Chapter 13

Prudential requirements

13.1 Application and purpose

General application

13.1.1 R Subject to PDCOB 13.1.2R, this chapter applies to *firms* with a *Part 4A permission* for *regulated pensions dashboard activity*.

13.1.2 R This chapter does not apply to a *PRA-authorised person*.

Purpose

13.1.3 G

(1) The purpose of PDCOB 13 is to set out the detailed prudential obligations that apply to *regulated pensions dashboard activity*.

(2) Adequate financial resources are necessary for the effective management of prudential risks. The *rules* in this chapter therefore impose requirements relating to the financial resources of a *firm* to which this chapter applies.

(3) The *rules* concern the adequacy of the financial resources that a *firm* needs to hold in order to be able to meet its liabilities as they fall due (the *general solvency requirement*). These resources include both capital and liquidity resources.

(4) The *rules* also place a *core capital resources requirement* on a *firm* to which this chapter applies.

13.2 General solvency requirement

13.2.1 R -A *firm* must at all times maintain overall financial resources which are adequate, both as to amount and quality, to ensure that there is no significant risk that its liabilities cannot be met as they fall due. This includes capital resources and liquidity resources.

13.2.2 G The liabilities referred to in the *general solvency requirement* include:

(1) a *firm's* contingent and prospective liabilities;

(2) liabilities that arise both in scenarios where the *firm* is a going concern and where the *firm* ceases to be a going concern; and

(3) claims that could be made against a *firm*, which ought to be paid in accordance with fair treatment of *customers*, even if such claims could not be legally enforced.

13.2.3 G The liabilities referred to in the *general solvency requirement* exclude liabilities that might arise from transactions that a *firm* has not entered into and which it could avoid. This could include, for example, by taking realistic management actions such as ceasing to transact new business after a suitable period of time has elapsed.

13.2.4 G A *firm* should therefore make its assessment of adequate financial resources on realistic valuation bases of assets and liabilities, taking into account the actual amounts and timing of cash flows under realistic adverse projections.

13.2.5 G Risks may be addressed through holding capital to absorb losses that unexpectedly materialise. The ability to pay liabilities as they fall due also requires liquidity. Therefore, *firms* should consider both capital and liquidity needs in assessing the adequacy of their financial resources. A *firm* should also consider the quality of its financial resources such as the loss-absorbency of different types of capital and the time required to liquidate different types of assets.

13.2.6 G As part of its day-to-day supervision of a *firm*, the *FCA* may review whether the amount and quality of capital and liquidity resources that a *firm* holds to comply with its *general solvency requirement* is sufficient.

13.2.7 G Where necessary, the *FCA* may consider the use of its powers under section 166 of the *Act* (Reports by skilled persons) to assist with the review referred to in PDCOB 13.2.6G.

13.2.8 G

(1) Following such a review, the *FCA* may conclude that a *firm* should hold an additional amount or quality of capital or liquidity resources to comply with the *general solvency requirement*.

(2) Where this is the case, the *FCA* will normally specify an amount or quality of capital or liquidity resources that the *firm* should hold by:

(a) issuing *individual capital guidance*;

(b) issuing *individual liquidity guidance*; or

(c) imposing a *requirement* on the *firm*.

(3) The amounts in (2) will typically represent the *FCA's* assessment of the *firm's general solvency requirement*. However, in some cases, it may be specified on a different basis (such as by reference to a specific component of the *general solvency requirement* or to a particular risk or harm).

(4) The *FCA* may choose to conduct reviews of the sector of *firms* carrying on *regulated pensions dashboard activity*, or aspects of it. In such cases, the *FCA* may subsequently choose to issue *guidance* on a sectoral basis or to impose additional *requirements* on all, or only a subset of, the entities included within that review. The *guidance* or *requirement* may relate to:

(a) additional amounts or quality of capital or liquidity resources that such *firms* must hold; or

(b) other actions that such *firms* must undertake.

