

SALE AND RENT BACK INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 145 (Financial promotion rules);
 - (c) section 149 (Evidential provisions);
 - (d) section 156 (General supplementary powers);
 - (e) section 157(1) (Guidance); and
 - (f) paragraph 17(1) (Fees) of Schedule 1 (The Financial Services Authority); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purposes of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. (1) Annex C (FEES) comes into force on 29 January 2010.
 (2) The remainder of this instrument comes into force on 30 June 2010.

Amendments to the Handbook

- D. The modules of the FSA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2) below.

(1)	(2)
Glossary of definitions	Annex A
General Provisions (GEN)	Annex B
Fees manual (FEES)	Annex C
Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries (MIPRU)	Annex D
Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)	Annex E
Supervision manual (SUP)	Annex F

Amendments to material outside the Handbook

- E. The Perimeter Guidance manual (PERG) is amended in accordance with Annex G to this instrument.

Notes

- F. In this instrument, the “notes” (indicated by “**Note:**”), and the “*Editor’s Note*”, are included for the convenience of readers but do not form part of the legislative text. The *Editor’s Note* will not be reproduced in the Handbook.

Citation

- G. This instrument may be cited as the Sale and Rent Back Instrument 2010.

By order of the Board
28 January 2010

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>distance regulated sale and rent back mediation contract</i>	<p>a <i>distance contract</i>, the making or performance of which constitutes, or is part of:</p> <p>(a) <i>advising on a regulated sale and rent back agreement</i>; or</p> <p>(b) <i>arranging (bringing about) a regulated sale and rent back agreement</i>; or</p> <p>(c) <i>making arrangements with a view to a regulated sale and rent back agreement</i>; or</p> <p>(d) <i>agreeing to carry on a regulated sale and rent back mediation activity in (a) to (c).</i></p>
<i>SRB intermediary</i>	a <i>firm</i> with <i>permission</i> (or which ought to have <i>permission</i>) to carry on a <i>regulated sale and rent back mediation activity</i> .

Amend the following definitions as shown.

<i>client</i>	<p>...</p> <p>(8) <u>(in relation to a regulated sale and rent back agreement, except in PROF):</u></p> <p>(a) <u>the individual or trustee who is the SRB agreement seller or potential SRB agreement seller; or</u></p> <p>(b) <u>an individual who is an unauthorised SRB agreement provider or potential unauthorised SRB agreement provider and who does not have, or would not be required to have, permission to enter into a regulated sale and rent back agreement.</u></p>
<i>specified investment</i>	<p>...</p> <p>(od) <u>regulated sale and rent back agreement (article 63J(3));</u></p> <p>...</p>

SRB agreement seller (in accordance with article 63J(3)(a) of the *Regulated Activities Order*) an individual or trustees, ~~or a related party of his,~~ who sells all or part of the *qualifying interest in land* in the *United Kingdom* to an agreement provider under a *regulated sale and rent back agreement* ~~and who is entitled under the arrangement to occupy at least 40% of the land in question as or in connection with a dwelling, and intends to do so.~~

Annex B

Amendments to the General Provisions (GEN)

In this Annex, underlining indicates new text and striking through indicates deleted text.

4.2 Purpose

...

4.2.2 G There are other pre-contract information requirements outside this chapter, including:

...

- (4) for *electronic commerce activities* carried on from an *establishment* in the *United Kingdom*, in *COBS 5.2*, *ICOBS 3.2* and *MCOB 2.8*; ~~and~~
- (5) for *regulated mortgage contracts* and *home purchase plans*, initial disclosure requirements in *MCOB 4*, pre-application disclosure requirements in *MCOB 5*, and disclosure at the offer stage in *MCOB 6*; ~~and~~
- (6) for *equity release transactions*, initial disclosure requirements in *MCOB 8.4*, pre-application disclosure requirements in *MCOB 9.4* and disclosure at the offer stage in *MCOB 9.5*; and
- (7) for *regulated sale and rent back agreements*, initial disclosure requirements in *MCOB 4.11*, pre-sale disclosure requirements in *MCOB 5.9* and disclosure at the offer stage requirements in *MCOB 6.9*.

Annex C

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Comes into force on 29 January 2010

3 Annex 1 R Authorisation fees payable

...

Part 2 – Complexity Groupings Straightforward Cases

Straightforward cases	
Activity grouping	Description
...	
A.18	<p><i>Home finance providers, advisers and arrangers (excluding home finance providers).</i></p> <p>In the case of applicants for <i>interim RSRB permission</i> within this activity group the specified amount payable is £1,000.</p> <p>In the case of applicants for <i>full RSRB permission</i> within this activity group the specified amount payable is £500.</p>
...	

Moderately Complex Cases

Moderately complex cases	
Activity grouping	Description
...	
A.2	<p><i>Home finance providers and administrators.</i></p> <p>In the case of applicants for <i>interim RSRB permission</i> within this activity group the specified amount payable is £3,000.</p> <p>In the case of applicants for <i>full RSRB permission</i> within this activity group the specified amount payable is £2,000.</p>
...	

...

TP Transitional Provisions**TP 1.1**

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional Provision	(5) Transitional Provision: dates in force	(6) Handbook provision: coming into force
...					
<u>5.</u>	<u>FEES 3 Annex 1R Part 1 and Activity Groups A.2 and A.18</u>	<u>R</u>	<p>The amount payable under <u>FEES 3 Annex 1R Part 1</u> is modified as follows:</p> <p>(a) for an applicant for <u>full RSRB permission within the A.18 activity group who was granted, up until 29 June 2010, an interim RSRB permission within this activity group that was not an interim variation of permission, the specified amount payable is £500;</u></p> <p>(b) for an applicant for <u>full RSRB permission within the A.2 activity group who was granted, up until 29 June 2010, an interim RSRB permission within this activity group that was not an interim variation of permission, the specified amount payable is £2,000.</u></p>	<u>29 January 2010 to 29 June 2010</u>	<u>29 January 2010</u>
<u>6.</u>	<u>FEES 3.2.7R(p)</u>	<u>R</u>	<u>(1) The fee payable under FEES 3.2.7R(p) is modified in relation</u>	<u>29 January 2010 to 29 June 2010</u>	<u>29 January 2010</u>

		<p>to a <i>firm</i> applying for any one or more <u>regulated sale and rent back activity</u> as follows.</p> <p>(2) Unless (3) applies, if the variation involves the <i>firm</i> applying for any one or more <u>regulated sale and rent back activity</u> and that <i>firm</i> was granted, up until 29 June 2010, an <u>interim RSRB permission</u> that was an interim variation of permission, the fee is 50% of the highest of the tariffs set out in <u>FEES 3 Annex 1R</u> which apply to that application net of any <u>interim RSRB permission application fee</u> paid to the <i>FSA</i>.</p> <p>(3) If the activity groups applicable to a <i>firm</i>, as specified at Part 1 of <u>FEES 4 Annex 1R</u>, were not altered when it was granted an <u>interim RSRB permission</u> that was an interim variation of permission and will not alter if it is granted a <u>full RSRB permission</u>, no fee is payable.</p>		
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Annex D

**Amendments to the Prudential sourcebook for Mortgage and Home Finance Firms, and
Insurance Intermediaries (MIPRU)**

In this Annex, underlining indicates new text.

Regulated sale and rent back agreements: additional requirement

4.4.12 R If a *SRB agreement provider* agrees, under the terms of a *regulated sale and rent back agreement*, to account to the *SRB agreement seller* for any monetary sum, whether after a qualifying period, over a period of time, on the occurrence of a contingent event or otherwise, the provider must:

(1) take out and maintain adequate insurance from an *insurance undertaking* authorised in the *EEA* or a *person* of equivalent status in:

(a) a *Zone A country*; or

(b) the Channel Islands, Gibraltar, Bermuda, or the Isle of Man; or

(2) enter into a written agreement with a *credit institution*;

to meet these obligations in the event that the *SRB agreement provider* is unable to do so.

4.4.13 G An example of where this additional requirement would apply would be a term of a *regulated sale and rent back agreement* under which the *SRB agreement seller* was to receive from the *SRB agreement provider* a refund of an agreed percentage of the discount on the sale price of the property to which the agreement relates after an agreed qualifying period.

Annex E

Amendments to the Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

1.2 General application: who? what?

1.2.1 R (1) This sourcebook applies to every *firm* that:

...

- (b) *communicates or approves a financial promotion of qualifying credit, of a home purchase plan, ~~or~~ of a home reversion plan or of a regulated sale and rent back agreement.*

...

...

Firm types and the home finance activities

1.2.2 G ...

- (3) ... and PERG 14 contains detailed *guidance on home purchase activities, ~~and reversion activities~~ and regulated sale and rent back activities.*

...

