tables they use in their systems at the same time as they update the improvement factors.
- 4.6** At the end of each calendar year, the CMI publishes a table which combines the required mortality tables with the relevant improvement factors. Some firms use this combined table in their systems from each 6 April rather than use separate mortality tables and improvement factors. The CMI has confirmed to us that it will be able to

publish a combined table based on the '16' series tables and the relevant improvement factors at the end of 2022. This will enable firms that do not use separate mortality tables and improvement factors to update the combined mortality assumptions on 6 April 2023 when the existing combined table would have been replaced anyway.

Q4.1: Do you agree with our proposed amendments to COBS to update the annuitant mortality tables?

Cost benefit analysis

- 4.7** Section 138I of the Financial Services and Markets Act 2000 (FSMA) requires us to publish a cost benefit analysis (CBA) unless, in accordance with section 138L, we believe that there will be no increase in costs or that the increase will be of minimal significance. Section 138I also requires us to publish an estimate of costs and benefits unless these cannot be reasonably estimated or it is not reasonably practicable to estimate them.
- 4.8** We are satisfied that our proposals will result in only minimal costs for firms. Firms will update their mortality assumptions in the usual way on 6 April 2023, but the combined table they obtain from the CMI will be based on the updated mortality table. Therefore, we consider that no CBA is required for the proposals in this chapter.

Impact on mutual societies

- 4.9** Section 138K(2) of FSMA requires us to prepare a statement setting out our opinion on whether proposed rules will have an impact on mutual societies which is significantly different from the impact on other authorised persons.
- 4.10** We are satisfied that the proposals in this chapter would not have a significantly different impact on mutual societies compared with other authorised persons.

Compatibility statement

- 4.11** When consulting on proposed changes to our Handbook, we are required by section 138I(2) of FSMA to explain why we believe that making those changes is consistent with our strategic objective, advances one or more of our operational objectives, and has regard to the regulatory principles in section 3B of FSMA. We are also required to have regard to the principles in the Legislative and Regulatory Reform Act 2006 and the Regulators' Compliance Code.
- 4.12** We are satisfied that our proposed changes are compatible with our objectives and regulatory principles. The changes we are proposing enhance consumer protection by providing consumers with information on annuity income which is more likely to be representative of the mortality assumptions used in annuity pricing in the open market.

Equality and diversity

- 4.13** We have considered the equality and diversity issues that may arise from the proposed amendments. We have not identified any adverse impact that the proposals in this chapter would have on any of the groups with protected characteristics under the Equality Act 2010 (ie, age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment). We will continue to consider the equality and diversity implications of the proposals during the consultation period and will revisit them when publishing the final rules. In the meantime, we welcome comments on any equality and diversity considerations respondents believe may arise.

5 Changes to IPRU-INV 5.8.2R to clarify the items to be deducted as illiquid assets

Introduction

- 5.1** Chapter 5 of the Interim Prudential sourcebook for Investment Businesses (IPRU-INV) sets out our rules on the financial resources requirements for firms subject to IPRU-INV 5. For these firms, IPRU-INV 5.8 specifically sets out how they are to calculate their own funds and liquid capital. As part of their liquid capital calculation, firms are required to deduct illiquid assets from their Tier 3 capital amount in accordance with row 10 of the table in IPRU-INV 5.8.2R.
- 5.2** Row 10(f) of the table in IPRU-INV 5.8.2R defines loans, other debtors and accruals that are not due to be repaid within 90 days or are more than 1 month overdue by reference to the contractual payment date as illiquid assets.
- 5.3** Other debtors in this context means all debtors that are not loans or accruals. However, we note that under UK Generally Accepted Accounting Practice (UK GAAP), there is a differentiation between trade and other debtors. Firms may therefore be taking this into consideration when they calculate their liquid capital.
- 5.4** To ensure firms are correctly calculating their liquid capital amount, we propose to clarify that trade debtors not due to be repaid within 90 days or that are more than 1 month overdue by reference to the contractual payment date should be included in illiquid assets.

Summary of proposals

- 5.5** We propose to amend the Handbook text in row 10(f) of the table in IPRU-INV 5.8.2R to expressly refer to trade debtors in this part of the definition of illiquid assets, and thus to clarify what has always been the intended effect.
- 5.6** This means that firms that calculate their liquid capital amount under IPRU-INV 5.8 must ensure that trade debtors not due to be repaid within 90 days or that are more than 1 month overdue by reference to the contractual payment are included as an illiquid asset, and thus deducted when they calculate their liquid capital amount.
- 5.7** We believe that the vast majority of firms are already compliant with our requirements in IPRU-INV 5.8. Any firms that are affected by the proposed amendment will need to ensure that the amount held for their own funds and liquid capital does not put them in breach of their capital requirement. For some firms, this may result in having to increase their own funds and liquid capital.

- 5.8** We are asking for firms that believe they are affected by the proposed amendment to contact us within the consultation period.

Q5.1: Do you have any comments on the proposed change to row 10(f) of the table in IPRU-INV 5.8.2R?

Cost benefit analysis

- 5.9** Our analysis from regulatory returns looked at 68 firms and suggests that 14 of these firms may not be including trade debtors in illiquid assets, and so are incorrectly calculating their liquid capital amounts. Of the 14 firms that may be impacted, we believe that 3 would be in breach of their capital requirements when they include trade debtors.
- 5.10** We think there will be minimal impact on firms' compliance costs, as the amendment is to clarify a deduction that firms should already be making. In addition, we do not anticipate additional costs in gathering this information as firms should already hold it for financial accounting purposes.

Impact on mutual societies

- 5.11** Section 138K(2) of FSMA requires us to prepare a statement setting out our opinion on whether proposed rules will have an impact on mutual societies which is significantly different from the impact on other authorised persons.
- 5.12** We are satisfied that the proposals in this chapter would not have a significantly different impact on mutual societies compared with other authorised persons.

Compatibility statement

- 5.13** When consulting on proposed changes to our Handbook, we are required by section 138I(2) of FSMA to explain why we believe that making those changes is consistent with our strategic objective, advances one or more of our operational objectives, and has regard to the regulatory principles in section 3B of FSMA and for the importance of taking action intended to minimise financial crime (section 1B(5)(b) of FSMA). We are also required to have regard to the principles in the Legislative and Regulatory Reform Act 2006 and the Regulators' Compliance Code.
- 5.14** We are satisfied that our proposed changes are compatible with our regulatory principles and objective to reduce and prevent serious harm by reducing harm from firm failure. The proposed amendment to the Handbook is to provide clarification for firms calculating their liquid capital, and to ensure that firms are appropriately financially resourced.

Equality and diversity

- 5.15** We have considered the equality and diversity issues that may arise from the proposed amendments. We do not think that the proposals in this chapter adversely impact any of the groups with protected characteristics under the Equality Act 2010 (ie, age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment).
- 5.16** We will continue to consider the equality and diversity implications of the proposals during the consultation period and will revisit them when publishing the final rules. In the meantime, we welcome comments on any equality and diversity considerations respondents believe may arise.

6 Updates to IFPR reporting forms and guidance

Introduction

- 6.1** The Investment Firms Prudential Regime (IFPR) came into force on 1 January 2022. It is our new prudential regime for Markets in Financial Instruments Directive (MiFID) investment firms.
- 6.2** We consulted on new reporting requirements within [CP20/24](#) and [CP21/7](#). Our intention was to collect an appropriate amount of data to supervise Financial Conduct Authority (FCA) investment firms against the requirements of the IFPR. We published our final reporting rules in [PS21/6](#) and [PS21/9](#).
- 6.3** We propose some updates to our reporting forms in Prudential sourcebook for MiFID Investment Firms (MIFIDPRU) 9 Annex 1R and their accompanying guidance in MIFIDPRU 9 Annex 2G. The alterations are proposed for MIF001, MIF002, MIF003, MIF004 and MIF007. The updates are intended to help firms complete the forms, to ensure that the forms are fully consistent with their equivalents within our [RegData](#) system and to enact some minor corrections.

Summary of proposals

MIF001 – updates to the reporting form

- 6.4** We propose to update the [MIF001 reporting form](#).
- 6.5** Cells 17A and 19A are in use within our RegData system. However, these cells are labelled as '[Not Used]' in the MIF001 form. We are proposing new names for these cells to reflect their use in RegData:
- **17A:** Adjusted K-DTF (cash trades) coefficient, where used
 - **19A:** Adjusted K-DTF (derivative trades) coefficient, where used
- 6.6** While we published rules on how to calculate an adjusted K-DTF coefficient in [PS21/9](#), we did not require the reporting of it. We are now proposing that any firm that uses an adjusted K-DTF coefficient must report the value of that adjusted coefficient in the relevant cell. Since a firm that is using the adjusted coefficient will already have calculated that value, this should not impose any material additional burden on firms. Firms are not required to calculate and apply an adjusted coefficient for stressed market conditions – that is, a firm may choose to apply the standard coefficient even if stressed conditions occurred during the relevant calculation period. We are also amending the completion guidance for these cells to explain what should be entered in them.