13.2.9 G The *FCA* will determine whether a *requirement* or *guidance* is more appropriate. Where the *FCA* chooses to issue *guidance*, this will normally explain how the *FCA* will approach supervising the *general solvency requirement* in relation to the *firm*. The *FCA* expects that the *firm* would normally confirm to the *FCA* that the *firm* will hold the amounts specified in that *guidance* going forward (and will therefore hold the relevant capital and or liquidity resources to comply with the *general solvency requirement*), unless the *firm* subsequently determines that higher amounts are required.

13.2.10 G Where the *FCA* considers that it is appropriate to apply a *requirement* in connection with the *general solvency requirement*, it may invite a *firm* to make a voluntary application under section 55L(5) of the *Act* to impose a *requirement* on the *firm* to hold the level of capital or liquidity resources that the *FCA* has assessed as being required by the *firm* in order to meet the *general solvency requirement*.

13.2.11 G *Guidance* on the *general solvency requirement* issued by the *FCA* will apply until the *FCA* issues revised *guidance* (or varies or removes the *requirement* relating to the *general solvency requirement*) in relation to the *firm*.

13.2.12 G If a *firm* subsequently determines, as a result of its own assessment, that it needs to hold a higher level or quality of capital or liquidity resources to satisfy the *general solvency requirement*, it must hold that higher level. This is because the *FCA's* assessment (or a *requirement* applied to the *firm* by the *FCA*) reflects an assessment carried out at that point in time and does not relieve the *firm* of its obligation to ensure that it is meeting the *general solvency requirement* at all times.

13.2.13 G A *firm's* business model or operating model may undergo a significant change, with the result that the *firm* considers that the amount or quality of capital or liquidity resources specified in the *guidance* issued by, or the *requirement* applied by, the *FCA* exceeds the amount or quality of capital or liquidity resources that the *firm* requires to comply with the *general solvency requirement*. In this case, the *firm*:

(1) should undertake its own assessment of the amount that the *firm* now requires to comply with the *general solvency requirement* or, where applicable, to address the risks in relation to which the *requirement* was imposed; and

(2) having undertaken the determination in (1), may contact the *FCA* to request a review of the existing *guidance* or *requirement*.

13.2.14 G The *FCA* will not give *individual capital guidance* or *individual liquidity guidance* to the effect that the amount of capital advised in that *guidance* is lower than the amount of capital which a *firm* should hold to meet its *core capital resources requirement*.

13.3 Core capital resources requirement

13.3.1 **R** A *firm* must at all times maintain capital resources equal to or in excess of its *core capital resources requirement*.

13.4 Capital resources: relevant accounting principles

13.4.1 R A *firm* must recognise an asset or liability, and measure its amount, in accordance with the relevant accounting principles applicable to it for the purpose of preparing its *annual financial statements*.

13.5 Core capital resources requirement for regulated pensions dashboard activities

13.5.1 R Subject to PDCOB 13.6.1R, for a *firm* with a *Part 4A permission* to carry on *regulated pensions dashboard activities*, the *core capital resources requirement* is £40,000.

13.6 Core capital resources requirement for a firm carrying on other regulated activity

13.6.1 R Where a *firm* to which this chapter applies also has a *Part 4A permission* to carry on other *regulated activities*, the capital resources requirement is the higher of:

(1) the *core capital resources requirement* in PDCOB 13.5.1R; and

(2) a capital resources requirement (however described) applied to the *firm* by any other *rule* or *requirement*.

13.7 Calculation of core capital resources

The calculation of a firm's core capital resources

13.7.1 R A *firm* must calculate its capital resources for the *core capital resources requirement* from the items that are eligible to contribute to a *firm's* capital resources, as set out in items 1 to 6 in the table at PDCOB 13.7.3R.

13.7.2 R In arriving at its calculation of its capital resources for the *core capital resources requirement*, a *firm* must deduct the items set out in items 1 to 5 in the table at PDCOB 13.7.5R.

13.7.3 R The items that are eligible to contribute to the capital resources of a *firm* are set out in the following table.