2.1.2 R This table belongs to MCOB 2.1.1R [*Editor's Note: In the following table the order in which some of the categories of firm are listed has been changed. The changes of order are not marked.*]

(1) Category of firm	(2) Applicable section
...	
<i>reversion adviser</i>	...
<u><i>SRB administrator</i></u>	<u><i>MCOB 2.1, MCOB 2.2.1G, MCOB 2.2.2G, MCOB 2.2.3R, MCOB 2.2.6R, MCOB 2.2.7G, MCOB 2.2.8G, MCOB 2.5, MCOB 2.6, MCOB 2.6A.5BR(5), MCOB 2.6A.8R to MCOB 2.6A.11G, MCOB 2.6A.17AR, MCOB 2.6A.18G, MCOB 2.7.1G to MCOB 2.7.5R, MCOB 2.7A, MCOB 2.8.1G to MCOB 2.8.5G.</i></u>

<i>SRB adviser</i>	<p>As for a <i>SRB agreement provider</i> but <i>MCOB 2.6A</i> does not apply</p> <p><u>Whole chapter except <i>MCOB 2.2.5G, MCOB 2.2.6AR, MCOB 2.2.8AR, MCOB 2.2.8BG, MCOB 2.6A.5R, MCOB 2.6A.7G, MCOB 2.6A.17R</i> and <i>MCOB 2.8.6G</i>.</u></p>
<i>SRB agreement provider</i>	<p><i>MCOB 2.1, MCOB 2.2.6R to 2.2.7G, MCOB 2.4.1G to MCOB 2.4.3G, MCOB 2.6A.1R to 2.6A.4G, MCOB 2.6A.5AR, MCOB 2.6A.8R to 2.6A.12R, MCOB 2.6A.13E (1) and (4) and MCOB 2.6A.15R to 2.6A.16G.</i></p> <p><u>Whole chapter except <i>MCOB 2.2.5G, MCOB 2.2.6AR, MCOB 2.2.8AR, MCOB 2.2.8BG, MCOB 2.6A.5R, MCOB 2.6A.7G, MCOB 2.6A.17R, MCOB 2.6A.17AR, MCOB 2.6A.18G</i> and <i>MCOB 2.8.6G</i>.</u></p>
<i>SRB administrator</i> <i>SRB arranger</i>	<p>As for a <i>SRB agreement provider</i> together with <i>MCOB 2.6A.17AR</i> and <i>MCOB 2.6A.18G</i> (which do apply) but the relevant provisions of <i>MCOB 2.6A</i> only apply when making arrangements for a <i>regulated sale and rent back agreement</i> to be entered into by a <i>SRB agreement seller</i> with, or administering a <i>regulated sale and rent back agreement</i> provided by, an <i>unauthorised SRB agreement provider</i>.</p> <p><u>Whole chapter except <i>MCOB 2.2.5G, MCOB 2.2.6AR, MCOB 2.2.8AR, MCOB 2.2.8BG, MCOB 2.6A.5R, MCOB 2.6A.7G, MCOB 2.6A.17R</i> and <i>MCOB 2.8.6G</i>.</u></p>
...	

What?

2.1.3 R This chapter applies in relation to:

...

(1A) to the extent specified in *MCOB 2.1.2R Table*, *regulated sale and rent back activity*;

...

(3) the *communication* or *approval* of a *financial promotion of qualifying credit*, of a *home purchase plan*, ~~or~~ of a *home reversion plan* or of a *regulated sale and rent back agreement*.

...

Prescribed terms for regulated mortgage contracts, ~~and~~ home reversion plans and regulated sale and rent back agreements

2.2.3 R In any communication to a *customer*, a *firm* must:

...

(3) describe any *lifetime mortgage* as a ‘lifetime mortgage’; ~~and~~

(4) describe any *home reversion plan* as a ‘home reversion plan’; and

(5) describe any regulated sale and rent back agreement as a ‘sale and rent back agreement’;

...

...

2.2.6A R A *firm* which approves a *financial promotion* of a *home purchase plan* ~~or regulated sale and rent back agreement~~ must take reasonable steps to ensure that the *financial promotion* is clear, fair and not misleading.

...

2.2.8 G ... In respect of *financial promotions* of *qualifying credit*, ~~or~~ of *home reversion plans* or of regulated sale and rent back agreements, *firms* should note the separate requirements of *MCOB 3*.

...

2.3 **Inducements: regulated mortgage contracts, ~~and~~ home reversion plans and regulated sale and rent back agreements**

...

Prohibition of inducements

2.3.2 R A *firm* must take reasonable steps to ensure that it, and any *person* acting on its behalf, does not:

...

(2) direct or refer any actual or potential business in relation to a *regulated mortgage contract*, ~~or~~ *home reversion plan* or regulated sale and rent back agreement to another *person* on its own initiative or on the instructions of an *associate*;

...

...

- 2.3.6 R (1) A *firm* must not operate a system of giving or offering inducements to a *mortgage intermediary*, *reversion intermediary*, SRB intermediary or any other third party whereby the value of the inducement increases if the intermediary or third party, such as a packager, exceeds a target set for the amount of business referred (for example, a volume override).

...

Quantification of inducements

- 2.3.7 R (1) A *mortgage lender*, ~~or reversion provider~~ or SRB agreement provider must quantify, in cash terms, any material inducement it offers to a *mortgage intermediary*, *reversion intermediary*, SRB intermediary or a third party.

...

- 2.3.8 R (1) ...

(1A) Quantification of any material inducement offered by a SRB agreement provider in connection with the conclusion of a regulated sale and rent back agreement must be included in the disclosures made to the potential SRB agreement seller under MCOB 5.9.1R(1A)(c).

...

...

Fair treatment

- 2.4.2 G ...

(2) For *regulated sale and rent back agreements*, the *firm* should avoid practices that commit *customers* (or lead *customers* to believe they are committed) to any such agreement before they have been able to consider the information that is required by MCOB 5.9.1R (Pre-sale disclosure) and before the expiry of the 14 day cooling-off period as required by MCOB 6.9.4R (Written pre-offer document: Stage One).

...

- 2.6A.4 G (1) In the FSA's FSA's view, a *customer's* interests will include:

...

(b) protection of any interest (legal or beneficial) that the *customer* retains, acquires or is intended to acquire in the property, including the expectation that such interests will be unencumbered by third party interests; ~~and~~

- (c) ... Or in circumstances where that is not practicable (for example, on *repossession*), that an appropriate amount will be returned to the *customer*; and
- (d) a customer's contractual entitlement to receive certain sums back after a qualifying period, such as where it has been agreed that a certain percentage of discount will be refunded to the customer after a set period of tenancy.

...

Protecting customers' interests under regulated sale and rent back agreements:
security of tenure

- 2.6A.5B R (1) When entering into a regulated sale and rent back agreement, a firm must ensure that, under the terms of the regulated sale and rent back agreement:
- (a) the entitlement of the SRB agreement seller (or trust beneficiary or related person) to occupy the property is governed by a tenancy, which is structured:
 - (i) if the property is in England and Wales, as an assured tenancy (including an assured shorthold tenancy) under the Housing Act 1988 (as amended);
 - (ii) if the property is in Scotland, as an assured tenancy (including a short assured tenancy) under the Housing (Scotland) Act 1988, (as amended); and
 - (iii) if the property is in Northern Ireland, as a private tenancy under the Private Tenancies (Northern Ireland) Order 2006;
 - (b) the tenancy is for a fixed term of no less than five years;
 - (c) the terms of the tenancy provide for the tenant to terminate the tenancy during the fixed term on no more than three months' notice (and with no other conditions attached); and
 - (d) each of the terms of the tenancy is fair.
- (2) When entering into a regulated sale and rent back agreement, a firm must ensure that, under the terms of the regulated sale and rent back agreement, if the property is in England and Wales, the terms of the tenancy do not:
- (a) give the landlord power to determine the tenancy in certain circumstances as referred to in section 5(1) of the Housing Act 1988, as amended; or

- (b) otherwise make provision for the tenancy to be brought to an end by the landlord save on a ground or grounds for possession applicable for an assured tenancy under the Housing Act 1988, as amended; or
- (c) make provision for the tenancy to be brought to an end on any of Grounds 2, 6, 8 or 9 under the Housing Act 1988, as amended.

A firm may not rely during the fixed term of the tenancy on any ground for possession of the property other than a ground for possession on which the terms of the tenancy may under this paragraph (2) make provision for the tenancy to be brought to an end by the landlord, and a firm may only rely on any ground for possession if it is fair for the firm to do so.

- (3) When entering into a regulated sale and rent back agreement, a firm must ensure that, under the terms of the regulated sale and rent back agreement, if the property is in Scotland, the terms of the tenancy do not include:

- (a) any provision for it to be brought to an end by the landlord during the fixed term other than a ground for possession applicable for an assured tenancy under the Housing (Scotland) Act 1988, as amended; or
- (b) Grounds 2, 6, 8 or 9 under the Housing (Scotland) Act 1988, (as amended).

A firm may not rely during the fixed term of the tenancy on any ground for possession of the property other than the grounds permitted under this paragraph (3) to be included in the terms of the tenancy, and a firm may only rely on any ground for possession if it is fair for the firm to do so.

