

12 June 2025

Via Electronic Mail: cp25-10@fca.org.uk

Prudential Policy
Financial Conduct Authority
12 Endeavour Square
London E20 1JN

Re: FCA Consultation Paper CP25/10 – Definition of capital for FCA investment firms

Dear Sir/Madam,

MFA¹ appreciates the opportunity to represent the views of the global alternative asset management industry in this written response to the Financial Conduct Authority's ("FCA") consultation on the definition of capital for FCA investment firms (Consultation Paper CP25/10) (the "**Consultation Paper**").²

MFA supports the FCA's objective of simplifying and consolidating the existing rules governing regulatory capital requirements for investment firms, making the FCA's rulebook clearer and application of the relevant rules to firms easier to understand. We appreciate the FCA's engagement with stakeholders and welcome its initiatives to streamline prudential requirements and to ensure regulation remains proportionate and appropriate, in alignment with the UK's growth and competitiveness agenda.

The FCA's objectives in consolidating and simplifying the current rules setting out the requirements under the prudential regulation framework applicable to investment firms are to be commended, and MFA recognises the benefit of ensuring firms hold high-quality capital that can absorb losses to maintain financial resilience during periods of stress.

Notwithstanding the above, MFA notes that the term "investment firm" encompasses a broad range of firms from large market intermediaries to wealth advisory firms. We are concerned that the existing framework for prudential regulation of investment firms does not adequately discern between the risks posed to consumers and the financial

¹ Managed Funds Association ("MFA"), based in Washington, D.C., New York City, Brussels, and London, represents the global alternative asset management industry. MFA's mission is to advance the ability of alternative asset managers to raise capital, invest it, and generate returns for their beneficiaries. MFA advocates on behalf of its membership and convenes stakeholders to address global regulatory, operational, and business issues. MFA has more than 180 fund manager members, including traditional hedge funds, private credit funds, and hybrid funds, that employ a diverse set of investment strategies. Member firms help pension plans, university endowments, charitable foundations, and other institutional investors diversify their investments, manage risk, and generate attractive returns throughout the economic cycle.

² FCA, Definition of capital for FCA investment firms, CP 25/10 (Apr. 2025), avail. at <https://www.fca.org.uk/publication/consultation/cp25-10.pdf>.

Washington, DC
1301 Pennsylvania Ave NW
Suite 350
Washington, DC 20004

New York
546 5th Avenue
12th Floor
New York, NY 10036

Brussels
40 Rue D'Arlon
1000 Brussels, Belgium

London
14 Hanover Square, Mayfair,
London, United Kingdom, W1S 1HT

system by investment firms that are highly interconnected and whose business presents material risk to investors, market stability or the financial system and those posed by alternative asset managers dealing predominantly with professional investors.

Rigorous regulatory capital requirements are appropriate for investment firms which, for example, hold client money or client assets, provide custody services, or act as intermediaries in market transactions to reflect the potentially serious adverse consequences of the failure of these firms. However, the current rules, which stem from the Capital Requirements Regulation (“**CRR**”), are designed for banks and are not calibrated to the more limited risks posed by alternative asset management firms. For example, as asset managers principally trade on the account of their clients, the firms do not present material counterparty risk when carrying on their asset management business.

As a result, the existing regulatory capital rules require solo regulated alternative asset managers to hold disproportionately high levels of regulatory capital, considering the risk these firms’ business models represent to consumers, market stability or the financial system. While it is appropriate to ensure that asset managers are able to effect an orderly wind-down of their operations, the high levels of regulatory capital required under the current rules present a significant disincentive to establishing and continuing to operate an asset management business in the UK, create a barrier to entry for new managers, and are out of line with the established approach to regulatory capital in other international financial centres, notably the U.S.

MFA supports the FCA’s efforts to ensure proportionality and improving regulatory clarity. We welcome further dialogue with the FCA on these concerns and remain committed to contributing constructively to the development of an effective and appropriately calibrated regime for prudential regulation. We have set out our responses to the relevant questions of the Consultation Paper in the Annex.

* * * * *

MFA appreciates your consideration of our views. We look forward to working with the FCA to improve the effectiveness, clarity, and proportionality of prudential regulation. We would be pleased to discuss our concerns in further detail. Please do not hesitate to reach out to the undersigned (rhailey@mfaalts.org) or Jeff Himstreet (jhimstreet@mfaalts.org).

Yours sincerely,

/s/ Rob Hailey

Rob Hailey
Managing Director, Head of EMEA Government Affairs

Annex

Question 4: Are the enhanced disclosure requirements we propose for MIFIDPRU 8 Annex 1R clear and workable? If not, what clarifications would be helpful?

MFA gratefully acknowledges the clarification the FCA proposes to provide with respect to the validity of CET1 instruments where the firm has also issued non-CET1 instruments that rank equally with CET1 instruments. The proposed disclosure requirements mandate the firm to identify which instruments rank equally with CET1 instruments, but do not specify whether it is necessary to identify the instruments in detail or by description.

For example, it would be helpful to clarify whether the disclosure must confirm that specific share classes rank equally with CET1 shares but do not form part of CET1 capital.³ Clarification set out in the FCA's Handbook as to the expected level of detail with respect to the loss absorption mechanics (where equal ranking exists), proportion of residual assets claimed and how losses are shared between equally ranked instruments would be helpful. MFA members would be grateful for further guidance, for example, by way of examples of appropriate disclosure.

MFA agrees that, where non-standard ranking arrangements exist, appropriate transparency to the FCA assists effective supervision of compliance with the regulatory capital requirements without unnecessarily subjecting firms' regulatory capital assessments to regulatory pre-approval.

However, MFA considers there to be no clear indication that the public disclosure requirements under MIFIDPRU 8.4.1R provide useful information or an effective risk assessment measure to an asset management firm's clients or other stakeholders beyond a simple statement of the overall regulatory capital held, while they complicate the already extensive public disclosure requirements under MIFIDPRU 8.4.

Question 5: Do you agree with our proposal to move from a permission-based to a notification-based approach for including interim profits in CET1 capital? Are the verification requirements clear?

MFA strongly agrees with the FCA's proposal to permit firms to include interim profits in CET1 capital without requiring firms to obtain prior permission from the FCA, but rather notifying the FCA after such an inclusion.

MFA considers the verification requirements proposed in the draft rules to be sufficiently clear and is grateful for the FCA's confirmation that firms are simply expected to meet existing requirements, e.g. as to verification and deductions, rather than introducing new requirements.

³ That is, whether it is sufficient to disclose that there are other classes of ordinary shares that rank equally with the CET1 shares, or whether the disclosure should identify that the B and C classes of shares rank equally with CET1 shares.

Question 7: Do you agree with our simplification of AT1 loss absorption mechanisms? Are the proposed changes sufficiently clear to support firms' understanding of these instruments?

MFA supports the proposals, which simplify the rules applicable to AT1 instruments, and in particular simplifying the description of loss absorption characteristics.

The clarification that “fully paid” instruments exclude an undertaking to pay, which is permitted under the Companies Act 2006. The simplification of the requirements allows firms to structure AT1 capital instruments that achieve the key policy objective of ensuring full loss absorbency (through write-down or conversion), when triggered.