BANK OF ENGLAND
PRUDENTIAL REGULATION AUTHORITY

Financial Conglomerate waivers

Financial Conglomerates (PRA Rulebook) rule 2.1, 2.7 or 3.3.

Overview

This document provides guidance on the application and supplementary forms that should be submitted by firms requesting a Financial Groups Directive (FGD)[1] waiver. This form is also appropriate for use when notifying the PRA that a consolidation group is or has ceased to be a financial conglomerate.

The FGD is an EU Directive which supplements existing sectoral rules with additional requirements for groups with substantial banking/investment and insurance business. The Directive was initially adopted in 2002, and was subsequently amended in 2005, 2008, 2010 and 2011.

The FGD supplements existing solo and group supervision by extending sectoral group requirements to the cross-sectoral, conglomerate level and requiring a coordinated approach amongst the different supervisory authorities (cross-sector and cross-border) involved in the supervision of a financial conglomerate.

Groups are identified as financial conglomerates according to the threshold tests found in the Financial Conglomerates section of the rulebook. The Joint Committee of the European Supervisory Authorities publishes an annual list containing entities which have been identified as a financial conglomerate.

Waivers

This section of the website is for firms wishing to apply for a modification or waiver under the Financial Groups Directive. The Directive contains various provisions under which the PRA can modify the rules or waive the PRA Rulebook rules which apply to financial conglomerates. These approvals are given affect under Section 138A of the Financial Services and Markets Act 2000.

The provisions under Articles 3(3) to 3(6), Article 5(4) and Article 6(5) of the Financial Groups Directive allow competent authorities, on a case by case basis, to:

(1) change the definition of financial conglomerate and the obligations applying with respect to a financial conglomerate (which would include permitting firms to apply, on an annual basis and subject to publication and notification to the relevant competent authorities, for a group of which it is a member not to be regarded as a financial conglomerate on the basis of Article 3(3) of the Financial Groups Directive or Article 3(3a) of the Financial Groups Directive;

(2) apply the requirements in the Financial Groups Directive to EEA regulated entities in specified kinds of group structures that do not come within the definition of financial conglomerate; and

[1] Also referred to as the Financial Conglomerates Directive (FICOD).

(3) exclude a particular entity from the scope of capital adequacy requirements that apply with respect to a financial conglomerate.

The Solvency II and CRD IV Directives also have specific provisions which apply where an insurance or banking group has been identified as a financial conglomerate:

(1) Where a mixed financial holding company is subject to equivalent provisions under the Solvency II Firms Group Supervision part and Financial Conglomerates part of the PRA Rulebook, Article 213(4) and (5) of the Solvency II Directive allows competent authorities to disapply Solvency II provisions with regard to group supervision and apply only the relevant provisions of the Financial Conglomerates part to the mixed financial holding company.

(2) Where a mixed financial holding company is subject to equivalent provisions under the *CRR* and the Financial Conglomerates part, Article 120(2) of Directive 2013/36/EU allows competent authorities to disapply *CRR* provisions with regard to group supervision and apply only the relevant provisions of Financial Conglomerates part to the mixed financial holding company.

A firm can also apply under Section 138A of the Financial Services and Markets Act 2000 to change a decision made under Financial Conglomerates 5.1(2) to allocate asset managers and alternative investment fund managers to one of the insurance sector or investment services sector.

The supplementary form is suitable for firms to use to identify:

- whether it belongs to a group containing a financial conglomerate and to notify the PRA if that is the case, in compliance with Notifications - Financial Conglomerate Notifications; and
  the relevant PRA Rulebook rule to apply for a waiver/ modification under.. The following table summarises the rules firms should apply under.

Financial Groups Directive	**Old GENPRU 3 rules (PRA Handbook as at 31 December 2015)**	**Financial Conglomerates (PRA Rulebook – 1 January 2016 onwards)**
Article 3.3 Article 3.3a	Rule 3.1.5	Rule 2.1
Article 3.5 Article 3.4(b)	Rule 3.1.11	Rule 2.7
Article 6(5)	Rule 3.1.29	Rule 3.3

The application and supplementary forms can be found in the key resources section at the end of the document.

Supplementary form - Purpose and scope

A group may be a financial conglomerate if it contains both insurance and banking/investment businesses and meets certain threshold tests. The appropriate regulator is obliged to identify conglomerates with their parent in the EEA and those with their parent outside the EEA.

The supplementary form suggests an appropriate format which will enable the appropriate regulator to obtain sufficient information in order to determine whether a group or sub-group is a financial conglomerate. Firms may wish to present the detailed explanation supporting their assessment using a different format. Guidance is also provided alongside the form which proposes a methodology firms can use to calculate relevant information for the form. Firms may choose to deviate from this method, provided the methodology used is compliant with the Financial Conglomerates part of the PRA Rulebook. In certain cases whether a group is a conglomerate can only be determined after consultation with the other EU relevant competent authorities. A second purpose of the form is therefore to identify any groups and sub-groups that may need such consultation so that this can be made as soon as possible.
The third purpose of the form is to gain information from firms on the most efficient way to review the threshold calculations in detail (consistently with the directive). We have, therefore, asked for some additional information in part 4 of the form.

A copy of this form can be found under key resources at the end of this document.