- (4) When entering into a regulated sale and rent back agreement, a firm must ensure that, under the terms of the regulated sale and rent back agreement, if the property is in Northern Ireland, the terms of the tenancy do not include:

- (a) any provision which would permit the landlord to forfeit the lease and obtain possession of the property during the fixed term unless the provision is equivalent to a ground for possession applicable for an assured tenancy under Schedule 2 to the Housing Act 1988, as amended, in England; or
- (b) any provision which would permit the landlord to forfeit the lease and obtain possession of the property on the basis that:
 - (i) a mortgagee (or chargee) under a mortgage (or charge) entered into by the landlord requires vacant possession

for the purposes of exercising a power of sale of the property; or

- (ii) the landlord intends to demolish or reconstruct, or carry out substantial works on, the property or any part of the property; or
- (iii) there are arrears of rent, unless the conditions applicable to either Ground 9 or Ground 10 under the Housing Act 1988, as amended, in England, are satisfied; or
- (iv) alternative accommodation is available for the tenant.

A firm may not rely during the fixed term of the tenancy on any circumstance to forfeit the lease and obtain possession of the property other than the circumstances permitted under this paragraph (4) to be included in the tenancy agreement, and a firm may only rely on any circumstance if it is fair for the firm to do so.

- (5) A firm must not take, or propose or threaten to take, any steps to evict the SRB agreement seller (or trust beneficiary or related person) other than by applying to the court for a possession order based on the grounds or circumstances, reliance on which is not prohibited by this rule, and enforcing that order in a lawful manner.
- (6) Where a SRB agreement provider enters into or proposes to enter into (whether before or after the commencement of the tenancy) a mortgage (or charge or standard security) over the interest it obtains under a regulated sale and rent back agreement, the firm must ensure that the mortgagee (or chargee or security holder) has agreed in writing to the proposed letting under the agreement, and to the terms of the agreement. The firm must provide to the SRB agreement seller a copy of the agreement in writing of the mortgagee (or chargee or security holder).

[Note: In England, Wales and Scotland a landlord, such as a SRB agreement provider, can only seek possession of a property during the fixed term of an assured tenancy if one or more of a limited number of grounds for possession set out in (in England and Wales) the Housing Act 1988, as amended, or (in Scotland) the Housing (Scotland) Act 1988, as amended, applies and the terms of the tenancy make provision for it to be ended on any of these grounds. Once the fixed term of the assured tenancy has ended, the landlord has the right to seek possession on broader grounds. Where the tenancy is (in England) an assured shorthold tenancy or (in Scotland) a short assured tenancy, the landlord has an additional right to seek possession from the end of the fixed term.

In Northern Ireland, the position is governed by the Private Tenancies (Northern Ireland) Order 2006 and the parties are free to agree the terms of a tenancy including its duration and the grounds on which the landlord may

seek possession, including during any fixed term.

In any event it is for the court to decide whether one or more of the grounds for possession actually applies in the particular circumstances of any case.

In Northern Ireland, a tenant must give at least four weeks' notice to quit. Northern Ireland law implies a fixed term of six months in a private tenancy unless the parties agree an alternative fixed term, so a notice to quit expiring before the first six months of the tenancy may not be effective.]

2.6A.5C G In the light of MCOB 2.6A.5B(1)(c), and in accordance with Principle 6, a firm should not seek to prevent a tenant in Northern Ireland from ending the tenancy on less than the agreed notice period (not exceeding three months in accordance with MCOB 2.6A.5B(1) (c)), where the notice is given in the first six months of the tenancy.

...

2.6A.12A R A firm must ensure that any valuation for the purposes of a regulated sale and rent back agreement is carried out by a valuer who owes a duty of care to the customer in valuing the property.

2.6A.13 E ...

(3) ~~For a home reversion plan, compliance~~ Compliance with (1) and (2) (except, in the case of a regulated sale and rent back agreement, (2)(b)) may be relied on as tending to establish compliance with MCOB 2.6A.12R.

(4) ~~For a regulated sale and rent back agreement, compliance with (1) may be relied upon as tending to establish compliance with the competence requirement of MCOB 2.6A.12R. [deleted]~~

(5) For a regulated sale and rent back agreement, contravention of (1) or (2) (except (2)(b)) may be relied on as tending to show contravention of MCOB 2.6A.12R.

2.6A.13A G A firm may wish to use the form of joint instruction letter set out in MCOB 2 Annex 1G with a view to establishing that a valuer owes a duty of care to the customer (see MCOB 2.6A.12AR). That form incorporates the definition of "market value" required by MCOB 6.9.2R(1)(b).

...

General provisions related to distance contracts

2.7.4 R During the course of a *distance contract* with a *consumer*, the making or performance of which constitutes or is part of a *regulated mortgage contract*, ~~or home purchase plan~~ or regulated sale and rent back agreement:

(1) the *firm* must, at the *consumer's* request, provide a paper copy of the contractual terms and conditions of the *regulated mortgage contract*, *home purchase plan*, *regulated sale and rent back agreement* or

services being provided by the *firm*; and

- (2) the *firm* must comply with the *customer's* request to change the means of distance communication used, unless this is incompatible with the *regulated mortgage contract, home purchase plan, regulated sale and rent back agreement* or service being provided by the *firm*.

...

After MCOB 2, insert the following new Annex. The text is not underlined.

2 Annex 1G Form of joint instruction letter

This Annex belongs to *MCOB 2.6A.13AG*.

Re: AA property

We the undersigned jointly instruct you to prepare a valuation of the above property at your earliest convenience.

The Firm and the Property Owner will rely on this valuation in deciding whether to enter into a sale and rent back agreement in respect of the above property and in agreeing the terms of that agreement (including the consideration to be provided for the sale of the above property).

The valuation should be produced in accordance with RICS Valuation Standards. The basis of valuation is the Market Value of the property, using the internationally agreed definition, as set out in RICS Valuation Standards, which is:

"The estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arm's-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion."

By accepting this instruction you acknowledge that you owe a duty at common law to exercise reasonable skill and care to both XX firm and YY the property owner and in addition you agree with each of XX firm and YY the property owner that you will carry out this instruction with reasonable skill and care.

We confirm that your fees will be met by XX firm.

Please contact YY the property owner to arrange access to the property. We look forward to receiving your valuation in due course.

Signed

XX Firm

YY property owner

Amend the following as shown.

3 Financial Promotion of qualifying credit, ~~and of home reversion plans~~ and regulated sale and rent back agreements

3.1 Application: Who?

3.1.1 R This chapter applies to every *firm* which *communicates* or *approves* a *financial promotion of qualifying credit, ~~or of a home reversion plan~~ or a regulated sale and rent back agreement.*

3.1.2 G This chapter applies generally to *firms* in relation to all *financial promotions of qualifying credit, ~~or of a home reversion plan~~ or a regulated sale and rent back agreement.* ...

...

3.1.7 G A *financial promotion* may relate to other *controlled investments* in addition to *qualifying credit, ~~and home reversion plans~~ and regulated sale and rent back agreements*, for example a building society leaflet which describes the range of mortgage, savings and insurance products it provides. In such cases, the *financial promotion rules* in this and other sourcebooks will each apply as relevant.

...

Nationals of other EEA States

3.1.11 G A national of an *EEA State* (other than the *United Kingdom*) wishing to take advantage of the exemption in article 36 of the *Financial Promotion Order* in respect of a *financial promotion of qualifying credit, ~~or of a home reversion plan~~ or a regulated sale and rent back agreement* should act in conformity with the *rules* in this chapter.

...

3.2 Application: what?

...

Application for a financial promotion of a regulated sale and rent back agreement

3.2.-2A R This chapter applies to the *communication or approval of a financial promotion of a regulated sale and rent back agreement* as follows:

<u>Application, purpose and general</u>	<u>MCOB 3.1 to MCOB 3.5</u>
<u>Form and content of non-real time qualifying credit promotions</u>	<u>MCOB 3.6 in accordance with</u>

	<u>MCOB 3.8B</u>
<u>Unsolicited real time financial promotions of qualifying credit or regulated sale and rent back agreements</u>	<u>MCOB 3.7</u>
<u>Form and content of financial promotions of regulated sale and rent back agreements</u>	<u>MCOB 3.8B</u>
<u>Confirmation of compliance: financial promotions of qualifying credit or regulated sale and rent back agreements</u>	<u>MCOB 3.9</u>
<u>Records: non-real time financial promotions of qualifying credit or regulated sale and rent back agreements</u>	<u>MCOB 3.10</u>
<u>The Internet and other electronic media.</u>	<u>MCOB 3.12</u>

...

