

Variation of Permission (VoP) Application

Investment Business - Notes



Purpose of these Notes

These notes will help you fill in the **Investment Business** form correctly.

If after reading these notes you need more help, you can:

- visit our website: <http://www.fsa.gov.uk/Pages/doing/regulated/notify/permissions/index.shtml>, where there is also a link to the Frequently Asked Questions page;
- consult the relevant tailored handbook or the full FSA Handbook: www.fsahandbook.info/FSA/index.jsp;
- call the Firm Contact Centre on 0845 606 9966; or
- email fcc@fsa.gov.uk

These notes, while aiming to help you, do not replace the rules and guidance in the FSA Handbook.

Terms in the Form

The form uses the following terms:

'FSA', 'we', 'our', or 'us' refers to the Financial Services Authority.

'The firm' refers to the firm applying for the variation of permission.

'You' refers to the person(s) signing the form on behalf of the applicant firm.

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1

Contact details and timings for this application

Contact for this application

1.1 Details of the person we should contact about this application.

This should be an individual in the UK.

Timings for this application

1.2 Does the applicant firm have any timing factors that it would like us to consider?

If you wish your application to be granted by a specific date, for example in time for a product launch, we will try to do so. However, the time taken to determine each application is significantly affected by the quality of the application submitted and whether it is complete. If you leave a question blank, do not sign the declaration or do not attach the required supporting information, we will have to treat the application as incomplete. This will increase the time taken for us to assess your application.

We are required by law to determine applications within the earlier of (a) six months of receiving a complete application or (b) 12 months of receiving an incomplete application. However, we aim to make a decision about the application as soon as possible.

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Variation of Permission – Investment Business activities

It is your responsibility to make sure the regulated activities you request adequately cover the activities the applicant firm intends to carry on. Use this page to request any changes you wish to make to the firm's permission.

You need a Permission Notice that matches the applicant firm's needs and covers every aspect of regulated business it wants to carry on. The Permission Notice shows the range of regulated activities the applicant firm will be authorised to carry on, as well as the investment instruments and type(s) of customer it can deal with for each specific activity. It will also contain what we refer to as 'requirements' and 'limitations'.

Broadly speaking, a limitation is included in the description of a specific regulated activity (e.g. not to deal with retail customers in relation to that regulated activity) and will limit how it can be carried on, in some way.

A requirement is on the firm to take or not to take a specified action (e.g. not to hold client money). A requirement may extend to activities which are not regulated activities.

If the applicant firm carries on a regulated activity that is not set out in its permission notice it could be in breach of FSMA and subject to enforcement action.

Changing Customer Types

Amendments to customer types may affect your exemption status under Dispute Resolution: Complaints (DISP) 1.1.12R, and Fees Manual (FEES) 6.2.1R. This is particularly relevant if you are adding or removing the retail customer type. Please ensure you notify your normal supervisory contact in writing of any changes to your status under this exemption that this variation of permission may cause.

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Variation of Permission – Client Money

The rules and guidance about how applicant firms hold client money are designed to provide an adequate level of protection for consumers.

In relation to investment business, other than MiFID business, these rules are in CASS 4.3: [www.fsahandbook.info/FSA/html/handbook/CASS/4/3](http://fsahandbook.info/FSA/html/handbook/CASS/4/3). As regards MiFID business, see CASS 7: <http://fsahandbook.info/FSA/html/handbook/CASS/7>.

You should note that applying for a variation permission in relation to client money may affect your prudential category.

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Reason for Variation

No additional notes.

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Threshold Conditions

The Threshold Conditions are the minimum requirements a firm must satisfy to be, and to continue to be, authorised. When we consider the applicant firm's application we will assess whether you will satisfy, and continue to satisfy, the threshold conditions which are set out in full in the Threshold Conditions Sourcebook (COND) 2 of the FSA Handbook at: www.fsahandbook.info/FSA/html/handbook/COND/2.

Legal Status

This is a requirement of Threshold Condition 2.1. The applicant firm must fall into one of the categories listed to apply for authorisation.

Location of Offices

This is a requirement of Threshold Condition 2.2.

Close Links

If the applicant firm has any close links (links with other firms or individuals), these must not prevent effective FSA supervision of the applicant firm if authorised. This is a requirement of Threshold Condition 2.3.

Adequate Resources

We must be satisfied the applicant firm has adequate resources. We assess the quality and quantity of the applicant firm's resources for its:

- financial resources;
- management;
- staff; and
- systems and controls.

This is a requirement of Threshold Condition 2.4.