MIF001 – updates to the reporting guidance

- 6.7** We also propose to update the reporting guidance accompanying MIF001.
- 6.8** We propose to update the guidance for cell 8A permanent minimum requirement (PMR):
- **8A:** The revised guidance will confirm that a firm should enter 4000 if it has a PMR of £4,000,000 under MIFIDPRU 4.4.6R. For a MIF001 return submitted on an individual basis, this means that the only value in this cell should be one of: 75, 150, 750 or 4,000.
- 6.9** We also propose new guidance to accompany cells 17A and 19A for the adjusted K-DTF coefficients (as amended by our proposals above):
- **17A:** The new guidance will explain that FCA investment firms should enter the value of the adjusted coefficient, where used, for cash trades as calculated in accordance with MIFIDPRU 4.15.11R.
 - **19A:** The new guidance will explain that FCA investment firms should enter the value of the adjusted coefficient, where used, for derivative trades as calculated in accordance with MIFIDPRU 4.15.11R.
- 6.10** Firms should refer to MIFIDPRU 4.15.13G for a worked example of how to calculate the adjusted coefficient where the calculation period includes a period of stressed market conditions.
- 6.11** We propose additional guidance for cell 24A (transitional requirement):
- **24A:** The new guidance will clarify that where a firm is making use of more than 1 transitional own funds requirement, it should enter the highest resulting value in this cell. For example, a former IFPRU 50K investment firm may be applying the transitional in MIFIDPRU TP 2.7R to its fixed overheads requirement and its K-factor requirement, and the transitional in MIFIDPRU 2.13R to its permanent minimum capital requirement. If this resulted in a transitional PMR of £50,000, and a transitional fixed overheads requirement and K-factor requirement that are each equal to £65,000, the firm would enter '65' into cell 24A.
- 6.12** We are aware that investment firm groups that are subject to prudential consolidation under MIFIDPRU 2.5 may benefit from additional guidance on how to complete some aspects of consolidated MIF001 returns.
- 6.13** So we propose to update to guidance under the 'Own funds threshold requirement/wind-down trigger' heading and for cells 26A (own funds threshold requirement) and 27A (own funds wind-down trigger) where the MIF001 return is being completed on a consolidated basis:
- **Own funds threshold requirement/wind-down trigger:** Where MIF001 is being completed on a consolidated basis, the new guidance states that cells in this section should be left blank unless the FCA has specifically required the investment firm group to undertake a consolidated ICARA process. We remind groups that a consolidated ICARA process is different from a group ICARA process. An investment firm group is not subject to a requirement to operate a consolidated ICARA process simply because the group is subject to consolidation under MIFIDPRU 2.5. Where the FCA requires an investment firm group to operate a consolidated ICARA process, it will specifically inform the group of this and the FCA's expectations of how this should be carried out in practice.

- **26A:** The revised guidance will clarify that where the FCA has specifically required the investment firm group to operate a consolidated ICARA process, this cell should contain the higher of:
 - the group’s own assessment of its consolidated own funds threshold requirement as determined through the consolidated ICARA process (ie, in accordance with MIFIDPRU 7.6 as applied on a consolidated basis); or
 - the amount specified by the FCA to be the consolidated own funds threshold requirement.
- **27A:** The revised guidance will clarify that where MIF001 is being completed on a consolidated basis, this cell should be left blank unless the FCA has specifically stated that a consolidated own funds wind-down trigger applies to the group.

6.14 The changes to the MIF001 return and the associated guidance should not result in firms needing to collect additional information. Instead, they are designed to provide more clarity for firms on the information required by the MIF001 return and to improve the accuracy of returns.

Q6.1: Do you agree with our proposed amendments to the MIF001 return and related guidance?

MIF002 – updates to the reporting form

6.15 We propose to amend the MIF002 reporting form to rename the existing cell 6A. This cell is relevant to firms other than non-SNI MIFIDPRU investment firms that deal on own account and/or carrying on underwriting or placing on a firm commitment basis.

6.16 The cell is currently called ‘Value of qualifying trade receivables’ but we consider that it would be clearer to rename it ‘Value of trade receivables due within 30 days’. This is because we are seeking information on the full value of receivables due from trade debtors within 30 days before any haircuts or other adjustments under MIFIDPRU 6.3.3R are applied. We explain this approach further in the update to the MIF002 reporting guidance for cell 6A below.

MIF002 – updates to the reporting guidance

6.17 We propose to amend the MIF002 reporting guidance to explain the information that we are seeking in relation to trade receivables:

- **6A (value of receivables due within 30 days):** We think the existing guidance for the reporting of the potential recognition of trade receivables as core liquid assets in accordance with MIFIDPRU 6.3.3R needs to be clarified. Some firms have indicated that they are unsure whether this field should be used to report the full value of trade receivables before the adjustments under MIFIDPRU 6.3.3R are applied or the adjusted value taking into account the restrictions in MIFIDPRU 6.3.3R(3) to (5). A firm may be permitted to recognise trade receivables (subject to certain conditions) as core liquid assets if the firm is:
 - an SNI MIFIDPRU investment firm; or
 - a non-SNI MIFIDPRU investment firm that does not have permission to carry on dealing on own account or underwriting or placing of financial instruments on a firm commitment basis.

Our proposed new guidance clarifies that where a firm does not fall within one of the above categories (and therefore cannot count trade receivables as core liquid assets), it should leave this cell blank.

6.18 Where a firm does fall within the above categories, we propose new guidance stating that the firm should enter the total value of receivables from trade debtors that are receivable within 30 days – that is, before applying any of the adjustments set out in MIFIDPRU 6.3.3R(3) to (5). We will then be able to calculate the impact of the minimum 50% haircut on this amount and will be able to compare the resulting amount to the components of the firm’s reported basic liquid asset requirement. We are proposing to delete the existing guidance that states that to be counted as core liquid assets, the relevant conditions in MIFIDPRU 6.3.3R must be met. While this was originally meant as a general reminder to firms about how core liquid assets work in this context, we consider that this could cause confusion where we are seeking information about the total value of trade receivables due within 30 days.

6.19 We also propose updating our MIF002 guidance to clarify how consolidated MIF002 returns should be completed:

- **Consolidated reports:** We are proposing to add a note under the general consolidated reports heading that confirms that where a group has obtained the exemption from the consolidated basic liquid assets requirement in MIFIDPRU 2.5.19R, it is not required to submit a consolidated MIF002 return.
- **Liquid assets threshold requirement/wind-down trigger:** Where MIF002 is being completed on a consolidated basis, we propose to clarify that cells 8A and 9A should be left blank unless the FCA has specifically required the investment firm group to undertake a consolidated ICARA process.
- **8A (liquid assets threshold requirement):** We propose to clarify that where the FCA has specifically required the investment firm group to operate a consolidated ICARA process, this cell should contain the higher of:
 - the group’s own assessment of its consolidated liquid assets threshold requirement as determined through the consolidated ICARA process (ie, in accordance with MIFIDPRU 7.7 as applied on a consolidated basis) or
 - the amount specified by the FCA to be the consolidated liquid assets threshold requirement.
- **9A (liquid assets wind-down trigger):** We propose to clarify that where the MIF002 is being completed on a consolidated basis, this cell should be left blank unless the FCA has specifically stated that a consolidated liquid assets wind-down trigger applies to the group.

6.20 We are not proposing to make any amendments to the format of the MIF002 return itself.

Q6.2: Do you agree with our proposed changes to the MIF002 guidance?

MIF003 – updates to the reporting form

6.21 We propose to update the row titles within the MIF003 form. This will make the precise information that we are seeking clearer to firms. It will also bring the forms into full alignment with the current wording used in our RegData system. We propose the following new row titles:

- **3A:** Average AUM
- **7A:** Average CMH (segregated)
- **11A:** Average CMH (non-segregated)
- **15A:** Average ASA
- **19A:** Average COH (cash)
- **20A:** Average COH (derivatives)

6.22 These amended cell titles do not change the underlying information that we are seeking for each of these cells. Instead, the addition of 'average' to the name of each cell is designed to make it more intuitive to users that it is the relevant average K-factor metric (as defined in, and calculated in accordance with, MIFIDPRU 4) that must be reported.

MIF003 – updates to the reporting guidance

6.23 We propose to update and provide new examples to the general guidance on metrics in the MIF003 reporting guidance.

- **Metrics:** We propose to add new guidance to clarify that the metrics information must be supplied even if the firm is an SNI and does not currently need to calculate a K-factor requirement.

We also propose to add a worked example using assets under management (AUM). This is to remind firms that, except where otherwise specified, we are not asking for the K-factor requirement but the value of the underlying activity that is used to calculate the K-factor requirement.

We also propose to add a reminder to firms that they should refer to MIFIDPRU 1.2.1R for the rules on calculating metrics for classification an SNI MIFIDPRU investment firm.

6.24 We propose to update the guidance accompanying the following cells:

- **3A (average AUM), 19A (average COH (cash)) and 20A (average COH (derivatives)):** We propose additional guidance to clarify that a firm should use the figures resulting from MIFIDPRU 1.2.4R where it is using the alternative approach to measure its average AUM or COH for the purposes of MIFIDPRU 1.2.1R (1) or (2).
- **7A (average CMH (segregated)) and 11A (average CMH (unsegregated)):** We propose to update the guidance to reflect the renaming of these cells on the MIF003 return, making it clear that this is the average CMH metric that is required.