- 3.2.4A R This chapter does not apply to a *firm* in relation to a *financial promotion* of a *home reversion plan* or a *regulated sale and rent back agreement* of a kind listed in *MCOB 3.2.5R*, unless the *firm* approves the *financial promotion*. However, for non-real time *financial promotions* of the kind listed in *MCOB 3.2.5R*, the requirements in *MCOB 3.8B.5R* apply in relation to how a *regulated sale and rent back agreement* can be described. Advertisements for other products that could result in the conclusion of *regulated sale and rent back agreements* must carry the sale and rent back risk warning (*MCOB 3.8B.4R*).

...

- 3.2.6 G *MCOB 3.2.5R(2)* exempts a *financial promotion* made by a *firm* or an *appointed representative* which refers to its activities only in general terms in image or brand advertising. The items identified in *MCOB 3.2.5R(2)* do not enable detailed information to be given about the *qualifying credit*, ~~or~~ *home reversion plan* or *regulated sale and rent back agreement* available from the *firm*. Thus *firms* should avoid the use of names, logos or addresses, for example, which attempt to convey additional product or cost-related information.

...

3.3 Application: where?

Territorial Scope

- 3.3.1 R This chapter applies to a *firm* in relation to:

- (1) the *communication* of a *financial promotion* to a person in the *United Kingdom*;
- (2) the *communication* of an *unsolicited real time financial promotion* of *qualifying credit*, ~~or~~ a *home reversion plan* or a *regulated sale and rent back agreement*, unless it is made from a place, and for the purposes of a business which is only carried on, outside the *United Kingdom*;
- (3) the approval of a *non-real time financial promotion* of *qualifying credit*, ~~or~~ a *home reversion plan* or a *regulated sale and rent back agreement* for *communication* to a person in the *United Kingdom*; and

...

...

Exceptions to territorial scope: rules without territorial limitation for approval of financial promotions

- 3.3.3 R Subject to *MCOB* 3.3.5R the following parts of this chapter apply without any territorial limitation if a *firm* approves a *financial promotion* of *qualifying credit*, ~~or~~ a *home reversion plan* or a *regulated sale and rent back agreement*:

...

- (2) *rules* requiring a *financial promotion* to be clear, fair and not misleading (see *MCOB* 3.6.3R(1) in relation to *qualifying credit*, ~~and~~ *MCOB* 3.8A.1R in relation to a *home reversion plan* ~~and~~ *MCOB* 3.8B.1R in relation to a *regulated sale and rent back agreement*); and

...

...

3.4 Purpose

...

- 3.4.2 G (1) The purpose of this chapter is to provide *rules* and *guidance* for a *firm* which wishes to *communicate* or *approve* a *financial promotion* of *qualifying credit*, ~~or~~ a *home reversion plan* or a *regulated sale and rent back agreement*.

...

...

3.7 Unsolicited real time financial promotions of qualifying credit, ~~or~~ a home reversion plan or a regulated sale and rent back agreement

...

3.7.1 R ...

- (4) If a *financial promotion* is solicited by a *person* (“R”) it is treated as also having been solicited by any other *person* to whom it is made at the same time as R if that other *person* is a *close relative* of R or is expected to enter into a *home reversion plan*, a regulated sale and rent back agreement or any contract for *qualifying credit* jointly with R.

...

Prohibition on unsolicited real time financial promotions to customers

- 3.7.3 R A *firm* must not make an *unsolicited real time financial promotion* of *qualifying credit*, ~~or of~~ a *home reversion plan* or a regulated sale and rent back agreement unless the *customer* has an established existing *customer* relationship with the *firm* and the relationship is such that the *customer* envisages receiving such *financial promotions*.

...

After MCOB 3.8A insert the following new section. The text is not underlined.

3.8B Form and content of financial promotions of regulated sale and rent back agreements

Clear, fair and not misleading

- 3.8B.1 R A *firm* which *communicates* or *approves* a *financial promotion* of a *regulated sale and rent back agreement* must take reasonable steps to ensure that the *financial promotion* is clear, fair and not misleading.
- 3.8B.2 G The guidance on the clear, fair and not misleading standard at *MCOB* 3.6.5G, *MCOB* 3.6.10G and *MCOB* 3.6.14G may be relevant.

[**Note:** A comparative financial promotion will need to comply with regulation 4A of the Business Protection from Misleading Marketing Regulations 2008.]

Ban on SRB leaflet dropping

- 3.8B.3 R A *regulated sale and rent back firm* must not *communicate* an *unsolicited non-real time financial promotion* that relates to a *regulated sale and rent back agreement* to a potential *SRB agreement seller* in the form of a leaflet or brochure.

Non-real time financial promotions to customers and advertisements

- 3.8B.4 R A *non-real time financial promotion* relating to a *regulated sale and rent back agreement* and any other advertisement which is issued by a *regulated sale and rent back firm* that could lead to the conclusion of a *regulated sale*

and rent back agreement, must (unless it is of a kind listed in *MCOB 3.2.5R(2)*) contain a risk warning that uses the following wording:

“If you enter into a sale and rent back agreement you are unlikely to get the market value of your home and, as a tenant, may only be able to remain there for a limited period. There may be other options available. Please ask for a key terms statement.”

- 3.8B.5 R A *non-real time financial promotion* relating to a *regulated sale and rent back agreement* and any other advertisement which is issued by a *regulated sale and rent back firm* that could lead to the conclusion of a *regulated sale and rent back agreement*, must describe any *regulated sale and rent back agreement* as a “sale and rent back agreement” and not use any other expression such as “equity release” to describe it.
- 3.8B.6 E (1) A *firm* should take reasonable steps to ensure that, for a *non-real time financial promotion*:
- (a) it includes any matters the omission of which causes the *financial promotion* not to be clear, fair and not misleading;
 - (b) if it describes a feature of any *regulated sale and rent back agreement*, it gives no less prominence to the possible disadvantages than to the benefits associated with that feature;
 - (c) it uses plain and intelligible language, and is easily legible (or, in the case of oral promotions, clearly audible);
 - (d) the accuracy of all statements of fact in it can be substantiated;
 - (e) its promotional purpose is not in any way disguised or misrepresented;
 - (f) any statement of fact, promise or prediction is clear, fair and not misleading and any relevant assumptions are clearly and prominently disclosed;
 - (g) any statement of opinion is honestly held and, unless consent is impracticable, given with the written consent of the *person* concerned;
 - (h) the facts on which any comparison or contrast is made are verified, or, alternatively, that relevant assumptions are prominently disclosed and that the comparison or contrast is presented in a fair and balanced way, which is not misleading and includes all factors which are relevant to the comparison or contrast;
 - (i) it does not contain any false indications, in particular as to the *firm*’s resources and scale of activities;
 - (j) the design, content or format does not in any way disguise,

obscure or diminish the significance of any statement, warning or other matter which the *regulated sale and rent back agreement* is required by this chapter to contain; and

- (k) it does not include any reference to approval by the *FSA* or any government body, unless that approval has been obtained in writing from the *FSA* or that body (see also *GEN* 1.2 (Referring to approval by the *FSA*)).
 - (2) (a) Contravention of (1) may be relied on as tending to show contravention of *MCOB* 3.8B.1R.
 - (b) Compliance with (1) may be relied on as tending to show compliance with *MCOB* 3.8B.1R.
- 3.8B.7 G The effect of giving no less prominence to the possible disadvantages than to the benefits associated with a feature will depend on the context of the promotion. The costs, restrictions or conditions relating to a feature such as any option available should be detailed for the following non-exhaustive examples:
- (1) where any part of the discount on the market value of the property is to be repaid to the *consumer* after a qualifying period; and
 - (2) where a *consumer* is to benefit from shared appreciation in the value of the property.

Exploitation of customer

- 3.8B.8 R A *firm* must not in any *financial promotion* of a *regulated sale and rent back agreement* exploit the vulnerable nature or circumstances of any *customer* who may be in financial difficulties and at risk of losing his or her home and must accordingly avoid using in the promotion phrases or terms such as “fast sales”, “rescue” or “cash quickly” or any other similar expression.

No approval of real time financial promotions of a regulated sale and rent back agreement

- 3.8B.9 R A *firm* must not approve a *real time financial promotion* of a *regulated sale and rent back agreement*.

Referring to the FSA

- 3.8B.10 G The guidance on referring to the *FSA* in a *financial promotion* may be relevant (see *MCOB* 3.6.2G(3)).

Amend the following as shown.

3.9 Confirmation of compliance: financial promotions of qualifying credit, ~~or~~

home reversion plans or regulated sale and rent back agreements

- 3.9.1 R (1) Before a *firm communicates* or *approves* a *non-real time financial promotion of qualifying credit, ~~or~~ of a home reversion plan or a regulated sale and rent back agreement* it must confirm that the *financial promotion* complies with the *rules* in this chapter.

...

- 3.9.2 G (1) ‘Appropriate expertise’ will vary depending on the complexity of the *financial promotion* and the *qualifying credit, ~~or~~ home reversion plan or regulated sale and rent back agreement* to which it relates. The individuals engaged by a *firm* to confirm the compliance of its *financial promotions* with this chapter may themselves have different levels of expertise and therefore a different level of authority for confirmation depending on the type of promotion and the *qualifying credit, ~~or~~ home reversion plan or regulated sale and rent back agreement* involved.