Prudential category

We differentiate between our financial requirements by putting applicant firms in different prudential categories. The firm will fall into at least one prudential category; and it may fall into more than one prudential category, depending on its regulated activities. The prudential categories are set out in the following table.

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Threshold Conditions (cont'd)

Table A

PRUDENTIAL CATEGORIES FOR NON- INVESTMENT BUSINESS FIRMS		
Sourcebook		Ref
Bank (GENPRU and BIPRU)		B
Building Society (GENPRU and BIPRU)		BS
Friendly Society (IPRU-FSOC)		FS
Insurer (GENPRU, INSPRU and IPRU-INS)		INS
Mortgage Lender (MIPRU)		ML
Mortgage Administrator (MIPRU)		MA
Mortgage and/or insurance intermediary (MIPRU)		MGI
PRUDENTIAL CATEGORIES FOR NON-MiFID INVESTMENT BUSINESS FIRMS		
IPRU(INV) Chapter	Sub Category in Chapter	Ref
1 & 2 – Professional Firms	N/A	PROF
1 & 3 – Securities and Futures Firms (not Investment Firms)	Corporate Finance	NI-CF
	Venture Capital	NI-VC
	Arranger	NI-ARR
	Agency Broker	NI-AB
	Financial Bookmaker	NI-FB
	Non clearing Floor Member	NI-NCFM
	Broadscope	NI-BRA
	Local	LOCAL
	EMP	EMP
	OMP	OMP
1 & 4 – Lloyd's Firms	N/A	LLOYD
1 & 5 – Investment Management Firms	N/A	IM
1 & 6 – Service Companies	N/A	SC
1 & 13 – Personal Investment Firms	B1	PI-B1
	B2	PI-B2
	B3	PI-B3
Media Firm	N/A	Media

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Threshold Conditions (cont'd)

Professional Indemnity Insurance

Some types of firms are required to have professional indemnity insurance (PII) in place, depending on the type of business that they conduct. PII is liability insurance that covers businesses if a third party claims to have suffered a loss because of professional negligence. If your firm is required to have PII, unless an exemption applies, you must have compliant PII cover in place before we can grant your application. This must be at least equal to the requirements of the FSA Handbook IPRU (INV) 13 and/or MIPRU 3 and/or IPRU (INV) chapter 9.

All excesses and exclusions identified in the PII policy must have been satisfactorily covered – for example, your firm has adequate capital resources, or has made adequate arrangements to mitigate high excess(es), or increased excess(es) for specific business types. Please note we would not expect your firm to have exclusions for specific business types.

What if I intend to carry on more than one regulated activity?

If you carry on a combination of investment, home finance and/or insurance mediation regulated activities you will only need to comply with the higher of the prudential requirements as stated in MIPRU and/or IPRU (INV)13 and/or IPRU (INV) chapter 9 for each of these regulated activities.

You do not need to have more than one PII policy to satisfy each prudential requirement in PRU and IPRU (INV). One PII policy could cover the separate limits of indemnity and excesses for each type of regulated activity where appropriate. If you are subject to one or more limits of indemnity (because of the scope of your firm's regulated activities) and more than one limit applies, you only need to provide the highest one.

<http://www.fsa.gov.uk/pages/doing/regulated/Firms/faq/rmar.shtml>

http://www.fsa.gov.uk/pages/Doing/small_firms/advisers/FAQ/pii.shtml

http://www.fsa.gov.uk/pubs/policy/04_02/buying_pii.pdf

Suitability

We must be satisfied the applicant firm is 'fit and proper' to be authorised. We assess:

- the competence and ability of management;
- the management's commitment to carrying on the business with integrity; and
- the management's commitment to carrying on the business in compliance with the regulatory regime.

Compliance

A firm must establish, maintain and carry out a Compliance Monitoring Programme of actions to check it complies, and continues to comply, with regulations. When assessing this application we need to be satisfied the applicant firm has the appropriate compliance arrangements in place to meet its regulatory obligations. The applicant firm will need, as a **minimum**, to have in place procedures to meet our rules for the subject areas in the table below. These procedures must be ready for inspection at any time.

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Threshold Conditions (cont'd)

Supporting Information to Submit With Your Application

For applications to add permission to do the following **for the first time**, you **must** supply the documents indicated in the table below with the application. If you do not do this, it will lengthen the application process.

Table B

In addition to this, we may contact you for more detailed information to support your application, especially if you are applying to significantly change your firm's current business.

