

Annex C

In this annex underlining indicates new text and striking through indicates deleted text.



The DFSA Rulebook

Prudential – Investment, Insurance
Intermediation and
Banking Business Module

(PIB)

2 CAPITAL

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2.7 Components of capital

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Investments in subsidiaries and associates

2.7.3A The deduction made at G in the Table in Rule 2.6.2 in respect of a Subsidiary or Associate that is an Authorised Firm or a Financial Institution must be the greater of:

- (a) the amount of the Authorised Firm's investment in the Subsidiary or Associate; and
- (b) the amount of the Authorised Firm's proportionate share in the Capital Requirement of the Subsidiary or Associate, determined in accordance with Rule 7.3.3(2).

Guidance

The impact of Rule 2.7.3A is that, where a Subsidiary or Associate has a Capital Requirement that exceeds the amount of its book value to the Authorised Firm, the Authorised Firm ring-fences additional capital resources to ensure that the same capital resources are not available to support the capital adequacy of the Authorised Firm itself.

7 GROUP RISK

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Financial group capital resources

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7.3.5 When calculating ~~the~~ the Financial Group Capital Resources of a Financial Group, an Authorised Firm must not include Capital Resources or Adjusted Capital Resources (as the case may be) of subsidiaries or participations of that Financial Group to the extent that those Capital Resources or Adjusted Capital Resources:

- (a) exceed the entity requirement in respect of that subsidiary or participation, calculated in accordance with Rule 7.3.3; and
- (b) are not freely transferable within the Financial Group.

Guidance

1. Because the Financial Group Capital Requirement set out in Rule 7.3.3 includes capital requirements in respect of Group entities, capital resources may be included in the calculation of Financial Group Capital Resources to the extent of those requirements. Capital that is surplus to those requirements is however subject to an additional condition before it may be taken into account for the purposes of Financial Group capital adequacy.
2. In general, Capital Resources or Adjusted Capital Resources are considered not to be freely transferable if they are subject to a legal or constructive limitation on their transferability, whether that transfer would be made by dividend, return of capital or other form of distribution. Examples of relevant limitations might include obligations to maintain minimum capital requirements to meet domestic solvency requirements, or to comply with debt covenants.

App7 Reporting to DFSA

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A7.2 Reporting of group capital adequacy

A7.2.1 An Authorised Firm must, at the end of each reporting period and at the mid-point of each reporting period, prepare a report on the Financial Group capital adequacy of any Financial Group of which it is a member and in respect of which it is required by Chapter 7 to calculate Financial Group Capital Requirements and Financial Group Capital Resources. This Report shall be known as the Financial Group Capital Adequacy Report.

A7.2.2 (1) The Financial Group Capital Adequacy Report must be filed in writing by the Authorised Firm with the DFSA:

- (a) within four months of the Authorised Firm's reporting date in the case of a report at the end of a reporting period; or
- (b) within two months of the Authorised Firm's mid-year date in the case of a report at the mid-point of a reporting period.

(2) The Financial Group Capital Adequacy Report must state:

- (a) the name of the Authorised Firm;
- (b) the reference date of the report;
- (c) the name, location and activity of the Parent entity of the Financial Group in respect of which the report is made;
- (d) the Financial Group Capital Resources, calculated in accordance with Rule 7.3.4;
- (e) the Financial Group Capital Requirement, calculated in accordance with Rule 7.3.3;
- (f) the amount of surplus or deficit, expressed as the amount in (d) minus the amount in (e);
- (g) a list of all Authorised Firms and Financial Institutions in the Financial Group;
- (h) if any Authorised Firm in the Financial Group is itself a Parent, the items referred to in (d), (e) and (f) in respect of the Financial Group headed by that Authorised Firm; and

- (i) particulars of any Authorised Firm or Financial Institution in the Financial Group in respect of which the capital requirement calculated in accordance with Rule 7.3.3 exceeds its Capital Resources or Adjusted Capital Resources calculated in accordance with Rule 7.3.4(1)(b).
- (3) Amounts in the Financial Group Capital Adequacy Report must be expressed in thousands of dollars.
- (4) The Financial Group Capital Adequacy Report must be signed by:
 - (a) the persons specified in Rule 1.6.1(1) in the case of a report at the end of a reporting period; or
 - (b) the person specified in Rule 1.6.1(2) in the case of a report at the mid-point of a reporting period.
- (5) A Financial Group Capital Adequacy Report prepared at the end of a reporting period must be accompanied by a statement by the Authorised Firm's auditor, made in writing to the directors of the Authorised Firm and to the DFSA, and stating whether any significant matter has come to the attention of the auditor to indicate that the report has not been properly compiled in accordance with the requirements of this section, from information provided to the Authorised Firm by other members of the Financial Group and from the Authorised Firm's own records.

Guidance

- 1. Where information that would be contained in the Financial Group Capital Adequacy Report would be identical with information previously or concurrently provided to the DFSA pursuant to this or another provision of the Rulebook, and that information has not changed, the DFSA will normally accept a statement to that effect in the report in place of that information.
- 2. Form PIB100 in the Prudential Returns Module may be used by an Authorised Firm to present the Financial Group Capital Adequacy Report. Use of this form is not mandatory, however if the form is used the applicable instructional guidelines in PRU must be observed.