...

3.10 Records: non-real time financial promotions of qualifying credit, ~~or~~ of a home reversion plan or a regulated sale and rent back agreement

Requirement to make and retain records

- 3.10.1 R A *firm* must make an adequate record of each *non-real time financial promotion of qualifying credit, ~~or~~ of a home reversion plan or a regulated sale and rent back agreement* which it has confirmed as complying with the *rules* in this chapter. The record must be retained for a year from the date at which the *financial promotion* was last *communicated*.

Content of records

- 3.10.2 G In deciding what is an adequate record, a *firm* should consider including, or providing reference to, where appropriate, such matters as:

...

- (4) the evidence supporting any material factual statement about *qualifying credit, ~~or~~ a home reversion plan or a regulated sale and rent back agreement* in the *financial promotion*. ...

...

...

3.12 The Internet and other electronic media

...

Approach and general guidance

- 3.12.2 G Any material which meets the definition of a *financial promotion* of *qualifying credit*, ~~or of~~ a *home reversion plan* or a regulated sale and rent back agreement, including any video or moving image material incorporated in any website containing such a *financial promotion* should comply with the *rules* in this chapter. ...
- 3.12.3 G As indicated in *MCOB* 3.3 (Application: where?), for the purposes of the *financial promotion rules* there are two types of approach to *financial promotion communicated* via the Internet and other electronic media:
...
(2) *non-real time financial promotions* where the *customer* may, for example, choose from reading a description of the *qualifying credit*, ~~or~~ *home reversion plan* or regulated sale and rent back agreement, through to the completion of a contract in a similar way to browsing through a leaflet rack. ...
- 3.12.4 G ...
(3) When designing websites and other electronic media, *firms* should be aware of the difficulties that can arise when reproducing certain colours and printing certain types of text. These difficulties could cause problems with the presentation and retrieval of required information. Any *financial promotion* of *qualifying credit*, ~~or of~~ a *home reversion plan* or a regulated sale and rent back agreement communicated by the Internet, digital or other forms of interactive television is subject to the requirements on form and content in this chapter.

...

4.1 Application

...

- 4.1.2 R This Table belongs to *MCOB* 4.1.1R

(1) Category of firm	(2) Applicable section
...	
<i>reversion provider</i>...	...
<u><i>SRB adviser</i></u>	<u><i>MCOB</i> 4.1, <i>MCOB</i> 4.2, <i>MCOB</i> 4.5, <i>MCOB</i> 4.6 and <i>MCOB</i> 4.11</u>
<u><i>SRB arranger</i></u>	<u><i>MCOB</i> 4.1, <i>MCOB</i> 4.2, <i>MCOB</i> 4.5, <i>MCOB</i> 4.6 and <i>MCOB</i> 4.11</u>

<u>SRB agreement provider</u>	<u>MCOB 4.1, MCOB 4.2 and MCOB 4.11</u>
-------------------------------	---

...

- 4.1.6 G *MCOB 4.1.5R means that this chapter, MCOB 4, deals with standard regulated mortgage contracts, ~~and~~ home purchase plans and regulated sale and rent back agreements only and therefore firms should note that the scope of service rules in this chapter do not apply in respect of equity release transactions.*

...

4.5 Additional disclosure for distance mortgage mediation contracts, ~~and~~ distance home purchase mediation contracts and distance regulated sale and rent back mediation contracts with retail customers

- 4.5.1 G (1) *There are certain additional disclosure requirements laid down by the Distance Marketing Directive that will have to be provided by a mortgage intermediary, ~~and~~ a home purchase intermediary and a SRB intermediary to a consumer prior to the conclusion of a distance mortgage mediation contract, ~~or~~ a distance home purchase mediation contract or a distance regulated sale and rent back mediation contract. ...*
- (2) *... MCOB 4.5 and MCOB 4.6 will only be relevant if a mortgage intermediary, ~~or~~ a home purchase intermediary or a SRB intermediary enters into a distance contract in respect of its mortgage mediation activities, ~~or~~ home purchase mediation activities or regulated sale and rent back mediation activities quite independent of any contractual arrangement with a consumer relating to a particular regulated mortgage contract, ~~or~~ home purchase plan or regulated sale and rent back agreement. ...*
- 4.5.2 R *If the initial contact of a kind in MCOB 4.4.1R(1) is with a consumer with a view to concluding a distance mortgage mediation contract, ~~or~~ a distance home purchase mediation contract or a distance regulated sale and rent back mediation contract, a firm must:*
- (1) *in addition to initial disclosure information and any other required information, provide the consumer with the information in MCOB 4 Annex 3R in a durable medium in good time before the conclusion of the distance mortgage mediation contract, ~~or~~ distance home purchase mediation contract or distance regulated sale and rent back mediation contract with that customer unless an exemption in (2), (3), (4) or (5) applies.*

...

- 4.5.3 G ...

- (2) ... However, if a service of a different nature is proposed, the *firm* is expected to provide a fresh initial disclosure ~~document~~ documentation and, in respect of *distance mortgage mediation contracts*, ~~and~~ *distance home purchase mediation contracts* and distance regulated sale and rent back mediation contracts with a consumer, this will need to be accompanied by the information in *MCOB 4 Annex 3R*.

4.6 Cancellation of distance mortgage mediation contracts, ~~and~~ distance home purchase mediation contracts and distance regulated sale and rent back mediation contracts

- 4.6.1 G A *consumer* has no right to cancel a *home finance transaction* concluded with a *firm* but may have a right to cancel a *distance contract* concluded with a *mortgage intermediary*, ~~or a home purchase intermediary~~ or a *SRB intermediary* for the provision of his services. Whether a *mortgage intermediary*, ~~or a home purchase intermediary~~ or a *SRB intermediary* concludes a *distance mortgage mediation contract*, ~~or a distance home purchase mediation contract~~ or a *distance regulated sale and rent back mediation contract* with a *consumer* will depend on the circumstances. For example, an intermediary may not, in *advising on* or *arranging* ~~a regulated mortgage contract~~, ~~or home purchase plan~~ or *regulated sale and rent back agreement*, act contractually on behalf of, or for, the *customer*. ...

...

Cancellation period

- 4.6.4 R (1) A *consumer* has a right to cancel a *distance mortgage mediation contract*, ~~or a distance home purchase mediation contract~~ or a *distance regulated sale and rent back mediation contract* in accordance with this section.

...

Exercising the right to cancel

- 4.6.5 R A *consumer* who has a right to cancel a *distance mortgage mediation contract*, ~~or a distance home purchase mediation contract~~ or a *distance regulated sale and rent back mediation contract* may, without giving any reason, cancel the contract by serving notice on the *firm*, before the expiry of the cancellation period in *MCOB 4.6.4R* either:

...

...

After *MCOB 4.10* insert the following new section. The text is not underlined.

4.11 Sale and rent back: advising and selling standards

Initial disclosure requirements

- 4.11.1 R (1) *A regulated sale and rent back firm, on first making contact with a potential SRB agreement seller for whom it might reasonably be expected to carry on any regulated sale and rent back activity, must make the following disclosures to him, both orally and in writing:*
- (a) *the service the firm is offering the customer, making it clear whether the firm will be acting as a SRB agreement provider, a SRB adviser or a SRB arranger and the particular regulated sale and rent back activities for which the firm has a Part IV permission;*
 - (b) *if the firm is acting as an intermediary, whether it deals with a single or a range of SRB agreement providers and whether or not those providers are authorised under the Act; and*
 - (c) *how much the firm will receive in connection with the transaction, whether by way of fees, commissions, charges, retentions or otherwise and whether any such sum will be payable out of the sale proceeds of the property, paid directly by the customer or provider or otherwise and whether or not any of these will be payable if the customer decides not to enter into a regulated sale and rent back agreement.*
- (2) *If the precise fees, commissions, charges, retentions or other sums in (1)(c) are not known in advance, the firm should estimate the amount likely to apply in respect of the transaction.*

FSA consumer factsheet on sale and rent back

- 4.11.2 R (1) *As soon as the customer expresses an interest in becoming a SRB agreement seller, a regulated sale and rent back firm must provide him with the FSA consumer factsheet on sale and rent back in a durable medium which may be accessed through www.fsa.gov.uk.*
- (2) *The firm on providing the FSA consumer factsheet in (1) to the customer must give him an oral explanation of it, so as to ensure that the customer fully understands its contents.*

Affordability and appropriateness

- 4.11.3 R *A regulated sale and rent back firm must not permit a potential SRB agreement seller to become contractually committed to enter into a regulated sale and rent back agreement unless it has reasonable grounds to be satisfied that:*
- (1) *the customer can afford the payments he will be liable to make under the agreement; and*
 - (2) *the proposed regulated sale and rent back agreement is appropriate to*

the needs, objectives and circumstances of the *customer*.