	Regulated activities or client money permission						
	Advising on investments (except pension transfers and opt outs)	Advising on pension transfers and opt outs	Dealing in investments as principal	Managing Investments	Establishing operating or winding up a regulated/unregulated collective investment scheme	Arranging safeguarding and administration of assets/safeguarding and administration of assets/Holding and/or controlling client money or assets	Establishing operating or winding up a personal pension scheme
Evidence of compliance with the capital resource requirements			X	X			
Evidence of satisfaction of the Training and Competence (T&C) requirements for controlled functions in the firm including relevant experience, CV's and qualifications		X		X			
Compliance Manual	X		X	X	X	X	
Compliance monitoring programme (procedures to establish, maintain and carry out regular periodic compliance reviews.)	X		X	X	X	X	
Business Plan – Including rationale and projections	X		X	X	X		X
Details of operational procedures				X	X		X
Confirmation that scheme documentation is in place					X		
Details including value of SIPP's assets and number of clients now and after 12 months							X

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Approved Persons

You must ensure that no individual performs a controlled function until the application has been granted and we have approved the individual to perform the controlled function(s).

What is an approved person?

An approved person is an individual who is approved by us to perform a controlled function for an authorised firm or an appointed representative. To be approved and continue to be approved to perform a controlled function, an individual must:

- meet, and maintain, our criteria for approval (the 'fit and proper test'); and then
- perform their controlled function(s) in line with the Statement of Principles and Code of Practice for Approved Persons (APER) Sourcebook of the FSA Handbook.

What is a controlled function?

A controlled function is a function for a regulated business that has particular regulatory significance. For example, overseeing the firm's systems and controls and being responsible for compliance with our rules. There are different controlled functions relevant to the different types of businesses we regulate. Some controlled functions are required for every firm, others will depend on the nature of your business. Each controlled function has a 'CF' number. You can find a full list of all the controlled functions and an explanation of each one at: www.fsahandbook.info/FSA/html/handbook/SUP/10

The Approved Person 'Form A' application form is found at: www.fsa.gov.uk/pubs/other/ivreg_forma.pdf

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EEA Notifications and Third-Country Banking and Investment Groups

EEA Notifications

We need to know about any connected firms outside the UK but within the EEA because we are required by FSMA to contact the relevant EEA Home State Regulators of these connected firms, as part of the application process.

Third-Country Banking and Investment Groups

Definition of BIPRU firm

Has the meaning set out BIPRU 1.1.6 R (The definition of a BIPRU firm), which is in summary a firm that is:

- (a) a building society; or
- (b) a bank; or
- (c) a full scope BIPRU investment firm; or
- (d) a BIPRU limited licence firm; or
- (e) a BIPRU limited activity firm;

but excluding firms of the type listed in BIPRU 1.1.7 R (Exclusion of certain types of firm from the definition of BIPRU firm).

Definition of third-country banking and investment group

A third-country banking and investment group is a banking and investment group that is:

- (a) headed by:
 - (i) a credit institution;
 - (ii) an asset management company;
 - (iii) an investment firm; or
 - (iv) a financial holding company;

that has its head office outside the EEA; and

(b) not part of a wider EEA banking and investment group.

Definition of financial holding company

A financial holding company is a financial institution that fulfils the following conditions:

- (a) its subsidiary undertakings are either exclusively or mainly credit institutions, investment firms or financial institutions;
- (b) at least one of those subsidiary undertakings is a credit institution or an investment firm; and
- (c) it is not a mixed financial holding company.

Definition of credit institution (as defined in articles 4(1) and 107 of the Banking Consolidation Directive (BCD))

A credit institution is:

(as defined in article 1(1) of the BCD)

- (1) an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account; or
- (2) an electronic money institution within the meaning of the E-Money Directive;

but excluding an institution within (2) that does not have the right to benefit from the mutual recognition arrangements under the BCD.

(See also the definitions of BCD credit institution, full credit institution, full BCD credit institution and Zone A credit institution in the Glossary of the FSA Handbook.

Definition of MiFID investment firm (as defined in article 4(1)(1) of *MiFID*)

in summary) a firm to which MiFID applies including, for some purposes only, a credit institution and UCITS investment firm.

(in full) a firm which is:

- (1) an investment firm with its head office in the EEA (or, if it has a registered office, that office);
- (2) a BCD credit institution (only when providing an investment service or activity in relation to the rules implementing the Articles referred to in Article 1(2) of MiFID);
- (3) a UCITS investment firm (only when providing the services referred to in Article 5(3) of the UCITS Directive in relation to the rules implementing the articles of MiFID referred to in Article 5(4) of that Directive);

unless, and to the extent that, MiFID does not apply to it as a result of Article 2 (Exemptions) or Article 3 (Optional exemptions) of MiFID.