Q6.3: Do you agree with our proposal to rename the row titles on the MIF003 return and to update the MIF003 accompanying guidance?

MIF004 – updates to the reporting form

6.25 We propose a series of amendments to the MIF004 form to separate the firm reference number (FRN) from the legal entity identifier (LEI) Number (or the firm's internal reference number, where the counterparty does not have an FRN or LEI). This adds a new column to rows 3 to 52 in the form. It will also make the existing column B for those rows column C. Firms will only need to provide either the LEI (or internal reference number) or FRN when identifying a counterparty. However, they can provide both an LEI and FRN for a counterparty if they have them. This proposal will assist our data validation.

MIF004 – updates to the reporting guidance

6.26 We propose to update the accompanying MIF004 reporting guidance to explain the introduction of the new column in the return and to explain the above proposed approach to reporting LEIs and FRNs of counterparties.

6.27 We also propose to update reporting guidance to explain what a firm should input where a section or particular rows within a section do not apply to it.

Q6.4: Do you agree with our proposed MIF004 form amendment and update to the accompanying MIF004 reporting guidance?

MIF007 – update to reporting guidance

6.28 We propose to update the guidance for section B1 of our MIF007 form. This guidance currently states that the sum of the values in cells 18A to 27A should be equal to the value entered in cell 11A. This is incorrect, as there may be additional risks reported in cell 28A that also contribute to the figure in cell 11A that represents the own funds necessary to address risks from the firm's ongoing activities.

Q6.5: Do you agree with the proposed clarification to our MIF007 guidance?

Materiality

6.29 In our opinion, the proposed changes to our existing rules within this chapter are not material under section 143I(3) and (5) of the Financial Services and Markets Act 2000 (FSMA). We do not consider that they materially change any risks to consumers, the market or the UK financial system arising from FCA investment firms. We also do not consider that the proposals will have any relevance to the carbon target in section 1 of the Climate Change Act 2008.

6.30 Our proposed changes are intended to clarify existing reporting obligations for FCA investment firms and, where applicable, UK parent entities of investment firm groups that are subject to prudential consolidation under MIFIDPRU 2.5. We do consider that they will impose substantive new reporting obligations on firms or parent entities and therefore we do not expect them to increase the operational burden.

6.31 When we made the original reporting rules in PS21/6 and PS21/9, we considered the application of our duties under Part 9C of FSMA at that time and explained how

we considered that our rules discharged those duties. We consider that the minor amendments to rules and guidance that we are proposing in this chapter would not materially change our approach to monitoring and supervising the relevant underlying risks, but would increase the likelihood of firms providing the accurate data that we were originally seeking.

Cost benefit analysis

- 6.32** We consulted on the costs and benefits of our reporting requirements within [CP20/24](#) and [CP21/7](#). We do not believe that our proposed changes will alter the costs and benefits of reporting for firms. The cost benefit analysis within [CP20/24](#) and [CP21/7](#) remains unchanged and is applicable to this consultation.

Impact on mutual societies

- 6.33** Section 138K(2) of FSMA requires us to prepare a statement setting out our opinion on whether proposed rules will have an impact on mutual societies which is significantly different from the impact on other authorised persons.
- 6.34** We are satisfied that the proposals in this chapter would not have a significantly different impact on mutual societies compared with other authorised persons.

Compatibility statement

- 6.35** The proposals within this consultation are designed to make the completion of IFPR regulatory reporting easier for firms while improving the accuracy and consistency of reporting submissions. Consistent and accurate data submissions will support the FCA in analysing the data we receive and supervising against IFPR requirements. Therefore, this proposal supports the FCA's strategic objective of enhancing the integrity of the UK financial system.

Equality and diversity

- 6.36** We have considered the equality and diversity issues that may arise from the proposed amendments. We have not identified any adverse impact that the proposals in this chapter would have on any of the groups with protected characteristics under the Equality Act 2010 (ie, age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment). We will continue to consider the equality and diversity implications of the proposals during the consultation period and will revisit them when publishing the final rules. In the meantime, we welcome comments on any equality and diversity considerations respondents believe may arise.

Annex 1

Abbreviations used in this paper

Abbreviation	Description
AUM	Assets under management
CBA	Cost benefit analysis
CMI	Continuous Mortality Investigation
COBS	Conduct of Business Sourcebook
COMP	Compensation Sourcebook
CP	Consultation Paper
DB	Defined benefit
DEPP	Decision Procedure and Penalties manual
EG	Enforcement Guide
FCA	Financial Conduct Authority
FPCOB	The Funeral Plan: Conduct of Business Sourcebook
FRN	Firm reference number
FSCS	The Financial Services Compensation Scheme or the Financial Services Compensation Scheme Limited, as appropriate
FSMA	Financial Services and Markets Act 2000 (as amended)
IFPR	Investment Firms Prudential Regime
IPRU-INV	Interim Prudential sourcebook for Investment Businesses
LEI	Legal entity identifier
MiFID	Markets in Financial Instruments Directive
MIFIDPRU	Prudential sourcebook for MiFID Investment Firms
PMR	Permanent minimum requirement
PRA	Prudential Regulation Authority

Abbreviation	Description
PS	Policy Statement
RDC	Regulatory Decisions Committee
TVC	Transfer value comparator

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Appendix 1

List of questions

- Q2.1:** Do you agree with our proposed change to DEPP?
- Q3.1:** Do you agree with the proposed changes to COMP?
Please provide reasons for your answer.
- Q3.2:** Do you agree with the proposed changes to FPCOB?
Please provide reasons for your answer.
- Q4.1:** Do you agree with our proposed amendments to COBS
to update the annuitant mortality tables?
- Q5.1:** Do you have any comments on the proposed change to
row 10(f) of the table in IPRU-INV 5.8.2R?
- Q6.1:** Do you agree with our proposed amendments to the
MIF001 return and related guidance?
- Q6.2:** Do you agree with our proposed changes to the MIF002
guidance?
- Q6.3:** Do you agree with our proposal to rename the row
titles on the MIF003 return and to update the MIF003
accompanying guidance?
- Q6.4:** Do you agree with our proposed MIF004 form
amendment and update to the accompanying MIF004
reporting guidance?
- Q6.5:** Do you agree with the proposed clarification to our
MIF007 guidance?

Appendix 2

Proposed change to DEPP to align with amended decision-making procedures

**DECISION PROCEDURE AND PENALTIES MANUAL (AMENDMENT)
INSTRUMENT 2022**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of section 139A (power of the FCA to give guidance) of the Financial Services and Markets Act 2000 (“the Act”).

Commencement

- B. This instrument comes into force on [*date*].

Amendments to the Handbook

- C. The Decision Procedure and Penalties manual (DEPP) is amended in accordance with the Annex to this instrument.

Citation

- D. This instrument may be cited as the Decision Procedure and Penalties Manual (Amendment) Instrument 2022

By order of the Board
[*date*]

Annex

Amendments to the Decision Procedure and Penalties manual (DEPP)

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

2 Statutory notices and the allocation of decision making

...

2.5 Provision for certain categories of decision

...

- 2.5.10 G ~~The RDC~~ FCA staff under executive procedures will take *statutory notice decisions* relating to the discontinuance of listing of securities on the *FCA's* own initiative.

Appendix 3

Amendments to the Compensation sourcebook in relation to funeral plans and to the Funeral Plan: Conduct of Business sourcebook

FUNERAL PLANS (No X) INSTRUMENT 2022**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions in or under the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
 - (2) section 137T (General supplementary powers);
 - (3) section 139A (Power of the FCA to give guidance);
 - (4) section 213 (The compensation scheme);
 - (5) section 214 (General);
 - (6) section 215 (Rights of the scheme in insolvency); and
 - (7) section 215A (Continuity of funeral plan contracts).
- 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 FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes in this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Funeral Plan: Conduct of Business sourcebook (FPCOB)	Annex B
Compensation sourcebook (COMP)	Annex C

Citation

- E. This instrument may be cited as the Funeral Plans (No X) Instrument 2022.

By order of the Board
[date]

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text.

Amend the following definition as shown.

[*Editor's note:* Annex A takes into account the changes made in FCA 2021/26, which comes into force on 29 July 2022.]

<i>subsisting funeral plan</i>	a <i>funeral plan contract</i> that was entered into before 29 July 2022 and is still in force, <u>including a contract meeting this criterion which is transferred in circumstances where <i>FPCOB</i> 10.2.2R applies.</u>
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Annex B

Amendments to the Funeral Plan: Conduct of Business sourcebook (FPCOB)

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

[*Editor's note:* Annex B takes into account the changes made in FCA 2021/26, which comes into force on 29 July 2022.]

1 Application and purpose

...

1.2 General application: who? what? where?

...

New, ~~and~~ subsisting and transferred funeral plans

1.2.8 R All of the *rules* in this sourcebook apply in relation to *new funeral plans*, unless otherwise stated.

1.2.9 R The *rules* in certain sections of this sourcebook also apply in relation to *subsisting funeral plans*.

1.2.9A R Any references in this sourcebook, other than that at FPCOB 16.1.5R(3)(e), to a transfer of a funeral plan contract or a transfer of the business of a funeral plan provider should be read to include circumstances where funeral plan contracts are transferred using the mechanism referred to in FPCOB 10.2.2R.

...

10 Arrangements for the funeral

10.1 Application and purpose

...