- 4.11.4 E (1) In assessing whether a *customer* can afford to enter into a particular *regulated sale and rent back agreement*, a *firm* should use the following information:
- (a) the rental payments that will be due under the tenancy agreement which confers the right of the *customer* (or trust beneficiary or related party) to continue residing in the property, stress tested to take account of possible future rental increases during the fixed term of the tenancy agreement by reference to the circumstances in which the agreement permits increases or changes to the initial rent;
 - (b) adequate information, obtained from the *customer* to establish his income and expenditure calculated on a monthly basis, and any other resources that he has available, and verified by the firm using evidence provided by the *customer*;
 - (c) the *customer's* net disposable income, which a *firm* should establish using the information referred to in (b);
 - (d) the *customer's* entitlement to means-tested benefits and housing benefits; and
 - (e) the effect of any likely future change to the *customer's* income, expenditure or resources during the period of the *regulated sale and rent back agreement*.
- (2) The *firm* should explain to the *customer* that it will base its assessment on whether he can afford to enter into the particular *regulated sale and rent back agreement* on the information he provides to the *firm* about his income, expenditure and resources.
- (3) In assessing affordability under (1) the *firm*:
- (a) must not rely to a material extent on the capital of, or income from, any lump sum the *customer* receives which represents the net sale proceeds of the property; and
 - (b) must disregard any discount or any future sum that may be payable to the *customer* under the terms of the *regulated sale and rent back agreement*.
- (4) Contravention of (1), (2) or (3) may be relied upon as tending to show contravention of *MCOB* 4.11.3R(1).
- 4.11.5 E (1) In assessing whether a particular *regulated sale and rent back agreement* is appropriate to the needs, objectives and circumstances of a potential *SRB agreement seller*, a *firm* should have due regard to the following:

- (a) whether the benefits to the *customer* in entering into the proposed *regulated sale and rent back agreement* outweigh any adverse effects it may have for him, including on his entitlement to means-tested benefits and housing benefits; and
 - (b) the feasibility of the *customer* raising funds by alternative methods other than by a sale of his property.
 - (2) Contravention of (1) may be relied upon as tending to show contravention of *MCOB 4.11.3R(2)*.
- 4.11.6 G In considering the *customer's* entitlement to the means-tested benefits and housing benefits for the affordability and appropriateness assessment, a *firm* may rely on information provided to it by the *customer*, provided it is satisfied on reasonable grounds that the *customer* has received advice from the appropriate HM Government department or other appropriate source of independent advice as to his position.
- 4.11.7 G (1) A consideration of the *customer's* benefits position will need to focus on whether, by entering into the proposed *regulated sale and rent back agreement*, his entitlement to means-tested benefit will be adversely affected because of his receipt of the net proceeds of sale (if any) of the property. The *customer's* possible loss of entitlement to claim housing benefit should also be assessed. Where a *firm* has insufficient knowledge of means-tested and housing benefits to reach a conclusion on this, it should advise the customer to contact the appropriate HM Government department or other appropriate source of independent advice to establish the position. The *firm* should then wait for the customer to obtain the relevant information before proceeding with its assessment.
- (2) The *firm* should consider whether a *customer* in *arrears* under his *regulated mortgage contract* or *home purchase plan* has contacted his *mortgage lender* or *home purchase provider* to discuss possible forbearance options that may be available. Other possible alternative methods of raising funds will include the availability of local authority or other government rescue schemes that might apply in the *customer's* circumstances.
- (3) *Firms* are reminded that under *MCOB 4.11.2R* they are required to provide the *customer* with the *FSA* consumer factsheet on sale and rent back and give him an oral explanation of its contents. The *FSA* expects this to be done in the course of a face-to-face meeting. *Firms* will be expected in the course of this discussion with the *customer* to explain alternative options that may be available to him, such as liaising with his *mortgage lender* or *home purchase provider* to negotiate a forbearance strategy or approaching his local authority about the availability of mortgage rescue schemes.

Record keeping

- 4.11.8 R (1) A *firm* must make and retain a record of the *customer* information that has been provided to it, including that relating to:
- (a) the *customer's* income, expenditure and other resources that it has obtained from him for the purpose of assessing affordability, together with the stress testing of the rental payments;
 - (b) the *customer's* needs, objectives and individual circumstances that it has obtained from him for the purpose of assessing appropriateness; and
 - (c) the *customer's* entitlement to means-tested benefits and housing benefits, including any evidence provided by the *customer*, that it has obtained from him for the affordability and appropriateness assessment;
- and which explains why the *firm* concluded that the *customer* could afford, and why it was appropriate for him, to enter into the proposed *regulated sale and rent back agreement*.
- (2) The record in (1) must be retained for a minimum of five years from the date on which the assessment of affordability and appropriateness was made, or one year after the end of the fixed term of the tenancy agreement under the *regulated sale and rent back agreement*, if later.

Reliance on another firm

- 4.11.9 R A *firm* need not comply with the requirements imposed on a *regulated sale and rent back firm* in this section to the extent that it is satisfied on reasonable grounds that another *firm* has already done so.
- 4.11.10 G The effect of *MCOB 4.11.9R* is that a *SRB agreement provider* is expected to carry out its own assessments of affordability and appropriateness in relation to a particular *regulated sale and rent back agreement*, unless it is reasonable for it to rely on another *firm* to have done so in relation to a particular transaction.

Amend the following as shown.

4 Annex 3R Additional information requirements in respect of distance mortgage mediation contracts, ~~and~~ distance home purchase mediation contracts and distance regulated sale and rent back mediation contracts with consumers

This table belongs to *MCOB 4.5.2R*

Additional information for distance contracts with retail customers consumers
All the contractual terms and conditions on which the service will be

provided including, in particular, the following information:	
...	
(6)	<p>details of:</p> <p>(a) the <i>EEA State</i> or States whose laws are taken by the <i>firm</i> as a basis for the establishment of relations with the <i>customer</i> prior to the conclusion of the <i>regulated mortgage contract</i>, or home purchase plan or regulated sale and rent back agreement;</p> <p>(b) any contractual clause on law applicable to the <i>regulated mortgage contract</i>, or home purchase plan or regulated sale and rent back agreement or on competent court, or both; and</p> <p>(c) the language in which the contract is supplied and in which the <i>firm</i> will communicate during the course of the <i>regulated mortgage contract</i>, or home purchase plan or regulated sale and rent back agreement.</p>

...

5.1 Application

...

5.1.2 R This Table belongs to MCOB 5.1.1R

(1) Category of firm	(2) Applicable section
...	
<i>SRB adviser</i>	<p><i>MCOB 5.1.1R, MCOB 5.1.2R, MCOB 5.9.4R and MCOB 5.9.5G</i></p> <p><u><i>MCOB 5.1.1R to MCOB 5.1.3R, MCOB 5.2 and MCOB 5.9</i></u></p>
<i>SRB agreement provider</i>	<p><i>MCOB 5.1.1R to 5.1.3R, <u>MCOB 5.2</u>, MCOB 5.9.1R and to MCOB 5.9.2R (including MCOB 5.9.1AR to MCOB 5.9.1FG), MCOB 5.9.6R and MCOB 5.9.7G</i></p>
<i>SRB arranger</i>	<p><i>MCOB 5.1.1R, MCOB 5.1.2R, MCOB 5.9.3R to MCOB 5.9.5G</i></p> <p><u><i>MCOB 5.1.1R to MCOB 5.1.3R, MCOB 5.2 and MCOB 5.9</i></u></p>

...

5.9 Pre-sale disclosure for regulated ~~Regulated sale and rent back agreements~~

Pre-sale disclosure

- 5.9.1 R (1) ~~A *SRB agreement provider* must not enter into a regulated sale and rent back agreement with a *SRB agreement seller* unless the following *firm* must, as soon as a *customer* expresses an interest in becoming a *SRB agreement seller*, ensure that the disclosures and warnings set out in (1A) are ~~have been~~ made to the *SRB agreement seller customer*, both orally and confirmed in writing, and he is given an adequate opportunity to consider them. The *firm* must not demand or accept any fees, charges or other sums from the *customer*, or undertake any action that commits the *customer* in any way to entering into a specific agreement, until:~~
- (a) the written pre-offer document that is required by *MCOB* 6.9.3R has been provided to the *customer*; and
 - (b) the written offer document for signing (Stage Two) that is required by *MCOB* 6.9.10R(1) has been returned to the *firm* duly signed by the *customer*.
- (1A) The disclosures and warnings referred to in (1) are the following:
- (a) where a valuation of the property that is the subject matter of the regulated sale and rent back agreement has already been carried out in accordance with *MCOB* 2.6A.12R, a statement of its the market value of the property that is the subject matter of the regulated sale and rent back agreement, as determined by any independent valuation under *MCOB* 2.6A.12R or, if a valuation of the property has not yet been carried out, the price or value of the property on which the proposed regulated sale and rent back agreement would be based (estimated if necessary);
 - (b) if the valuer that has produced the independent valuation in (a) was not acting for the *SRB agreement seller* in doing so, a prominent warning that this is the case and as such that it is advisable for the *SRB agreement seller* specifically to consider whether he is content with the market valuation in (a); [deleted]
 - (c) any fees, charges or retentions that the *firm* will deduct from the purchase price for the property, ~~and net of~~ any fees or charges otherwise payable, and whether there are any fees, charges or other sums that are payable to any *SRB intermediary* that is involved in the proposed transaction or to a third party;
 - (d) the purchase price that the *firm* ~~will~~ is prepared to pay the *SRB agreement seller* for the property, net of any fees, charges or retentions;