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Markets in Financial Instruments Directive (MiFID) and the Capital Requirements Directive (CRD)

MiFID Status

CRD came into effect on 1 January 2007. Broadly speaking, the CRD only applies to firms which MiFID applies. The prudential rules these firms need to follow are contained in the Prudential Sourcebook for Banks, Building Societies and Investment firms (BIPRU) and the General Prudential Sourcebook (GENPRU).

Exempt CAD firms benefit from a lighter regime under the recast Capital Adequacy directive but are nonetheless subject to initial capital requirements (see articles 7 and 8). Exempt BIPRU commodities firms benefit from a transitional regime under the recast CAD (article 48). Please see PERG 13.6 Q54, 57, 58 and 59, <http://fsahandbook.info/FSA/html/handbook/PERG/13/6>.

Guidance on MiFID and CRD categorisation and whether firms will be affected by either directive is set out in the Handbook, see PERG 13: <http://fsahandbook.info/FSA/html/handbook/PERG/13>.

What is a 'Systematic Internaliser'?

MiFID defines Systematic Internalisers as those investment firms, which, on an organised, frequent and systematic basis, deal on own account by transacting client orders outside a Regulated Market or a Multilateral Trading Facility. This is also commonly known as Over-the-Counter trading.

CRD categorisation – BIPRU Prudential Rules

Base Capital Resource Requirement

<p>€50k</p>	<p>A BIPRU €50k firm which:</p> <ul style="list-style-type: none"> • is not authorised to deal for own account in, or underwrite issues of, financial instruments on a firm commitment basis; • offers one or more of the following services: <ul style="list-style-type: none"> ○ reception and transmission of orders; ○ execution of orders; or ○ management of individual portfolios of investments. • does not hold client's money and/or securities and is not authorised to do so; • is not a UCITS investment firm; and • does not operate a multilateral trading facility..
<p>€125k</p>	<p>A BIPRU €125K firm which:</p> <ul style="list-style-type: none"> • is not authorised to deal for own account in, or underwrite issues of, financial instruments on a firm commitment basis; • offers one or more of the following services: <ul style="list-style-type: none"> ○ reception and transmission of orders; ○ execution of orders; or ○ management of individual portfolios of investments. • can hold client money or securities, or is authorised to do so; • is not a UCITS investment firm; and • does not operate a multilateral trading facility
<p>€730k</p>	<p>a BIPRU €730K firm is an investment firm subject to the recast CAD but is not a BIPRU €50K firm, a BIPRU €125K firm or a UCITS investment firm.</p>
<p>UCITS investment firm</p>	<p>A <i>UCITS investment firm</i> should hold base capital of €125,000 plus an additional amount of own funds, in accordance with the UCITS Directive, equal to 0.02% of the amount by which the value of portfolios under management exceed €250,000,000 (subject to an overall maximum base capital requirement of €10,000,000).</p>

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Markets in Financial Instruments Directive (MiFID) and the Capital Requirements Directive (CRD) (cont'd)

Capital Resources Requirement

For full scope BIPRU investment firms, the minimum capital resource requirement will be calculated as the higher of the base requirement **or** the sum of the credit, market and operational risk requirements.

For BIPRU limited activity firms, the minimum capital resource requirements will be calculated as the higher of the base requirement **or** the sum of the credit, market risk and the fixed overheads requirement (FOR).

For BIPRU limited licence firms, the minimum capital resource requirements will be calculated as the higher of the base requirement **or** the sum of credit and market risk requirements **or** the FOR.

Full scope BIPRU investment firm	an investment firm that is neither a BIPRU limited activity firm, nor a BIPRU limited licence firm.
BIPRU limited activity firm	an investment firm that deals on own account only for the purpose of fulfilling or executing client orders, or gaining entrance to a clearing and settlement system or a recognised exchange when acting in an agency capacity or executing a client order.
BIPRU limited licence firm	an investment firm that is not authorised to provide the investment services of dealing on own account or underwriting and/or placing financial instruments on a firm commitment basis, or a UCITS investment firm.

For further information, see <http://www.fsa.gov.uk/Pages/About/What/International/basel/info/index.shtml>.

MiFID firms not generally subject to GENPRU and BIPRU

Firm Category	IPRU (INV) chapters
An exempt CAD firm (which is a Securities and futures firm)	1 & 9
An exempt CAD firm (which is an Investment management firm)	1, 5 & 9
An exempt CAD firm (which is a Personal investment firm)	1 & 13
Securities and futures firm (which is an exempt BIPRU commodities firm)	1 & 3
Locals	1 & 3

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Fees

The application fee is an integral part of your application. If you do not send a cheque for the appropriate fee in full with the completed application pack, we will not process your application.