10.1.11 R (1) ~~This rule applies to a funeral plan provider which has assumed the undertaking under a funeral plan contract to provide, or secure the provision of, a funeral as a result of a transfer of the contract.~~ ~~[deleted]~~

(2) ~~The firm must notify the customer and nominated representative that a transfer of the funeral plan contract has taken place within 30 days of the completion of the transfer.~~ ~~[deleted]~~

- (3) ~~The *firm* must ensure that arrangements meeting the requirements of *FPCOB 10.1.3R* are in place within 30 *days* of the completion of the transfer. [deleted]~~
- (4) ~~If, as a result of the *firm's* compliance with this *rule*, there are any changes to the arrangements under the contract, the *firm* must notify the *customer* and the nominated representative in compliance with *FPCOB 10.1.4R* and *FPCOB 10.1.5R*. [deleted]~~

Insert FPCOB 10.2 (Transfers of funeral plans) directly after FPCOB 10.1 (Application and purpose). The text is all new and is not underlined.

10.2 Transfers of funeral plans

- 10.2.1 R (1) This *rule* applies to a *funeral plan provider* which has assumed the undertaking under a *funeral plan contract* to provide, or secure the provision of, a funeral as a result of a transfer of the contract.
- (2) The *firm* must notify the *customer* and nominated representative that a transfer of the *funeral plan contract* has taken place within 30 *days* of the completion of the transfer and, where an undertaking is given in accordance with *FPCOB 10.2.2R(2)*, a copy must be provided.
- (3) The *firm* must ensure that arrangements meeting the requirements of *FPCOB 10.1.3R* are in place within 30 *days* of the completion of the transfer.
- (4) If, as a result of the *firm's* compliance with this *rule*, there are any changes to the arrangements under the contract, the *firm* must notify the *customer* and the nominated representative in compliance with *FPCOB 10.1.4R* and *FPCOB 10.1.5R*.
- 10.2.2 R (1) This rule applies to a *funeral plan provider* in circumstances described in article 59(3) to (6) of the *Regulated Activities Order* who:
- (a) intends to give an equivalent or substantially similar undertaking to a *customer* or a defined group of *customers* to replace an existing undertaking to provide, or secure the provision of, a funeral under a *funeral plan contract* between that *customer* and another person or *funeral plan provider*; and
- (b) will not otherwise assume the existing undertaking by novation, assignment or operation of law.
- (2) On or before the date notified to the *FCA* under article 59(3)(e)(ii) of the *Regulated Activities Order*, where the receiving *funeral plan*

provider's undertaking will replace the existing undertaking under the *funeral plan contract* which the *customer* had with the transferring firm, the receiving *funeral plan provider* must give a written undertaking to the *customer*:

- (a) to provide a funeral on equivalent or substantially similar terms to the existing undertaking; and
 - (b) which provides the *customer* with a legally binding claim against it without the need for *customer* acceptance or any other action on the part of the *customer*.
- (3) At the same time that the written undertaking is provided to the *customer* under *FPCOB* 10.2.2R(2), the *funeral plan provider* must notify the *FCA* that the undertaking has been given and provide a copy of the undertaking.
- (4) The *funeral plan provider* must:
- (a) publish and maintain a copy of the written undertaking provided to the *customer* under *FPCOB* 10.2.2R(2) on its website; and
 - (b) maintain appropriate records, including records of the undertaking and the *customers* to whom it applies,
- until such time as there are no longer any *customers* to whom the undertaking applies.
- (5) On request by the *customer* or their nominated representative, the *funeral plan provider* must promptly provide a further copy of the undertaking by post and/or by email.

- 10.2.3 G (1) The effect of *FPCOB* 10.2.2R is that a *customer* for whom a *funeral plan provider* becomes responsible in regulatory terms following a transfer of business is provided with a binding undertaking from that receiving provider, which will provide a civil cause of action against that *firm* should it be needed.
- (2) An example of where such a civil cause of action may be needed is if the *funeral plan provider* became insolvent and the *customer* or their estate wanted to make a claim to the *compensation scheme*.
- (3) The fact that *FPCOB* 10.2.2R is actionable under s.138D of *FSMA* at the suit of a private person means a *customer* to whom (in breach of that rule) a written undertaking is not made will in any event have a claim against that *funeral plan provider*.
- 10.2.4 G An example of a legally binding undertaking which would fulfil the requirement at *FPCOB* 10.2.2R includes a deed poll executed by the

funeral plan provider in favour of a *customer* or defined group of *customers*.

- 10.2.5 G The obligation in *FPCOB* 10.2.2R(4)(a) does not require the receiving *funeral plan provider* to publish information on its website which meets the definition of personal data under the *General Data Protection Regulation*.

...

12 Handling of payments by intermediaries

12.1 Application and purpose

...

Purpose

- 12.1.3 G The *rules* in this chapter mitigate the risk of loss to *customers* on the insolvency of a *firm* engaged in *funeral plan distribution*. Such a *firm* cannot receive or handle payments for a *funeral plan contract* except in some limited circumstances by cheque or in the form of cash and can only receive or handle a cash payment if that contract will be effective from the moment of receipt.

12.2 Obligations on intermediaries

- 12.2.1 R A *firm* engaged in *funeral plan distribution* must not accept payments which are payable to a *funeral plan provider* under a *funeral plan contract* unless:

(1) the payment is:

- (a) received as agent for the *funeral plan provider*;
- (b) made in cash;
- (c) made at the time the *funeral plan contract* is entered into by the *firm* as agent of the *funeral plan provider*; and

(d) deemed received by the *funeral plan provider* on receipt by the agent under the following contracts:

- (i) the *funeral plan contract*;
- (ii) the contract between the *funeral plan provider* and the agent; and
- (iii) (where the *firm* is using an *appointed representative*) the contract between the *firm* and the representative.

- (2) ~~the following contracts each provide that the payment is deemed received by the *funeral plan provider* on receipt by the agent:~~
~~[deleted]~~
- ~~(a) the *funeral plan contract*;~~
 - ~~(b) the contract between the *funeral plan provider* and the agent; and~~
 - ~~(c) (where the *firm* is using an *appointed representative*) the contract between the *firm* and the representative.~~
- (3) the payment is made by cheque payable to the *funeral plan provider* and:
- (a) is paid into the bank account of the *funeral plan provider* promptly and, in any event, no later than the next *business day* after receipt; or
 - (b) is forwarded to the *funeral plan provider* promptly and, in any event, no later than the next *business day* after receipt.

- 12.2.3 G The effect of *FPCOB* 12.2.1R is that a *firm* engaging in *funeral plan distribution* can only accept payment for a *funeral plan contract* if the payment is made by cheque payable to the *funeral plan provider* or in cash and, if cash, the *funeral plan provider* will be bound by that contract from the moment that ~~the~~ any cash payment is received by the *firm*.

...

12.3 Obligations on providers

- 12.3.1 R A *funeral plan provider* must ensure that its arrangements for another *firm* or an *appointed representative* to distribute *funeral plan contracts*:
- (1) prohibit that *person* from accepting payments payable to a *funeral plan provider*; or
 - (2) prohibit such payments other than by cheque or in cash and, for cash payments:
 - (a) are compatible with the requirements of *FPCOB* 12.2.1R; and
 - (b) (for arrangements with a *firm*) make clear whether or not the *firm* is permitted to appoint *appointed representatives* to act as agent for the *funeral plan provider* in receiving contractual payment in cash.

12.4 Appointed representatives

...

- 12.4.3 G Where a *funeral plan provider* appoints another *firm* to undertake *funeral plan distribution* in relation to its *funeral plan contracts* and that *firm* has an *appointed representative* who it permits to accept cash payment for that contract, ~~FPCOB 12.2.1R(2)~~ FPCOB 12.2.1(1)(d) would be satisfied where the *appointed representative* receives the cash payment as sub-agent for the *funeral plan provider* and the contracts which underpin the arrangements ensure this (including the contract between the firm and its representative).

Annex C

Amendments to the Compensation sourcebook (COMP)

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

12A Special cases

...

12A.5 Claims arising under COMP 3.2.4R

Insert the following new section, COMP 12A.6 (Funeral plans), immediately after COMP 12A.5 (Claims arising under COMP 3.2.4R). The text is all new and is not underlined.

12A.6 Funeral plans

- 12A.6.1 R (1) The *FSCS* may make payments to, or on behalf of, a relevant *funeral plan provider* or to the administrator or liquidator of a *funeral plan provider*, in respect of any reasonable fees, costs, charges or other expenses incurred for the purpose of the administrator or liquidator of that *funeral plan provider* complying with a request of the *FSCS* under section 215B of the *Act*.
- (2) In paragraph (1), ‘reasonable fees, costs, charges or other expenses’ means those fees, costs, charges or other expenses that the *FSCS* is satisfied:
- (a) have been reasonably incurred;
 - (b) have been exclusively incurred for the purpose of an administrator or liquidator complying with a request under section 215B of the *Act*; and
 - (c) only to the extent that such fees, costs, charges or other expenses cannot otherwise be met.
- 12A.6.2 G Section 215B of the *Act* (Scheme manager’s power to require assistance from liquidator etc. in relation to funeral plan contracts) confers a power on the *FSCS* to require the administrator or liquidator of a *funeral plan provider* to provide any assistance to the *FSCS* that the *FSCS* considers necessary to enable it to administer the compensation scheme and secure continuity of cover in relation to *funeral plan contracts*.

