AFEP

IFPR – It’s Time for Action

9.11.21

Introductions

Craig Neilson

Financial Regulation

Partner, Dentons

- Craig has worked extensively with many AFEP members over a number of years on matters ranging from High Court litigation and conduct issues to Brexit planning. Client testimonials in this year's Legal 500 describe Craig as "exceptional", "always thinking of creative and imaginative approaches" and "extremely responsive and diligent”.

Celyn Armstrong

Financial Regulation

Partner, Dentons

- Celyn spent seven years at the FSA/FCA in enforcement and policy roles. He advises financial institutions on all aspects of contentious and non-contentious regulatory issues, including enforcement investigations, section 166 skilled person reviews, and financial markets regulation.

Jamie Cooke

Managing Director

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- With over 15 years’ experience within the financial services sector, Jamie has consulted closely with a vast array of MiFID firms across both the EU and the UK, to provide advice and assurance surrounding their regulatory obligations and, more recently, to ensure that they are primed and ready for the incoming IFPR.

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What is IFPR?

Background

- the EU Investment Firms Regulation and Directive
- the FCA's CPs 20/24, 21/7 and 21/26; PSs 21/6, 21/9 and a third to follow by the end of this year; and DP20/2 resulting in MIFIDPRU from 1/1/22

Purpose

- A prudential regime that "will take account of the different business models of FCA investment firms";
- Ensure "a more level playing field" – extending meaningful prudential requirements beyond those subject to current CRR regime;
- Help firms "spend less time on complex capital requirement calculations that do little to help them to manage risk"; and
- Make the rules "understandable and accessible"(para. 1.41 CP 20/24)

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Core concepts

Prudential consolidation and the group capital test

New monitoring requirements for concentration risk

Remuneration policy, procedures and disclosures

SNI and non-SNI firms

K-factors

Internal Capital and Risk Assessment document and questionnaire

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Some Implications

Own funds: if matched principal trading, currently €125k – will be PMCR of £750k phased in over five years (£125k in 2022, £190k in 2023, then +£140k per year)

Net position risk: firms dealing as principal must calculate K-NPR:
(a) Trading book positions; **and**
(b) Non-trading book positions giving rise to FX or commodities risk
- Consider non-MiFID forwards

Concentration risk/ LPs: definition of "client" for K-CON calculation includes "counterparty".
- Consider impact where a firm has a single liquidity provider/small number of LPs

Remuneration Code: regime depends on size but may include:
- Firm-set variable/fixed ratios
- 50%+ of variable pay in non-cash
- Defer 40%+ variable pay for 3-5 years
- Disclose rem system and awards

How have firms sought to address these issues in practice so far?

Own funds:

1. Reviewing permissions and confirming IFPR classification
2. Calculating FOR and K-factors where applicable
3. Mapping out how any potential increase in capital requirements will be met

Net position risk:

1. A renaming of Market Risk under the CRR, and calculated in the same way
2. For MPBs, reviewing to ensure that no NPR exists

Concentration risk/ LPs:

1. Continuing to identify, manage and monitor any concentration risks
2. Those dealing on own account are preparing for additional rules with regards to trading book exposures by reviewing such exposures

Remuneration Code:

1. Reviewing existing remuneration policies and practices against IFPR classification
2. Assessing applicability of, and preparedness for, basic, standard and extended requirements
3. Ensuring that measures are in place for performance period beginning on or after 1 January 2022

Practical steps firms should be taking now:

Practical Steps

- Review the firm's position within the broader corporate group and the implications which this may have for consolidation as an Investment Firm Group or the applicability of the Group Capital Test
- Calculate the firm's Own Funds requirement by reviewing its PMCR, FOR and K-factors as applicable; and, map out how the firm will prudently meet any potential increase in these requirements
- Prepare a monitoring system for daily concentration risk exposures which allows for timely reporting and identification of those exposures nearing the threshold
- Enhance existing the firm's ICAAP to include recovery and resolution plans, required to meet the new ICARA process under the IFPR

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Thank you

Q&A

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