

# CP21/6: Investment Firms Prudential Regime Consultation Paper



The Financial Conduct Authority (FCA) has published its third and final consultation paper ([CP21/26](#)) in relation to the new UK Investment Firms Prudential Regime (IFPR), which will come into force on 1 January 2022.

The FCA has largely finalised its policy but provides information on residual matters in this consultation paper. The FCA's final policy statement is due to be published in the fourth quarter of this year. This article covers the key areas discussed in CP21/26.

## Disclosure requirements

The FCA confirmed details as outlined in Newgate's readiness assessment subject to one main change. Non-SNI firms will be required to disclose information relating to risk management, own funds, own funds requirements, governance and remuneration. Non-SNIs which exceed the relevant thresholds for risk, remuneration, and nomination committees set out in MIFIDPRU 7 will be classed as 'large non-SNIs' and will be required to disclose their investment policies. The FCA's previous consultation papers on IFPR indicated that only non-SNI firms would be required to make remuneration disclosures, but in CP21/26, it is proposed that all investment firms must make a disclosure on their remuneration policies and practices, including key characteristics and some quantitative information. This will include the types of remuneration and the categorisation of each as 'fixed' or 'variable', along with a summary of the financial and non-financial performance criteria used to assess the performance of the firm, its business units, and its employees.

*Impact for firms: SNI firms will need to publish a disclosure in relation to their remuneration policies and will need to consider whether they are required to publish any other disclosures. This will replace current Pillar 3 disclosure requirements.*

## UK Resolution regime

Investment firms with a current initial capital requirement of €730k are subject to the UK resolution regime and are required to have a Recovery Resolution Plan in place. The FCA proposes that these firms will no longer be subject to the UK resolution regime once the new IFPR rules are introduced.

*Impact for firms: Impacted firms to note however that recovery and wind-down planning will need to be integrated into the Individual Capital and Risk Assessment (ICARA) process.*

## Depositaries

The FCA's current rules require an investment firm to be a 'full-scope' IFPRU investment firm before it can meet the eligibility criteria to be a depositary for certain types of AIFs. This generally restricts eligibility to firms that deal on own account. This requirement will be amended so depositaries are no longer required to have permission to deal on own account. It is also proposed to allow other FCA investment firms to act as a depositary where they also provide the MiFID ancillary service of safe-keeping and administration of financial instruments. The FCA are not changing the £4 million base capital requirement for depositaries of a UCITS scheme or an authorised AIF. This requirement will just be moved from FUND and COLL and into MIFIDPRU. For depositaries of unauthorised AIF's that

are currently subject to an own funds requirement of €730,000 the FCA propose an increase in the minimum own funds requirement to £750,000.

In general depositaries will by default be classed as Non-SNI firms, unless they only act as a depositary under the private equity derogation. Both MiFID and Non-MiFID firms can continue to act as depositaries under the private equity derogation, but the former will fall within the provisions in MiFIDPRU. Risk of harm from depositary activities will need to be considered as part of the ICARA process.

*Impact: Of broad interest to MiFID investment firms acting as depositaries might, and also to fund managers who appoint them.*

### **Excess Drawings by LLP partners and members**

The FCA notes that there can be situations in which excess drawings in a partnership or LLP can be made without being recorded as a loss. The FCA proposes to require excess drawings by partners or members (of partnerships and LLPs) which exceed the profits of the firm to be deducted from the firm's 'own funds'.

*Impact on firms: LLPs and partnerships will need to ensure they treat excess drawings in accordance with the requirements set out in MIFIDPRU 3.3.6R.*

### **FCA Webpage on IFPR**

The FCA has set up a [webpage](#) to provide the industry with more information as their work progresses and encourages firms to check the page regularly.

The FCA intend to communicate closely with the industry as IFPR comes into force and will be sending firms an IFPR questionnaire which will ask for key information such as the expected SNI/non-SNI status, investment firm group membership/composition and expected ICARA reporting data. Firms should expect to receive this in Autumn 2021.

*Impact on firms: all firms should speak to their Newgate consultant when they receive the IFPR questionnaire and provide the necessary information in response.*

### **Next steps for firms**

The FCA's final policy statement is expected to be released in Q4 2021 whilst the new regime is expected to come into force on 1 January 2022. Please get in touch with a Newgate Consultant to complete an IFPR readiness assessment if you haven't already done so.



Matthew Hazell, Managing Director  
E [matthewhazell@newgatecompliance.com](mailto:matthewhazell@newgatecompliance.com)  
T +44 (0) 20 3696 8753



Shazad Khan, Consultant  
E [shazadkhan@newgatecompliance.com](mailto:shazadkhan@newgatecompliance.com)  
T +44 (0) 20 3696 8750