Appendix 4

Changes to annuitant mortality tables in COBS

**CONDUCT OF BUSINESS SOURCEBOOK (ANNUITANT MORTALITY
AMENDMENT) INSTRUMENT 2022**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
 - (2) section 137T (General supplementary powers); and
 - (3) section 139A (Power of the FCA to give guidance).
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

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

Amendments to the Handbook

- D. The Conduct of Business sourcebook (COBS) is amended in accordance with the Annex to this instrument.

Citation

- F. This instrument may be cited as the Conduct of Business Sourcebook (Annuitant Mortality Amendment) Instrument 2022.

By order of the Board
[*date*]

Annex

Amendments to the Conduct of Business sourcebook (COBS)

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

13 Preparing product information

...

13 Projections

Annex 2

This annex belongs to *COBS* 13.4.1R (Contents of a key features illustration), *COBS* 13.5.1R (Projections for in-force products) and *COBS* 13.5.2R (Projections: other situations).

...

R		
3	How to calculate a projection for a future annuity	
3.1	A <i>projection</i> for a future annuity must:	
	...	
	(2)	use a mortality rate based on the year of birth rate derived from each of the Institute and Faculty of Actuaries' Continuous Mortality Investigation tables PMA08 <u>PMA16</u> and PFA08 <u>PFA16</u> and including mortality improvements derived from each of the male and female annual mortality projection models, in equal parts
...		

19 Pensions supplementary provisions

19.1 Pension transfers, conversions, and opt-outs

...

19 Assumptions

Annex 4C

This annex belongs to *COBS* 19.1.2BR and *COBS* 19.1.3AR.

...

Assumptions			
R			
1	(1)	A <i>firm</i> must use the assumptions in (2) when:	
2		(a)	the <i>proposed arrangement</i> includes a <i>pension annuity</i> and COBS 19 Annex 4A1R(2) applies; or
		(b)	it determines the estimated cost of future income benefits as a <i>pension annuity</i> under COBS 19 Annex 4B1R(2) or COBS 19 Annex 4B2R(2).
	(2)	The assumptions are:	
		...	
		(f)	the mortality rate used to determine the annuity is based on the year of birth rate derived from each of the Institute and Faculty of Actuaries' Continuous Mortality Investigation tables PMA08 <u>PMA16</u> and PFA08 <u>PFA16</u> and including mortality improvements derived from each of the male and female annual mortality projections models, in equal parts;
		...	
	...		

Appendix 5

Changes to IPRU-INV 5.8.2R to clarify the items to be deducted as illiquid assets

**PRUDENTIAL STANDARDS FOR INVESTMENT MANAGEMENT FIRMS
(AMENDMENT) INSTRUMENT 2022**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules); and
 - (2) section 137T (General supplementary powers).
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

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

Amendments to the Handbook

- D. The Interim Prudential sourcebook for Investment Businesses (IPRU-INV) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Prudential Standards for Investment Management Firms (Amendment) Instrument 2022.

By order of the Board
[*date*]

Annex

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

In this Annex, underlining indicates new text.

5 Financial resources

...

5.8 Calculation of own funds and liquid capital

...

5.8.2 R

...	
10 Illiquid assets (Item 16)	Illiquid assets comprise:
	...
	(f) loans, <u>trade and</u> other debtors and accruals not falling due to be repaid within 90 days or which are more than one month overdue by reference to the contractual payment date;
	...
...	

Appendix 6

Updates to IFPR reporting forms and guidance

**INVESTMENT FIRMS PRUDENTIAL REGIME (AMENDMENT) (No. 2)
INSTRUMENT 2022**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
 - (2) section 137T (General supplementary powers);
 - (3) section 139A (Power of the FCA to give guidance);
 - (4) section 143D (Duty to make rules applying to parent undertakings); and
 - (5) section 143E (Powers to make rules applying to parent undertakings).
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

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

Amendments to the FCA Handbook

- D. The Prudential sourcebook for MiFID Investment Firms (MIFIDPRU) is amended in accordance with the Annex to this instrument.
- E. The FCA confirms and remakes in the Glossary of definitions any defined expressions used in MIFIDPRU where the defined expressions relate to UK legislation that has been amended since those defined expressions were last made.

Citation

- F. This instrument may be cited as the Investment Firms Prudential Regime (Amendment) (No. 2) Instrument 2022.

By order of the Board
[*date*]

Annex

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

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

Amend MIFIDPRU 9 Annex 1R (Data items for MIFIDPRU 9) as follows.

Data items for MIFIDPRU 9

- 9 Annex** This annex consists of forms which can be found through the following link:
1R [*Editor's note: insert link to document containing data items for MIFIDPRU 9 reporting*]

MIF001 – Own funds

		A Yes/No
1	Basis of completion Is this report on behalf of a consolidation group?	<input style="width: 100%; height: 20px;" type="text"/>
2	If yes, please list the firm reference numbers (FRN) of all FCA regulated entities in the consolidated situation and the group reference number, if applicable.	FRN <input style="width: 100%; height: 20px;" type="text"/> <input style="width: 100%; height: 20px;" type="text"/> <input style="width: 100%; height: 20px;" type="text"/> <input style="width: 100%; height: 20px;" type="text"/>
Own funds held		
3	CET1 own funds held (net of deductions - see MIFIDPRU 3.3)	<input style="width: 100%; height: 20px;" type="text"/>
4	AT1 own funds held (net of deductions - see MIFIDPRU 3.4)	<input style="width: 100%; height: 20px;" type="text"/>
5	T2 own funds held (net of deductions - see MIFIDPRU 3.5)	<input style="width: 100%; height: 20px;" type="text"/>
Fixed overheads requirement		
6	Total annual eligible expenditure	<input style="width: 100%; height: 20px;" type="text"/>
7	Indicate if varied due to material change in business model.	<input style="width: 100%; height: 20px;" type="text"/>
Permanent minimum requirement		
8	Permanent minimum requirement	<input style="width: 100%; height: 20px;" type="text"/>
K-factors requirement – non-SNI firms only		
9	Total K-factor requirement	<input style="width: 100%; height: 20px;" type="text"/>
10	K-AUM	<input style="width: 100%; height: 20px;" type="text"/>

11	K-CMH (segregated)	
12	K-CMH (non-segregated)	
13	K-ASA	
14	K-COH (cash trades)	
15	K-COH (derivative trades)	
16	K-DTF (cash trades)	
17	{Not used} <u>Adjusted K-DTF (cash trades) coefficient, where used</u>	
18	K-DTF (derivatives)	
19	{Not used} <u>Adjusted K-DTF (derivatives trades) coefficient, where used</u>	
20	K-NPR	
21	K-CMG	
22	K-TCD	
23	K-CON	
Transitional requirement		
24	Transitional own funds requirement (if used)	
25	Please indicate which transitional provisions are being relied upon	
Own funds threshold requirement/wind-down trigger		
26	Own funds threshold requirement	
27	Own funds wind-down trigger	

MIF002 – Liquid Assets

A

Basis of completion

- 1 Is this report on behalf of a consolidation group?

<i>Yes/No</i>

- 2 If yes, please list the firm reference numbers of all FCA regulated entities in the consolidated situation.

<i>number</i>

Basic liquid asset requirement

- 3 Basic liquid asset requirement based on fixed overheads

<i>number</i>

- 4 Basic liquid asset requirement based on client guarantees

<i>number</i>

Core liquid assets held

- 5 Core liquid assets held, excluding receivables from trade debtors

<i>number</i>

- 6 Value of ~~qualifying~~ trade receivables due within 30 days

<i>number</i>

Liquid assets threshold requirement/wind-down trigger

- 7 Liquid asset threshold requirement

<i>number</i>

- 8 Liquid asset wind-down trigger

<i>number</i>

Non-core liquid assets held

- 9 Value of non-core liquid assets post-haircut

<i>number</i>

MIF003 – Monitoring metrics

	A Yes/No
Basis of completion	
1 Is this report on behalf of a consolidation group?	<input type="text"/>
	FRN
2 If yes, please list the firm reference numbers of all FCA regulated entities in the consolidated situation and the group reference number, if applicable.	<input type="text"/>
	<input type="text"/>
	<input type="text"/>
	<input type="text"/>
	<input type="text"/>
Metrics	
3 <u>Average</u> AUM	<input type="text"/>
4 AUM at T	<input type="text"/>
5 AUM at T - 1 month	<input type="text"/>
6 AUM at T - 2 months	<input type="text"/>
7 <u>Average</u> CMH (segregated)	<input type="text"/>
8 CMH (segregated) at T	<input type="text"/>
9 CMH (segregated) at T - 1 month	<input type="text"/>
10 CMH (segregated) at T - 2 months	<input type="text"/>
11 <u>Average</u> CMH (non-segregated)	<input type="text"/>
12 CMH (non-segregated) at T	<input type="text"/>
13 CMH (non-segregated) at T - 1 month	<input type="text"/>
14 CMH (non-segregated) at T - 2 months	<input type="text"/>
15 <u>Average</u> ASA	<input type="text"/>
16 ASA at T	<input type="text"/>
17 ASA at T - 1 month	<input type="text"/>
18 ASA at T - 2 months	<input type="text"/>
19 <u>Average</u> COH (cash)	<input type="text"/>
20 <u>Average</u> COH (derivatives)	<input type="text"/>
21 Average DTF (cash)	<input type="text"/>

	<hr/>
22 Average DTF (derivatives)	<input type="text"/>
23 DTFexcl (cash)	<input type="text"/>
24 DTFexcl (derivatives)	<input type="text"/>
25 On- and off-balance sheet total	<input type="text"/>
26 Annual gross revenue from MiFID services and activities	<input type="text"/>
	Yes/No
27 Permission to deal on own account	<input type="text"/>

MIF004 – Non-K-CON concentration

Basis of completion

	A
1 Is this report on behalf of a consolidation group?	
	FRN
2 If yes, please list the firm reference numbers (FRN) of all FCA regulated entities in the consolidated situation and the group reference number, if applicable.	