For further information on fees, see FEES 4 Annex 1R.

You should note the firm's periodic fee may change as a result of this application. See www.fsa.gov.uk/fees for further details.

10 Declaration and Signature

This must be the person who is responsible for making the application. This should be a suitable person of appropriate seniority at the firm.

Appendix A - Standard Requirements

Ref	Short Description	Requirement (full narrative)
1	Activities only in respect of long term insurance.	The firm may only carry on listed activities in respect of the investments specified for the purpose of its long term insurance business.
2	Corporate finance business only.	The firm must not conduct designated investment business other than corporate finance business.
3	Corporate finance or venture capital only.	The firm must not conduct designated investment business other than corporate finance business or venture capital business.
4	Derivatives as incidental services only.	The firm must not carry on a permitted activity concerning the sale of an option (including a commodity option), future (including commodity future) or contract for difference (including spread bet or rolling spot forex contract), except where the activity is incidental to services to a particular client.
5	Energy Market Participant.	The firm must not conduct designated investment business other than energy market activity.
6	Exempt CAD firm (arranging and advising)	Unable to carry on any investment service or activity, to which MiFID applies, on a regular basis except reception and transmission of orders in relation to one or more financial instruments or investment advice.
7	Exempt CAD firm (arranging only)	Unable to carry on any investment service or activity, to which MiFID applies, on a regular basis except reception and transmission of orders in relation to one or more financial instruments.
8	Exempt CAD firm (advising only)	Unable to carry on any investment service or activity, to which MiFID applies, on a regular basis except investment advice in relation to one or more financial instruments.
9	*Limited Activity firm	May only deal on own account in MiFID financial instruments for the purpose of (i) fulfilling or executing a client order or (ii) gaining entrance to a clearing and settlement system or a recognised exchange when acting in an agency capacity or executing a client order.
10	*Limited Licence firm	Unable to (i) hold financial instruments for own account unless it meets the 'matched principal exemption conditions' as defined in the FSA's Glossary of defined expressions used in the FSA's Handbook and (ii) underwrite MiFID financial instruments and/or place MiFID financial instruments on a firm commitment basis.
11	*Matched Principal Broker	Unable to: (i) hold investors' financial instruments for own account unless it meets the 'matched principal exemption conditions' as defined in the FSA's Glossary of defined expressions used in the FSA's Handbook; and (ii) underwrite MiFID financial instruments and/or place MiFID financial instruments on a firm commitment basis.
12	*Box Management (i)	Limited to authorised unit trust box management.
13	*Box Management (ii)	Limited to investment company with variable capital (ICVC) box management.
14	*Box Management (iii)	Limited to recognised collective investment scheme (CIS) box management operations.
15	*Box Management(iv)	Limited to unregulated CIS box operations.
16	May control money if settlement through a mandate.	The general requirement not to hold or control CLIENT MONEY does not restrict the firm from controlling CLIENT MONEY if it arises from an agreement under which the firm effects settlement through a mandate or otherwise.
17	May hold/control client money if rebated commission.	The general requirement not to hold or control CLIENT MONEY does not apply if the CLIENT MONEY arises from an agreement under which commission is rebated to the client.
18	MiFID client money/assets restriction	Unable to hold client money or <i>safeguard and administer assets (without) arranging</i> in relation to any investment services and activities (to which MiFID applies).
19	Exempt MiFID firm (Article 2).	Unable to carry on any investment services or activities (to which MiFID applies) applies on a regular basis.
20	Exempt MiFID firm (Article 3)	Must comply with the requirements in regulation 4C (or any successor provision) of the Financial Services and Markets Act

		2000 (Markets in Financial Instruments) Regulations 2007
21	No actions to stabilise market price.	The firm must not act in any way to stabilise the market price of any investment.
22	No CORPORATE FIN. BUSINESS unless non-mainstream.	The firm must not carry on any CORPORATE FINANCE BUSINESS that is a REGULATED ACTIVITY unless it is a NON-MAINSTREAM REGULATED ACTIVITY.
23	No pension transfer or opt out.	The firm must not carry on any business relating to a PENSION TRANSFER or OPT OUT.
24	Not to act as Broker Fund Adviser.	The firm must not operate as a BROKER FUND ADVISER.
25	Oil Market Participant.	The firm must not conduct designated investment business which is not an oil market activity.
26	Private customers for regulated CIS only.	The firm may only conduct regulated activities for private customers which are regulated collective investment schemes.

* These are limitations, rather than requirements, and are included in the list of requirements as they affect a firm's prudential category.

END OF NOTES