

## CRD IV and firms remaining on CRD III

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The FCA has sent a letter to BIPRU investment firms explaining that they will need to determine whether they will be subject to CRD III or CRD IV rules from 1 January 2014. Some firms may be able to remain subject to the existing (and less stringent) capital and reporting requirements under CRD III, (and remain subject to the BIPRU sourcebook rather than the new Prudential sourcebook for Investment Firms (IFPRU)) once CRD IV is officially implemented.

Whether or not a firm qualifies to remain on the less stringent CRD III rules depends on which investment services and activities it carries out. Such a firm must not carry out the following MiFID investment services and activities:

- dealing on own account;
- underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis;
- operation of Multilateral Trading Facilities;
- MiFID ancillary services of safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management; or be permitted to hold money or securities belonging to their client; or
- holding money or securities belonging to their client.

Firms that do not intend to carry on the activity of placing of financial instruments without a firm commitment basis from January 2014, and wish to stay on the existing CRD III rules, must inform the FCA by 20 November 2013 and will also need to apply for a variation of permission for a requirement to be placed on its permissions not to carry on this activity. Firms which intend to place financial instruments without a firm commitment basis from 1 January 2014 do not need to respond to the letter.

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