All positions or exposures (not including intragroup exposures)

	A	B	B C
	LEI No or Internal Reference Number	FRN	Value of exposures/ positions with that counterparty
3 Counterparty 1			
4 Counterparty 2			
5 Counterparty 3			
6 Counterparty 4			
7 Counterparty 5			

Intragroup exposures only

	A	B	B C
	LEI No or Internal Reference Number	FRN	Value of exposures/ positions with that counterparty
8 Counterparty 1			
9 Counterparty 2			
10 Counterparty 3			
11 Counterparty 4			
12 Counterparty 5			

Location of client money

	A	B	B C	C D
	LEI No or Internal Reference Number	FRN	% of client money held at that institution	MMF (Yes/No)
13 Entity 1				

14	Entity 2				
15	Entity 3				
16	Entity 4				
17	Entity 5				

Location of client securities

	A	B	B C
	LEI No or Internal Reference Number	FRN	% of client securities held at that institution
18	Entity 1		
19	Entity 2		
20	Entity 3		
21	Entity 4		
22	Entity 5		

Location of firm's own cash

	A	B	B C	€ D
	LEI No or Internal Reference Number	FRN	% of firm's own cash/MMF holdings at that institution	MMF (Yes/No)
23	Entity 1			
24	Entity 2			
25	Entity 3			
26	Entity 4			
27	Entity 5			

Earnings

	A	B	B C	€ D
	LEI No or Internal Reference Number	FRN	% of total revenue earned from that client	Income type
28	Client 1			
29	Client 2			
30	Client 3			
31	Client 4			

32 Client 5

--	--	--	--

Amend MIFIDPRU 9 Annex 2G (Guidance notes on data items in MIFIDPRU 9 Annex 1R) as follows.

Guidance notes on data items in MIFIDPRU 9 Annex 1R

9 Annex 2G This annex consists of guidance which can be found through the following link:
 [Editor's note: insert link to document containing guidance on completing data items in MIFIDPRU 9 Annex 1R]

Guidance notes for MIFIDPRU 9 Annex 2G

MIF001 – Adequate financial resources (Own funds)

...

Daily Trading Flow

16A – K-DTF (cash trades)

FCA investment firms should enter the value of their K-DTF requirement for cash trades calculated in accordance with MIFIDPRU 4.15.

~~17A – this cell has been deliberately left blank~~ Adjusted K-DTF (cash trades) coefficient, where used

Under MIFIDPRU 4.15.11R, an FCA investment firm may adjust the coefficient used to calculate the K-DTF requirement if stressed market conditions occurred during the calculation period. Where an FCA investment firm has adjusted the cash trades coefficient in accordance with that rule, it should enter the value of the adjusted cash trades coefficient in this cell. The value entered should be the adjusted coefficient expressed as a decimal value. For example, if the adjusted coefficient for cash trades is 0.09%, the firm should enter 0.0009 in this cell.

Firms should refer to MIFIDPRU 4.15.13G for a worked example of how to calculate the adjusted coefficient.

18A – K-DTF (derivative trades)

FCA investment firms should enter the value of their K-DTF requirement for derivative trades calculated in accordance with MIFIDPRU 4.15.

~~19A – this cell has been deliberately left blank~~ Adjusted K-DTF (derivatives trades) coefficient, where used

Under MIFIDPRU 4.15.11R, an FCA investment firm may adjust the coefficient used to calculate the K-DTF requirement if stressed market conditions occurred during the calculation period. Where an FCA investment firm has adjusted the derivatives trades coefficient in accordance with that rule, it should enter the value of the adjusted derivative trades coefficient in this cell. The value entered should be the adjusted coefficient expressed as a decimal value. For example, if the adjusted coefficient for derivatives trades is 0.009%, the firm should enter 0.00009 in this cell.

Firms should refer to MIFIDPRU 4.15.13G for a worked example of how to calculate the adjusted coefficient.

...

Transitional requirements

This section applies to all FCA investment firms if they are relying on transitional provisions to limit their own funds requirement. Firms that are not relying on transitional provisions should leave these fields blank.

24A – Transitional requirement

FCA investment firms should enter the current amount of any transitional own funds requirement. Where a firm is making use of more than one transitional provision for its own funds requirement, it should enter the highest resulting value.

Note, that where an FCA investment firm changes its permissions during this period in a manner that would result in an increase in its permanent minimum requirement under MIFIDPRU, it will no longer be able to take advantage of any transitional provisions that limit its permanent minimum own funds requirement. Before the FCA will grant any change in permission, it will assess whether the investment firm is able to meet the full permanent minimum own funds requirement and any other additional requirements that may apply as a result of the change.

25A – Basis of transitional

FCA investment firms should identify by reference to the relevant provision in MIFIDPRU the transitional provision or provisions they are relying on for their own funds requirement entered in cell 24A.

Own funds threshold requirement/wind-down trigger

This section applies to all FCA investment firms.

Where MIF001 is being completed on a consolidated basis, the cells in this section should be left blank unless the FCA has specifically required the investment firm group to undertake a consolidated ICARA process.

Groups are reminded that a consolidated ICARA process is different from a group ICARA process. An investment firm group may be subject to prudential consolidation under MIFIDPRU 2.5 (and therefore would be required to complete MIF001 on a consolidated basis) but unless the FCA specifically requires otherwise, there is no obligation to operate a consolidated ICARA process, even where an investment firm group is subject to prudential consolidation.

26A – Own funds threshold requirement

An FCA investment firm should enter the higher of:

- its own assessment of its own funds threshold requirement as determined through the ICARA process (MIFIDPRU 7.6) or

- the amount specified by the FCA to be its own funds threshold requirement

It is possible that both the FCA investment firm and the FCA have determined that no additional own funds are required to that set by the MIFIDPRU 4 requirements. In this case, the FCA investment firm should enter the higher of its PMR, its FOR and its KFR (where this applies).

Where the FCA has specifically required the investment firm group to operate a consolidated ICARA process, this cell should contain the higher of:

- the group's own assessment of its consolidated own funds threshold requirement as determined through the consolidated ICARA process (i.e. in accordance with MIFIDPRU 7.6 as applied on a consolidated basis); or
- the amount specified by the FCA to be the consolidated own funds threshold requirement.

27A – Own funds wind-down trigger

An FCA investment firm should enter its Fixed Overhead Requirement unless the FCA has specified an alternative own funds wind-down trigger.

Where the MIF001 is being completed on a consolidated basis, this cell should be left blank unless the FCA has specifically stated that a consolidated own funds wind-down trigger applies to the group.

MIF002 – Adequate financial resources (Liquid assets)

...

Consolidated reports

This form applies to both individual FCA investment firms and to consolidation groups. If completed on behalf of a consolidation group, it should be completed on the basis of the consolidated situation and references to FCA investment firm should be taken to refer to the consolidation group.

If a group has obtained the exemption from the consolidated basic liquid assets requirement in MIFIDPRU 2.5.19R, it is not required to submit a consolidated MIF002 return.

...

Core liquid assets held**5A – Core liquid assets held (excluding receivables from trade debtors)**

Enter the total core liquid assets held. Trade receivables should not be included in this figure.

6A – Value of qualifying trade receivables due within 30 days

This cell should only be completed if the firm is:

- an SNI MIFIDPRU investment firm; or
- a non-SNI MIFIDPRU investment firm that does not have permission to carry on dealing on own account or underwriting/placing of financial instruments on a firm commitment basis.

An FCA investment firm that does not fall within one of the above categories cannot count trade receivables as core liquid assets and should leave this cell blank.

Enter the total value of receivables from trade debtors that would qualify as core liquid assets are receivable within 30 days. The value reported should be the total value of such receivables that is due to the firm – i.e. before applying any haircuts of the adjustments set out in MIFIDPRU 6.3.3R(3) to (5).

To be counted as core liquid assets, the relevant conditions in MIFIDPRU 6.3.3R must be met.

Liquid assets threshold requirement/wind-down trigger

Where MIF002 is being completed on a consolidated basis, cells 7A and 8A should be left blank unless the FCA has specifically required the investment firm group to undertake a consolidated ICARA process.