	Item	Additional explanation
1	*Share* capital	This must be fully paid and may include: (1) ordinary *share* capital; or (2) preference *share* capital (excluding preference *shares* redeemable by shareholders within 2 years).
2	Capital other than *share* capital (for example, the capital of a *sole trader*, *partnership* or *limited liability partnership*)	(1) The capital of a *sole trader* is the net balance on the *firm's* capital account and current account. (2) The capital of a *partnership* is the capital made up of the *partners'*: (a) capital account, which is the account: (i) into which capital contributed by the *partners* is paid; and (ii) from which, under the terms of the *partnership* agreement, an amount representing capital may be withdrawn by a *partner* only if:

Item		Additional explanation
		(A) the *person* ceases to be a *partner* and an equal amount is transferred to another such account by their former *partners* or any *person* replacing them as their *partner*; or (B) the *partnership* is otherwise dissolved or wound up; and (b) current accounts according to the most recent financial statement. (3) For the purpose of calculating capital resources in respect of a *defined benefit occupational pension scheme*: (a) a *firm* must derecognise any *defined benefit asset*; and (b) a *firm* may substitute for a *defined benefit liability* the *firm's deficit reduction amount*, provided that the election is applied consistently in respect of any one *financial year*.
3	Reserves (Note)	(1) These are (subject to the Note) the audited accumulated profits retained by the *firm* (after deduction of tax, dividends and proprietors' or *partners*' drawings) and other reserves created by appropriations of share premiums and similar realised appropriations. Reserves also include gifts of capital, for example, from a *parent undertaking*. (2) For the purposes of calculating capital resources, a *firm* must make the following adjustments to its reserves, where appropriate: (a) A *firm* must deduct any unrealised gains or, where applicable, add back in any unrealised losses on debt instruments held, or formerly held, in the available-for-sale financial assets category. (b) A *firm* must deduct any unrealised gains or, where applicable, add back in any unrealised losses on cash flow hedges of financial instruments measured at cost or amortised cost. (c) In respect of a *defined benefit occupational pension scheme*: (i) a *firm* must derecognise any *defined benefit asset*; and (ii) a *firm* may substitute for a *defined benefit liability* the *firm's* reduction amount, provided that the election is ap-

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Item		Additional explanation
		plied consistently in respect of any one *financial year*.
4	Interim net profits (Note)	If a *firm* seeks to include interim net profits in the calculation of its capital resources, the profits must (subject to the Note) be verified by the *firm's* external auditor, net of tax, anticipated dividends or proprietors' drawings and other appropriations.
5	Revaluation reserves	Revaluation reserves include reserves arising from the revaluation of land and buildings, which include any net unrealised gains for the fair valuation of equities held in the available-for-sale financial assets category.
6	Subordinated loans/ debt	Subordinated loans/debt must be included in capital on the basis of the provisions in this chapter that apply to subordinated loans/debts.
Note: Reserves and interim net profits		
Reserves must be audited and interim net profits, general and collective provisions must be verified by the *firm's* external auditor unless the *firm* is exempt from the provisions of Part 16 of the Companies Act 2006 (section 477 (Small companies: conditions for exemption from audit)) relating to the audit of accounts.		

13.7.4 G A *firm* should keep a record of, and be ready to explain to its supervisory contacts in the *FCA* the reasons for, any difference between the *deficit reduction amount* and any commitment the *firm* has made in any public document to provide funding in respect of a *defined benefit occupational pension scheme*.

13.7.5 R In arriving at its calculation of its capital resources for the *core capital resources requirement*, a *firm* must deduct the items set out in the following table:

Item	Additional explanation
1	*Investments* in own *shares*
2	*Investments* in *subsidiaries* (Note 1)
3	Intangible assets (Note 2)
4	Interim net losses (Note 3)
5	Excess of drawings over profits for a *sole trader* or a *partnership* (Note 3)
Notes:	1. *Investments* in subsidiaries are the full balance sheet value. 2. Intangible assets are the full balance sheet value. 3. The interim net losses in row 4, and the excess of drawings in row 5, are in relation to the accounting period following the date as at which the capital resources are being computed.