- (e) ...
- (ea) that the *SRB agreement seller* should in his own best interests independently seek whatever information he can on the market value of his property, as explained in the *FSA consumer factsheet* provided to the *customer*, before proceeding with the proposed transaction and how and from where information on its value may be available;
- (f) brief details of the ~~type and period~~ main terms of the tenancy under the proposed *regulated sale and rent back agreement*, including its type, the letting period including the fixed term and the security of tenure the *SRB agreement seller* (or trust beneficiary or related person) will be given under it, an explanation that the seller (or trust beneficiary or related person) cannot be evicted unless the *SRB agreement provider* obtains a possession order from the court and an explanation of the seller's (or trust beneficiary's or related person's) ability to terminate the tenancy;
- (g) ~~the minimum period that the *SRB agreement seller* and his family have a contractual right to remain in the property under the terms of the proposed agreement; [deleted]~~
- (h) ~~if the terms of the tenancy provide for a period of occupancy that is shorter than the minimum contractual period under (g), details of how the *firm* intends to meet the contractual period under (g); [deleted]~~
- (i) a prominent warning that once the ~~minimum contractual period~~ fixed term under ~~(g)~~ (f) expires, the *SRB agreement seller* and his family may be required to leave the property;
- (ia) where the *SRB agreement seller* is to be given an option under the proposed agreement to buy back the property at some future date from the *SRB agreement provider*, a statement confirming that this is the case, together with details of the option, including how it may be exercised and any restrictions such as time limits that will apply to it, and a clear explanation as to how the repurchase price is to be determined;
- ...
- (k) the circumstances in which the rent in (j) can be increased or changed in any way under the terms of the tenancy agreement; ~~and~~
- (l) the risks associated with the transaction from the *SRB agreement seller's* perspective, including in particular:

...

- (ii) that failure to obtain legal or professional advice may mean his interests are not fully protected;
- (m) whether there are any other features or restrictions in the regulated sale and rent back agreement which the SRB agreement seller would reasonably need to know about for the purpose of making an informed judgment about the merits of entering into the proposed agreement;
- (n) information on what the SRB agreement seller should do if he wishes to make a complaint against the firm arising out of or in connection with the proposed regulated sale and rent back agreement, including provision of an address and phone number at which the firm may be contacted should the customer wish to pursue a complaint and that if he cannot settle his complaint with the firm, that he may be entitled to refer it to the Financial Ombudsman Service; and
- (o) information on the circumstances in which the SRB agreement seller might be entitled to compensation under the Financial Services Compensation Scheme, depending on the type of business and the circumstances of the claim, and, if so, details of the relevant coverage.

...

- (3) In making the disclosures in writing to the SRB agreement seller that are required by (1) and (1A), the firm must make prominent use of the key facts logo in accordance with GEN 5.1 (Application and purpose), followed by the text “about this sale and rent back agreement”.

Compliance with the pre-sale disclosure requirement

- 5.9.1A G A firm may comply with the requirement in MCOB 5.9.1R (Pre-sale disclosure) for disclosures and warnings to be confirmed in writing by providing the potential SRB agreement seller with the written pre-offer document that is required by MCOB 6.9.3R (Written pre-offer document: Stage One) if this can be done as quickly as providing the pre-sale disclosures, provided that (in accordance with MCOB 5.9.1) the firm does not demand or accept any fees, charges or other sums from the customer or undertake any action that commits the customer to the proposed regulated sale and rent back agreement until:
- (1) the written pre-offer document that is required by MCOB 6.9.3R has been provided to the customer; and
 - (2) the written offer document for signing (Stage Two) that is required by MCOB 6.9.10R(1) has been returned to the firm duly signed by

the customer.

Information on valuations and rental values

- 5.9.1B R Where the potential *SRB agreement seller* has not commissioned his own valuation of the property, a *firm* must ensure that he realises that there are other possible sources of information on the property's value that are available to him, including local estate agents, local newspapers which carry advertisements for the sale of residential property in the *customer's* locality and on-line sites where details of recent property sales in the locality may be accessed.
- 5.9.1C R A *firm* must ensure that the *SRB agreement seller* realises that there are other possible sources of information on the appropriate rental value for the property available to him, including local estate agents, local newspapers and on-line sites which carry advertisements for the rental of residential property in the *customer's* locality.
- 5.9.1D G There is no requirement for the property to be valued before making the pre-sale disclosures. However, *MCOB* 6.9.2R requires that an independent valuation of the property be carried out before the provider supplies the *customer* with the written pre-offer document at Stage One (see *MCOB* 6.9.3R).

Disclosure of relevant features or restrictions

- 5.9.1E G Examples of features of a *regulated sale and rent agreement* that a *SRB agreement seller* would reasonably need to know about (see *MCOB* 5.9.1R(1A)(m)) would include an arrangement under which the seller is to receive from the *SRB agreement provider* a refund of some agreed percentage of the discount (on the market value of the property) that was reflected in the sale price under the *regulated sale and rent back agreement* after the end of the agreed letting term. Should any restrictions or the payment of any costs or fees be attached to the seller's entitlement to exercise such an option, these should be explained clearly.

Revised pre-sale disclosures

- 5.9.1F R Where a *firm* has already provided the required pre-sale disclosures and the terms for the proposed *regulated sale and rent back agreement* are subsequently materially altered, the *firm* must ensure that, at the *firm's* option, either:
- (1) the pre-sale disclosures are re-issued to the *customer*, incorporating the agreed amendment; or
 - (2) the agreed amendment is incorporated in the written pre-offer document at Stage One (see *MCOB* 6.9.3R).
- 5.9.1G G What constitutes "materially altered" requires consideration of the facts of each individual case. For example, a change in the proposed purchase or valuation price of the property should normally be regarded as material, as

would the introduction of an additional charge applying to the regulated sale and rent back agreement when it did not previously.

Records of pre-sale disclosure

- 5.9.2 R A ~~SRB agreement provider~~ firm must keep a record of the disclosures and warnings made to the SRB agreement seller under MCOB 5.9.1R for a period of:
- (1) ~~12 months~~ one year after the end of the ~~minimum period that the SRB agreement seller and his family have a contractual right to remain in the property~~ fixed term of the tenancy under the regulated sale and rent back agreement; or
 - (2) five years from the date of the disclosures and warnings;
- whichever is the longer.

Initial disclosure information to SRB agreement sellers: unauthorised SRB agreement providers

- 5.9.3 R (1) A ~~firm~~ SRB intermediary must ensure that, on first making contact with a prospective SRB agreement seller, whether or not he is the firm's customer, who is proposing to enter into a regulated sale and rent back agreement with an unauthorised SRB agreement provider, it provides him with the written warning in (2) before he enters into any such agreement.

...

Initial disclosure information: to unauthorised SRB agreement providers

- 5.9.4 R (1) A ~~firm~~ SRB intermediary must ensure that, on first making contact with a customer who is both an individual and an unauthorised SRB agreement provider, when it anticipates giving personalised information or advice on a regulated sale and rent back agreement, it must provide him with the written warning in (2).

...

- 5.9.5 G A person may enter into a regulated sale and rent back agreement as agreement provider without being regulated by the FSA (or an exempt person) if the person does not do so by way of business. However, a SRB intermediary should at all times be conscious of its obligations under Principle 6 (Customers' interests). Should the firm have any reason to believe or entertain any suspicions that the SRB agreement seller may be proposing to enter into a regulated sale and rent back agreement with an unauthorised SRB agreement provider notwithstanding that the provider appears to be doing so by way of business and therefore appears to require authorisation under the Act, the firm should warn the seller that he should not be proceeding with the transaction.