Groups are reminded that a consolidated ICARA process is different from a group ICARA process. An investment firm group may be subject to prudential consolidation under MIFIDPRU 2.5 (and therefore would be required to complete MIF002 on a consolidated basis, unless the group has obtained the exemption in MIFIDPRU 2.5.19R) but unless the FCA specifically requires otherwise, there is no obligation to operate a consolidated

ICARA process, even where an investment firm group is subject to prudential consolidation.

7A – Liquid assets threshold requirement

An FCA investment firm should enter the higher of:

- its own assessment of its liquid assets threshold requirement as determined through the ICARA process as set out in MIFIDPRU 7.7 or
- the amount specified by the FCA to be its liquid assets threshold requirement

Where the FCA has specifically required the investment firm group to operate a consolidated ICARA process, this cell should contain the higher of:

- the group's own assessment of its consolidated liquid assets threshold requirement as determined through the consolidated ICARA process (i.e. in accordance with MIFIDPRU 7.7 as applied on a consolidated basis); or
- the amount specified by the FCA to be the consolidated liquid assets threshold requirement.

8A – Liquid assets wind-down trigger

An FCA investment firm should enter its basic liquid assets requirement unless the FCA has specified to the firm an amount that should be its liquid assets wind-down trigger.

Where the MIF002 is being completed on a consolidated basis, this cell should be left blank unless the FCA has specifically stated that a consolidated liquid assets wind-down trigger applies to the group.

...

MIF003 – Monitoring metrics

...

Metrics

FCA investment firms should only submit information for the activities they undertake at the time at which the report is submitted (or that they have undertaken in the past, where the historical activities continue to be reflected in the calculation of one or more K-factor metrics). This information must be supplied even if the firm is an SNI and does not currently need to calculate a K-factor requirement.

Where the FCA investment firm does not undertake an activity and there is no historical activity that continues to be reflected in the calculation of the relevant K-factor metric, it should leave the field blank. For example, an FCA investment firm may have ceased discretionary portfolio management on 1 March. As the calculation of average AUM is based on a 15-month period, the firm would report a positive number for its average AUM in cell 3A until 1 June in the following year on the basis of its historical activities.

Unless specified, we are not asking for the K-factor requirement but the value of the underlying activity that is used to calculate the K-factor requirement. For example, a firm with average AUM of £10,000,000 would enter 10,000 in response to question 3A (rather than entering 4, which would reflect the value of the resulting £4,000 K-factor requirement).

Firms should refer to MIFIDPRU 1.2.1R and the basic conditions for being an SNI MIFIDPRU investment firm.

3A – Average AUM

Enter the average AUM as calculated in accordance with:

- MIFIDPRU 4.7; or
- MIFIDPRU 1.2.4R where it is using the alternative approach to measure its average AUM for the purposes of MIFIDPRU 1.2.1R(1).

~~This will be the value used to calculate K-AUM.~~

The next three fields ask for the AUM at a point in time, rather than an average over a specific time period. FCA investment firms should use the value of AUM as at the last business day of each calendar month.

Where an FCA investment firm cannot determine the split of AUM for MiFID and non-MiFID activities, it must report its total AUM here.

...

7A – Average CMH (segregated)

Enter the average CMH held in segregated accounts as calculated in accordance with MIFIDPRU 4.8. This is the amount of MiFID client money (as defined in the Handbook Glossary) that the firm holds in segregated accounts. ~~This will be the value used to calculate K-CMH (segregated).~~

A segregated account is defined in in the Handbook Glossary.

The next three fields ask for the CMH (segregated) at a point in time, rather than an average over a specific time period. FCA investment firms should use the value of CMH on the last business day of each calendar month. Over time this will provide us with a time series of the actual CMH of the FCA investment firm.

Where an FCA investment firm cannot determine the split of CMH (segregated) for MiFID and non-MiFID activities, it must report its total CMH (segregated) here.

...

11A – Average CMH (non-segregated)

Enter the average CMH held in non-segregated accounts as calculated in accordance with MIFIDPRU 4.8. This is the amount of MiFID client money (as defined in the Handbook Glossary) that the firm holds in non-segregated accounts. ~~This will be the value used to calculate K-CMH (non-segregated).~~

A non-segregated account is an account that does not satisfy the conditions to be a segregated account.

The next three fields ask for the CMH (non-segregated) at a point in time, rather than an average over a specific time period. FCA investment firms should use the value of CMH on the last business day of each calendar month. Over time this will provide us with a time series of the actual CMH of the FCA investment firm.

Where an FCA investment firm cannot determine the split of CMH (non-segregated) for MiFID and non-MiFID activities, it must report its total CMH (non-segregated) here.

...

19A – Average COH (cash)

Enter the average COH for cash trades, calculated on the reporting date in accordance with:

- ~~MIFIDPRU 4.10 on the reporting date;~~ or
- MIFIDPRU 1.2.4R where it is using the alternative approach to measure its average COH for the purposes of MIFIDPRU 1.2.1R(1).

20A – Average COH (derivatives)

Enter the average COH for derivatives trades, calculated on the reporting date in accordance with:

- ~~MIFIDPRU 4.10 on the reporting date;~~ or
- MIFIDPRU 1.2.4R where it is using the alternative approach to measure its average COH for the purposes of MIFIDPRU 1.2.1R(1).

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MIF004 – Non-K-CON Concentration risk monitoring

Introduction

This data item provides the FCA with information on where the FCA investment firm may have various types of concentration risk. We have provided references to the underlying rules to assist in its completion.

This data item only applies to a non-SNI FCA investment firm. We have specified where particular data items do not apply to all non-SNIs. Firms should only complete the sections where they undertake the activity. Where a section does not apply to a particular firm, it should enter 'N/A' into ~~the first field in that section~~ each cell in column A in that section. For example, a firm that does not hold client money will put 'N/A' in ~~cell~~ cells 13A, 14A, 15A, 16A and 17A. Where a firm holds client money at only 3 entities, for example, it should enter 'N/A' in cells 16A and 17A.

Information provided in the section on earnings (Rows 28 to 31) can be taken from quarters based on their most recent accounting reference date.

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All positions or exposures (not including intragroup exposures)

This section only applies to FCA investment firms who deal on own account. These firms should report the total value of all exposures or positions to a counterparty, including exposures in and outside of its trading book, such as bilateral loans.

Firms should include positions or exposures to central governments, public sector entities, or other exposures that are excluded from K-CON under MIFIDPRU 5.10.1R, except that they should not include intragroup exposures. Intragroup exposures are captured in a separate data item.

Row 3 will indicate where the largest exposure/position with a counterparty is, followed by rows 3 to 7 in decreasing amounts. If a firm has less than 5 exposures, it should ~~leave subsequent rows blank~~ enter 'N/A' in column A of any rows not used.

Where firms have exposures to multiple counterparties who constitute a single group of connected clients under MIFIDPRU 5 (Concentration risk), they should report separately on each counterparty for the purposes of this data item. However, firms are reminded that MIFIDPRU 5.2 requires them to account for groups of connected clients when monitoring and controlling concentration risk.

LEI, FRN and internal reference number

Firms must complete either column A or column B in each row. The other column may be left blank. Firms may complete both columns where they have both an LEI and an FRN for that entity.

Cells 3A to 7A, inclusive – LEI or internal reference number

Enter the Legal Entity Identifier (LEI) number of up to 5 counterparties that the FCA investment firm has the largest exposures/positions with. The LEI number must be used if available. If the counterparty does not have an LEI number, the FCA investment firm

should use its internal reference number for that counterparty. This internal reference number should be consistent over time and across regulatory returns.

Cells 3B to 7B, inclusive – FRN

Enter the Firm Reference Number (FRN) of up to 5 counterparties that the FCA investment firm has the largest exposures/positions with. If the counterparty does not have an FRN or the FRN is not known to the reporting firm, either the LEI or an internal reference number must be included in column A.

Cells 3B 3C to 7B 7C, inclusive – value of exposures/positions with that counterparty

Enter the total amount of the exposures/positions held with each counterparty, starting with the largest.

Intragroup exposures

This section only applies to FCA investment firms who deal on own account. By intragroup we mean exposures to other entities within the same group. Group for these purposes is as defined in s.421 of the Financial Services and Markets Act 2000 (FSMA). It is not limited to other entities within the FCA investment firm's consolidated situation.

Where this section is being completed on the basis of the consolidated situation, there may still be intragroup exposures from inside the consolidated situation to entities that are part of the same group, as defined in s.421 FSMA, but are outside of the consolidated situation.

FCA investment firms that are completing the form on a consolidated basis should not include intragroup exposures between firms that are part of the consolidated situation.

Firms should report the total value of all exposures or positions to a counterparty, including exposures in and outside of its trading book, such as bilateral loans.

Firms should provide details of the largest 5 intragroup exposures only. These could be to another group FCA investment firm, or to any other entity within the group. This section can be left blank where there are no intragroup exposures.

Row 8 will indicate where the largest exposure/position with a counterparty is, followed by rows 9 to 12 in decreasing amounts. If a firm has less than 5 exposures, it should ~~leave subsequent rows blank~~ enter 'N/A' in column A of any row not used.

LEI, FRN and internal reference number

Firms must complete either column A or column B in each row. The other column may be left blank. Firms may complete both columns where they have both an LEI and an FRN for that entity.

