

PRA RULEBOOK: CRR FIRMS: MIFID II AMENDMENT (NO. 1) INSTRUMENT 2017**Powers exercised**

- A. The Prudential Regulation Authority (“PRA”) 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 137G (The PRA’s general rules);
 - (2) section 137T (General supplementary powers).
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instrument) of the Act.

Pre-conditions to making

- C. In accordance with section 138J of the Act (Consultation by the PRA), the PRA consulted the Financial Conduct Authority. After consulting, the PRA published a draft of proposed rules and had regard to representations made.

PRA Rulebook: CRR Firms: MIFID II Amendment (No. 1) Instrument 2017

- D. The PRA makes the rules in Annexes A to G to this instrument:

Part	Annex
Algorithmic Trading	A
General Organisational Requirements	B
Compliance and Internal Audit	C
Glossary	D
Outsourcing	E
General Provisions	F
Risk Control	G

Commencement

- E. The PRA Rulebook: CRR Firms: Algorithmic Trading Instrument 2016 as made by order of the Board of the Prudential Regulation Authority on 24 October 2016 comes into force on 3 January 2018.
- F. This instrument comes into force on 3 January 2018.

Citation

- G. This instrument may be cited as the PRA Rulebook: CRR Firms: MIFID II Amendment (No. 1) Instrument 2017.

By order of the Prudential Regulation Committee

4 December 2017

Annex A

Amendments to the Algorithmic Trading Part

In this Annex new text is underlined and deleted text is struck through.

...

2 ALGORITHMIC TRADING

2.3 A *firm* must make and retain the following records:

...

- (6) any further relevant information about the *firm's algorithmic trading* and systems used for that trading.

~~[Note: Art. 17(2) of MiFID II. See Articles 28 and 29 of Commission Delegated Regulation (EU) No .../... of [date] supplementing MiFID II with regard to regulatory technical standards specifying the organisational requirements of investment firms engaged in algorithmic trading, providing direct electronic access and acting as general clearing members for related provisions.]~~

[Note: Article 17(2) of MiFID II. See Articles 28 and 29 of Commission Delegated Regulation (EU) No 2017/589 of 19 July 2016 supplementing MiFID II with regard to regulatory technical standards specifying the organisational requirements of investment firms engaged in algorithmic trading, providing direct electronic access and acting as general clearing members for related provisions.]

Annex B

Amendments to the General Organisational Requirements Part

In this Annex new text is underlined and deleted text is struck through.

...

3 PERSONS WHO EFFECTIVELY DIRECT THE BUSINESS

- 3.1 The *senior personnel* of a *firm* must be of sufficiently good repute and sufficiently experienced as to ensure the sound and prudent management of the *firm*.

[Note: Art. 9(4) of *MiFID II*, Art. 91(1) of the *CRD*]

Annex C

Amendments to the Compliance and Internal Audit Part

In this Annex new text is underlined and deleted text is struck through.

1 APPLICATION AND DEFINITIONS

1.2 In this Part, the following definitions shall apply:

...

host Member State

has the meaning given in Article 4(1)(5~~5~~6) of *MiFID II*.

...

2 COMPLIANCE

...

2.2A A *MiFID investment firm* must extend the arrangements required by the *Article 22 Compliance Requirements* so that they apply with respect to *other matters* on the following basis:

...

(4) references to “Article 25(2) of this Regulation” are references to General Organisational Requirements 4.21A.

...

2.2B A *firm* that is not a *MiFID investment firm* must comply with *Article 22 Compliance Requirements* on the basis set out in 2.2A and as if references to “investment firm” refer to a *firm*.

2.3 [deleted]

2.4 [deleted]

2.5 [deleted]

...

3.1A A *MiFID investment firm* must extend the arrangements required by the *Article 24 Audit Requirements* so they apply with respect to *other matters* on the following basis:

...

(3) references to “Article 25(2) of this Regulation” are references to General Organisational Requirements 4.21A.

Annex D

Amendments to the Glossary

In this Annex new text is underlined and deleted text is struck through.

...

approved counterparty

...

(3) a *MiFID investment firm* whose authorisation (as referred to in ~~a~~Article 5 of *MiFID II*) authorises it to carry on activities of the kind referred to in (2);

...

MTF

has the meaning given in Article 4(1)(22) *MiFID II*.

...

transferable securities

means as defined in ~~a~~Article 4(1)(44) of *MiFID II* .

Annex E

Amendments to the Outsourcing Part

In this Annex new text is underlined and deleted text is struck through.

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2 OUTSOURCING

2.1 A *firm* must:

- (1) when relying on a third party for the performance of operational functions which are critical for the performance of *relevant services and activities* on a continuous and satisfactory basis, ensure that it takes reasonable steps to avoid undue additional operational risk; and
- (2) not undertake the *outsourcing* of important operational functions in such a way as to impair materially:
 - (a) the quality of its internal control; and
 - (b) the ability of the *PRA* to monitor the *firm's* compliance with all obligations under the *regulatory system* and, if different, of a *competent authority* to monitor the *firm's* compliance with all obligations under *MiFID II*.

[Note: ~~Art.~~Article 416(5) first paragraph of *MiFID II*]

Annex F

Amendments to the General Provisions Part

In this Annex new text is underlined and deleted text is struck through.

1 APPLICATION AND DEFINITIONS

...

1.2 In this Part, the following definitions shall apply:

...

MTF

~~has the meaning given in Article 4(1)(22) of MiFID II.~~

Annex G

Amendments to Risk Control Part

In this Annex new text is underlined and deleted text is struck through.

...

2 RISK CONTROL

...

2.2A A *MiFID investment firm* must extend the arrangements required by the *Article 23 Risk Control Requirements* so they apply with respect to *other matters* on the following basis:

...

- (4) references to provision of reports and advice to senior management includes the provision of report and advice to *senior personnel* in accordance with General Organizational Requirements 4.21A.