Please include workings showing the method employed to determine the percentages in part 2 (for the threshold conditions) and giving details of all important assumptions or approximations made as part of the calculations.

The definition of financial conglomerate includes not only conventional groups made up of parent-subsidiary relationships but groups linked by control or an *Article 12(1) relationship*. If this is the case for your group, please submit along with this form a statement that this is the case. Please include in that statement an explanation of how you have included group members not linked by capital ties in the questionnaire calculations.

General guidance for using the supplementary form

We would like this to be completed based on the most senior parent in the group, and, if applicable, for the company heading the most senior conglomerate group in the EEA. If appropriate, please also attach a list of all other likely conglomerate sub-groups. Please use the most recent accounts for the top level company in the group together with the corresponding accounts for all subsidiaries and participations that are included in the consolidated accounts. Please indicate the names of any significant subsidiaries with a different year-end from the group's year-end.

Threshold tests

For the purpose of completing section 2 of the form relating to the threshold tests, the following guidance should be used. However, if you consider that for your group there is a more appropriate calculation then you may use this calculation but please explain the

method of computation. Calculating balance sheet totals Use total (gross) assets for the balance sheet total of a group/entity. Investments in other entities that are part of the group will need to be deducted from the sector that has made the investment. The balance sheet total of the entity is added to the sector in which it operates. Our expectation of how this may be achieved efficiently is as follows:

(i) Off-balance-sheet items should be excluded.

(ii) Where off-balance sheet treatment of funds under management and on-balance sheet treatment of policy holders' funds may distort the threshold calculation, groups should consult the appropriate regulator on the appropriateness of using other measures under article 3(5) of the Financial Groups Directive.

(iii) If consolidated accounts exist for a sub-group consisting of financial entities from only one of the two sectors, these consolidated accounts should be used to measure the balance-sheet total of the sub-group (i.e. total assets less investments in entities in the other sector). If consolidated accounts do not exist, intra-group balances should be netted out when calculating the balance sheet total of a single sector (but cross-sector intra-group balances should not be netted out).

(iv) Where consolidated accounts are used, minority interests should be excluded in accordance with Financial Conglomerates 2.7 and goodwill should be included. This is intended to result in a measure of the financial sector which includes only the proportional share of each member of a consolidation group’s prudently realisable assets.

(v) Where accounting standards differ between entities, groups should consult the appropriate regulator if they believe this is likely material enough to affect the threshold calculation.

(vi) Where there is a subsidiary or participation in the opposite sector from its parent (i.e. insurance sector for a banking/investment firm parent and vice versa), the balance sheet amount of the subsidiary or participation should be allocated to its sector using its individual accounts.

(vii) The balance-sheet total of the parent entity/sub-group is measured as total assets of the parent/sub-group less the book value of its subsidiaries or participations in the other sector (i.e. the value of the subsidiary or participation in the parent's consolidated accounts is deducted from the parent's consolidated assets).

(viii) The cross-sector subsidiaries or participations referred to above, valued according to their own accounts, are allocated pro-rata, according to the aggregated share owned by the parent/sub-group, to their own sector.

(ix) If the cross-sector entities above themselves own group entities in the first sector (i.e. that of the top parent/sub-group) these should (in

accordance with the methods above) be excluded from the second sector and added to the first sector using individual accounts.

Solvency (capital adequacy) requirements

The solvency requirements should be according to sectoral rules of the appropriate regulator that would apply to the type of entity. However, you can use EEA rules or local rules in the circumstances set out in Annex 2 of the Financial Conglomerates part of the PRA Rulebook. If this choice makes a significant difference, either with respect to whether the group is a financial conglomerate or with respect to which sector is the biggest, you should consult with the appropriate regulator. Non-regulated financial entities should have proxy requirements calculated on the basis of the most appropriate sector. If sub-groups submit single sector consolidated returns then the solvency requirement may be taken from those returns.

This may be achieved efficiently is as follows:

(i) If you complete a solvency return for a sub-group consisting of financial entities from only one of the two sectors, the total solvency requirement for the sub-group should be used.

(ii) Solvency requirements taken must include any deductions from available capital so as to allow the appropriate aggregation of requirements.

(iii) Where there is a regulated subsidiary or participation in the opposite sector from its parent/sub-group, the solvency requirement of the subsidiary or participation should be from its individual regulatory return. If there is an identifiable contribution to the parent's solvency requirement in respect of the cross-sector subsidiary or participation, the parent's solvency requirement may be adjusted to exclude this.

(iv) Where there is an unregulated financial undertaking in the opposite sector from its parent/sub-group, the solvency requirement of the subsidiary or participation should be one of the following:

(a) as if the entity were regulated by the *appropriate regulator* under the appropriate sectoral rules;
(b) using EU minimum requirements for the appropriate sector; or
(c) using non-EU local requirements* for the appropriate sector.

Please note on the form which of these options you have used, according to the country and sector, and whether this is the same treatment as in your latest overall group solvency calculation.

(v) For banking/investment requirements, use the total amount of capital required.

(vi) For insurance requirements, use the total amount of capital required.

Key Resources

BANK OF ENGLAND
PRUDENTIAL REGULATION AUTHORITY

FGD supplementary form - required for all FGD applications.

Standard waiver application form - required for all waiver applications.

March 2016