Cells 8A to 12A, inclusive – LEI or internal reference number

Enter the LEI number of up to 5 group entities that the FCA investment firm has the largest exposures/positions with. The LEI number must be used if available. If the counterparty does not have an LEI number, the FCA investment firm ~~should use its FRN,~~

~~if available. If the counterparty has neither an LEI nor an FRN it should use its internal reference number for that counterparty. This internal reference number should be consistent over time and across regulatory returns.~~

Cells 3B to 7B, inclusive – FRN

Enter the Firm Reference Number (FRN) of up to 5 group entities that the FCA investment firm has the largest exposures/positions with. If the group entity does not have an FRN or the FRN is not known to the reporting firm, either the LEI or an internal reference number should be included in column A.

Cells ~~8B 8C~~ to ~~12B 12C~~, inclusive – value of exposures/positions with that counterparty

Enter the total amount of the exposures/positions held with each counterparty, starting with the largest.

Location of client money

This section only applies to FCA investment firms that have permission to hold client money. It only relates to MiFID client money (as defined in the Glossary). If a firm is unable to determine whether an amount of client money is MiFID client money, it must treat it as being MiFID client money for these purposes.

Row 13 will indicate where the largest percentage of the FCA investment firm's MiFID client money is held, followed by rows 14 to 17 in decreasing amounts. If an FCA investment firm uses less than five entities to hold its MiFID client money, it should ~~leave subsequent rows blank~~ enter 'N/A' in column A of any rows not used. In that case, the sum of percentages should be 100%.

LEI, FRN and internal reference number

Firms must complete either column A or column B in each row. The other column may be left blank. Firms may complete both columns where they have both an LEI and an FRN for that entity.

Cells 13A – 17A, inclusive – LEI or internal reference number

Enter the LEI number of up to five entities where MiFID client money is placed, beginning with the largest percentage. The LEI must be used if available. Where cash has been placed with a money market fund (MMF), the LEI of the MMF itself must be reported. ~~If an LEI is not available, the FRN must be used where available.~~ If the entity does not have an LEI number or an FRN, the FCA investment firm should use its internal reference number for that counterparty. This internal reference number should be consistent over time and across regulatory returns.

Cells 13B to 17B, inclusive – FRN

Enter the Firm Reference Number (FRN) of up to 5 entities where MiFID client money is placed, beginning with the largest percentage. If the entity does not have an FRN or the FRN is not known to the reporting firm, either the LEI or an internal reference number must be included in column A.

Cells 13B – 17B, inclusive – percentage of client money held at that institution

Enter the percentage of MiFID client money held at each institution, starting with the largest. Percentages should be rounded to the nearest whole number.

Cells 13C to 17C, inclusive – MMF (Yes/No)

Specify “Yes” or “No” to indicate if the cash has been placed with a money market fund (MMF) rather than deposited with a credit institution or central bank.

Location of client securities

This section only applies to FCA investment firms that have permission to hold client securities/assets. It relates to client securities/assets held in connection with the FCA investment firm’s MiFID business. If a firm is unable to determine whether an amount of client securities/assets is MiFID client securities/assets, it must be treated as MiFID client securities/assets for these purposes.

Row 18 will indicate where the largest percentage of the FCA investment firm’s client securities are held, followed by rows 19 to 22 in decreasing amounts. If an FCA investment firm uses less than five entities to hold its client securities, it should ~~leave subsequent rows blank~~ enter ‘N/A’ in column A of any rows not used. In that case, the sum of percentages should be 100%.

LEI, FRN and internal reference number

Firms must complete either column A or column B in each row. The other column may be left blank. Firms may complete both columns where they have both an LEI and an FRN for that entity.

Cells 18A to 22A, inclusive – LEI number

Enter the LEI number of up to five institutions where ~~its~~ the firm holds client securities ~~are held in connection with MiFID business~~, beginning with the largest percentage. The LEI must be used if available. ~~If not, the FRN must be used if available.~~ If the entity does not have an LEI number or an FRN, the FCA investment firm should use its internal reference number for that counterparty. This internal reference number should be consistent over time and across regulatory returns.

Cells 18B to 22B, inclusive – FRN

Enter the Firm Reference Number (FRN) of up to 5 entities where MiFID client money is placed, beginning with the largest percentage. If the counterparty does not have an FRN or the FRN is not known to the reporting firm, either the LEI or an internal reference number must be included in column A.

Cells ~~18B~~ 18C to ~~22B~~ 22C, inclusive – percentage of client securities held at that institution

Enter the percentage of client securities held at each institution, starting with the largest. Percentages should be rounded to the nearest whole number.

Location of the investment firm’s own cash and holdings in MMFs

Row 23 will indicate where the largest percentage of the FCA investment firm's own cash is held, followed by rows 24 to 27 in decreasing amounts. If an FCA investment firm uses less than five entities to hold its own cash, it should ~~leave subsequent rows blank~~ enter 'N/A' in column A of any rows not used. In that case, the sum of percentages should be 100%.

For these purposes, FCA investment firms should report their holdings in money market funds (MMFs) alongside their holdings in cash (e.g. on deposit at a credit institution).

LEI, FRN and internal reference number

Firms must complete either column A or column B in each row. The other column may be left blank. Firms may complete both columns where they have both an LEI and an FRN for that entity.

Cells 23A to 27A, inclusive – LEI or internal reference number

FCA investment firms should enter the LEI number of up to five institutions where its own cash is held or MMFs it has holdings in, beginning with the largest percentage. The LEI must be used if available. For holdings in a money market fund (MMF), the LEI of the MMF itself must be reported. ~~If an LEI is not available, the FRN must be used.~~ If the entity does not have an LEI number or an FRN, the FCA investment firm should use its internal reference number for that institution. This internal reference number should be consistent over time and across regulatory returns.

Cells 23B to 27B, inclusive – FRN

Enter the Firm Reference Number (FRN) of up to 5 entities where its own cash is held, beginning with the largest percentage. For holdings in an MMF, the LEI of the MMF itself must be reported. If the counterparty does not have an FRN or the FRN is not known to the reporting firm, either the LEI or an internal reference number must be included in column A.

~~Cells 23B 23C to 27B 27C, inclusive~~ – percentage of FCA investment firm's own cash/MMF holdings at that institution

FCA investment firms should enter the percentage of its own cash/MMF holdings at each institution, calculated as a proportion of the value of its total combined cash and MMF holdings, and starting with the largest. Percentages should be rounded to the nearest whole number.

~~Cells 23C 23D to 27C 27D, inclusive~~ – MMF (Yes/No)

Indicate if the cash has been placed with an MMF rather than e.g. deposited with a credit institution.

Earnings

Information provided in this section can be taken from quarters based on the most recent accounting reference date.

Row 23 will indicate where the largest percentage of the FCA investment firm's earnings are from, followed by rows 24 to 27 in decreasing amounts. If an FCA investment firm's

earnings are from less than five sources, it should ~~leave subsequent rows blank~~ enter 'N/A' in column A of any rows not used. In that case, the sum of percentages should be 100%.

Earnings includes all earnings from regulated or unregulated activities, not just earnings from MiFID business. This should include any earnings from group members, e.g. in exchange for the provision of intragroup services.

LEI, FRN and internal reference number

Firms must complete either column A or column B in each row. The other column may be left blank. Firms may complete both columns where they have both an LEI and an FRN for that entity.

Cells 28A to 32A, inclusive – LEI or internal reference number

FCA investment firms should enter the LEI number of up to five clients from which it generates its earnings, beginning with the largest percentage. The LEI must be used if available. ~~If not, the FRN must be used.~~ If the client does not have an LEI number or an FRN, the FCA investment firm should use its internal reference number for that client. This internal reference number should be consistent over time and across regulatory returns.

A client may be an institution or a natural person. Where the client is a natural person, the FCA investment firm should use its own internal reference number for that client. This internal reference number should be consistent over time and across regulatory returns.

Cells 23B to 27B, inclusive – FRN

Enter the Firm Reference Number (FRN) of up to 5 clients from which it generates its earnings, beginning with the largest percentage. If the counterparty does not have an FRN or the FRN is not known to the reporting firm, either the LEI or an internal reference number must be included in column A.

A client may be an institution or a natural person. Where the client is a natural person, the FCA investment firm should enter its own internal reference number for that client in column A. This internal reference number should be consistent over time and across regulatory returns.

Cells ~~28B~~ 28C to ~~32B~~ 32C, inclusive – percentage of total revenue earned from the client

FCA investment firms should enter the percentage of its earnings from each client, starting with the largest. Percentages should be rounded to the nearest whole number.

Cells ~~28E~~ 28D to ~~32E~~ 32D, inclusive – type of earning

FCA investment firms should indicate the type of earning that they are reporting. It may include more than one type of income stream. Where this is the case, FCA investment firms should list the main income type for that client. Options include:

- Interest and dividend income from trading book positions

- Interest and dividend income from non-trading book positions
- Fee and commission income
- Provision of intragroup services
- Other sources of income

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Part B1: Breakdown of additional own funds requirement to address risks from ongoing activities

This section only applies to non-SNI firms. SNI firms should leave this section blank.

This section asks for a breakdown of how the value in cell 11A has been reached.

Where a non-SNI firm does not calculate a particular K-factor because it does not carry on the relevant activity, it should leave that entry blank.

~~The sum of rows 18A to 27A should be equal to the amount put in 11A.~~

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