Personal assets

13.7.6 R In relation to a *sole trader's firm* or a *firm* which is a *partnership*, the *sole trader* or a *partner* in the *firm* may use personal assets to meet the *core* *capital resources requirement*, to the extent necessary to make up any shortfall in meeting that requirement, unless:

(1) those assets are needed to meet other liabilities arising from:

(a) personal activities; or

(b) another business activity not regulated by the *FCA*; or

(2) the *firm* holds *client money* or other *client* assets in relation to *regulated activities* other than *regulated pensions dashboard activity*.

13.7.7 G A *sole trader* or a *partner* may use any personal assets, including property, to meet the capital requirements of this chapter, but only to the extent necessary to make up a shortfall.

Subordinated loans

13.7.8 R A subordinated loan or debt must not form part of the capital resources for the *core capital resources requirement* of the *firm* unless it meets the following conditions:

(1) (a) it has an original maturity of at least 5 years; or

(b) it is subject to 5 years' notice of repayment;

(2) the claims of the subordinated creditors must rank behind those of all unsubordinated creditors;

(3) the only events of default must be non-payment of any interest or principal under the debt agreement or the winding up of the *firm*;

(4) the remedies available to the subordinated creditor in the event of non-payment or other default in respect of the subordinated loan or debt must be limited to petitioning for the winding up of the *firm* or proving the debt and claiming in the liquidation of the *firm*;

(5) the subordinated loan or debt must not become due and payable before its stated final maturity date, except on an event of default complying with (3);

(6) the agreement and the debt are governed by the law of England and Wales, or of Scotland or of Northern Ireland;

(7) to the fullest extent permitted under the rules of the relevant jurisdiction, creditors must waive their right to set off amounts they owe the *firm* against subordinated amounts owed to them by the *firm*;

(8) the terms of the subordinated loan or debt must be set out in a written agreement that contains terms that provide for the conditions set out in this *rule*; and

(9) the loan/debt must be unsecured and fully paid up.

13.7.9 R When calculating its capital resources, the *firm* must exclude any amount by which the aggregate amount of its subordinated loans or debts exceeds the amount calculated as follows:

A - B

where:

A is equal to the sum of items 1 to 6 (inclusive) in the table of items in PDCOB 13.7.3R, which are eligible to contribute to a *firm's* capital resources.

B is equal to the sum of items 1 to 5 (inclusive) in the table of items in PDCOB 13.7.5R, which must be deducted in arriving at *firm's* capital resources.

13.8 Systems, strategies, processes and reviews

Purpose

13.8.1 G In addition to adequate financial resources, adequate systems and controls are necessary for the effective management of prudential risks. This section therefore imposes requirements relating to such systems and controls.

13.8.2 G This section requires a *firm* to identify and assess:

(1) risks to the *firm* being able to meet its liabilities as they fall due;

(2) how the *firm* intends to mitigate these risks; and

(3) the amount and nature of financial resources that the *firm* considers necessary to address any remaining risks.

13.8.3 G The *FCA* may review this assessment as part of its own assessment of the adequacy of a *firm's* financial resources.

Systems, strategies and processes

13.8.4 R A *firm* must use sound, effective and comprehensive systems, strategies and processes to assess and maintain on an ongoing basis the amounts, types and distribution of financial resources that it considers adequate to cover:

(1) the nature and level of the risks to which it is or might be exposed; and

(2) the risk that the *firm* might not be able to meet its *core capital resources requirement* and *general solvency requirement* in the future.

13.8.5 G A *firm* should consider taking out professional indemnity insurance and insurance to cover the risk of cyber-attacks in relation to its *regulated pensions dashboard activity*.

Documentation of risk assessments

13.8.6 G The *FCA* may review the written record of the assessment in PDCOB 13.8.4R as required under PDCOB 16.12.1R as part of its own assessment of the adequacy of a *firm's* financial resources as part of its day-to-day supervision of *firms*.

13.9 Action for damages

13.9.1 R A contravention of the *rules* in PDCOB 13 does not give rise to a right of action by a *private person* under section 138D of the *Act*, and each of those *rules* is specified for the purposes of section 138D(3) of the *Act* as a provision that does not give rise to such a right of action.