Uncertainty whether the arrangements constitute a sale and rent back agreement

- 5.9.6 R (1) If, at the point that the required pre-sale disclosures must be provided to a potential *SRB agreement seller*, a *firm* is uncertain whether the arrangement will qualify as a *regulated sale and rent back agreement*, the *firm* must:
- (a) provide the required pre-sale disclosures on the basis that the arrangement might constitute a *regulated sale and rent back agreement*; or
 - (b) seek to obtain from the potential seller information that will enable the *firm* to ascertain whether the contract will qualify as a *regulated sale and rent back agreement*.
- (2) Where (1)(b) applies, pre-sale disclosures must be provided, unless, on the basis of information the potential seller provides, the *firm* has reasonable evidence that the contract would not qualify as a *regulated sale and rent back agreement*.
- 5.9.7 G If the *firm* has reasonable evidence that the contract is not a *regulated sale and rent back agreement*, for example where at least 40% of the property is not going to be occupied as a dwelling by the seller or his family, and has not provided the required pre-sale disclosures and the *firm* subsequently concludes that the contract does qualify as a *regulated sale and rent back agreement*, there is no requirement to provide separate pre-sale disclosures at the time the *firm* reaches that conclusion. However, the requirement to integrate the pre-sale disclosures into the written pre-offer document at Stage One that is required by *MCOB 6.9.3R* will apply.

Record of sale and rent back providers

- 5.9.8 R (1) A *SRB intermediary* must for each *regulated sale and rent back agreement* in relation to which it carries on *regulated sale and rent back mediation activity* keep a record of the contact details of the provider that enters into or is proposed to enter into the agreement, making it clear whether the provider is a *SRB agreement provider* or an *unauthorised SRB agreement provider*.
- (2) The record in (1) must be retained for a period of one year, or one year from the end of the fixed term of the tenancy under the *regulated sale and rent back agreement*, whichever is the longer.

...

6.1 Application

...

6.1.2 R This Table belongs to *MCOB 6.1.1R*

(1) Category of firm	(2) Applicable section
...	
<i>reversion provider</i>	...
<u><i>SRB agreement provider</i></u>	<u><i>MCOB 6.1.1R to 6.1.3R, MCOB 6.1.5R, MCOB 6.2, MCOB 6.3 and MCOB 6.9</i></u>

...

After MCOB 6.8 insert the following new section. The text is not underlined.

6.9 Regulated sale and rent back agreements

Process for concluding regulated sale and rent back agreements

6.9.1 R A *SRB agreement provider* must not enter into a *regulated sale and rent back agreement* unless it follows the process outlined in this section.

Valuation of the property

- 6.9.2 R (1) A *SRB agreement provider* intending to enter into a specific *regulated sale and rent back agreement* with a *SRB agreement seller* and before it complies with the other requirements in this section, must ensure that the property is properly valued by a valuer:
- (a) that meets the competence and independence requirements (see *MCOB 2.6A.12R, MCOB 2.6A.12AR* and *MCOB 2.6A.13E*); and
 - (b) using the definition of “market value” set out in the Valuation Standard of the Royal Institution of Chartered Surveyors from time to time.
- (2) Where the *SRB agreement provider* has applied to a *mortgage lender* for financing for a proposed *regulated sale and rent back agreement* and the relevant lender in accordance with its standard lending practices requires its own valuation of the property to be carried out, the valuation will only satisfy the requirements of (1) if the property is properly valued by a valuer that meets the competence and independence requirements (see *MCOB 2.6A.12R* and *MCOB*

2.6A.13E).

- (3) The *firm* must ensure that a copy of the valuation report accompanies the written pre-offer document at Stage One (see *MCOB* 6.9.3R).
- (4) This *rule* does not apply if the *SRB agreement seller* has already obtained his own recent valuation of the property from a valuer that meets the competence and independence requirements (see *MCOB* 2.6A.12R and *MCOB* 2.6A.13E).

Written pre-offer document: Stage One

- 6.9.3 R (1) As soon as a *SRB agreement provider* agrees the key terms of a proposed *regulated sale and rent back agreement* with a *SRB agreement seller* and before he becomes contractually committed to enter into the agreement, the *SRB agreement provider* must provide the seller with a written pre-offer document summarising its key terms (Stage One).
- (2) The written pre-offer document must be in the form prescribed by *MCOB* 6 Annex 2R and must be adapted by the *firm*, as appropriate, to the extent specified.
- (3) The written pre-offer document must be accompanied by the *FSA* consumer factsheet on sale and rent back (even if the *firm* has already provided this) which the *firm* must provide to the *customer* in a *durable medium* and which may be accessed through www.fsa.gov.uk.
- (4) On providing the *FSA* consumer factsheet to the *SRB agreement seller*, the *firm* must give him an oral explanation of what it contains, so as to ensure that he understands its contents, unless the *firm* has already done so.
- (5) The *firm* must ensure that the written pre-offer document is accompanied by all associated legal documents in draft form that the seller will need to sign at Stage Two (*MCOB* 6.9.10R) to give effect to the proposed *regulated sale and rent back agreement*.

Cooling-off: No contact between *SRB agreement provider* and *SRB agreement seller*

- 6.9.4 R The *SRB agreement provider* must not instigate any contact or otherwise seek to communicate with the *SRB agreement seller* or a member of his family for a period of 14 *days* from the time that he has been supplied with the written pre-offer document at Stage One, together with the associated legal documentation in draft form.
- 6.9.5 R If the *SRB agreement seller* or a member of his family makes contact with the *SRB agreement provider* during the 14 *day* cooling-off period, for example because he wants to query a term of the written pre-offer document, the provider must endeavour to answer the query in as factual a manner as the circumstances permit but avoid any language or conduct

which could be interpreted as amounting to an attempt to exert pressure on the *SRB agreement seller* to enter into the proposed agreement.

Exercise of cooling-off rights: costs and expenses

- 6.9.6 R The *SRB agreement provider* must not charge or seek to charge a potential *SRB agreement seller* for any fee, cost, or expense unless and until the seller has entered into the *regulated sale and rent back agreement* following the 14 day cooling-off period.

Responsibility of SRB agreement provider during cooling-off period

- 6.9.7 R The *SRB agreement provider* must not offer to or *enter into a regulated sale and rent back agreement* with the seller until the 14 day cooling off period has elapsed and must not allow the seller to become contractually committed to enter into any such agreement by signing any associated legal documentation to give effect to it within that period.

Requirement to notify the mortgage lender or home purchase provider where the seller is in arrears

- 6.9.8 R As soon as a *SRB agreement provider* has provided the written pre-offer document at Stage One to a *SRB agreement seller* who is *in arrears* under his *regulated mortgage contract* or *home purchase plan* on the property to which the proposed *regulated sale and rent back agreement* relates, it must, in a *durable medium*, immediately notify the *mortgage lender*, *home purchase provider* or the providers of other loans that may be secured on the property:
- (1) explaining that the *firm* is proposing to enter into a *regulated sale and rent back agreement* with the seller and that, as required by the *FSA*, he will be given a cooling-off period of 14 days before deciding whether he wishes to enter into the proposed agreement;
 - (2) summarising the key terms of the proposed agreement;
 - (3) advising the lender or provider that the proposed agreement is likely to be relevant to any repossession action or other forbearance option the lender or provider may already be, or may be contemplating, taking with respect to the property; and
 - (4) giving the *firm's* contact details should the lender or provider wish for any further information.

Data protection

- 6.9.9 G *Firms* will need to consider the implications of the Data Protection Act 1998 under which personal data that a *firm*, as data controller, holds about its *customer* cannot be disclosed to a third party without his consent. In practice the *firm* is likely to need the *SRB agreement seller's* consent to disclosing the matters covered by *MCOB 6.9.8R* to the relevant *mortgage*

lender or home purchase provider.

Written offer document for signing: Stage Two

- 6.9.10 R (1) No sooner than 14 *days* after the *SRB agreement provider* has supplied the *SRB agreement seller* with the written pre-offer at Stage One, the provider must provide him with a written offer document for signing (Stage Two), accompanied by any formal legal documentation that the parties will need to sign to give effect to the proposed *regulated sale and rent back agreement*.
- (2) The written offer document for signing (Stage Two) must be in the form prescribed by *MCOB 6 Annex 3R* and must be adapted by the *firm*, as appropriate, to the extent specified.

Records of written pre-offer documents and written offer documents for signing

- 6.9.11 R The *SRB agreement provider* must keep a record of the written pre-offer document at Stage One and the written offer document for signing at Stage Two for a period of:
- (1) one year after the end of the fixed term of the tenancy under the *regulated sale and rent back agreement*; or
- (2) five years from the date of the disclosures and warnings, written offer documents and cooling-off period notices;
- whichever is the longer.

...

After MCOB 6 Annex 1, insert the following new Annexes. The text is not underlined.

6 Annex 2R – Written Pre-offer Document of a regulated sale and rent back agreement.

1. This annex belongs to *MCOB* 6.9.3R.
2. The text in square brackets marked with an asterisk indicates instructions to the firm that must not be included in the Stage One pre-offer document provided to customers.



About this sale and rent back agreement

Date: [date produced by firm]

STAGE ONE – PRE-OFFER DOCUMENT

Please take time to consider the details of this sale and rent back pre-offer document and any associated documents such as the draft sale and rent back contract and draft tenancy agreement.

Is this agreement right for me?

Please consider whether this sale and rent back agreement is the best option for you. You should consider taking independent advice. Please read the enclosed consumer factsheet “Just the facts about sale and rent back schemes” which gives impartial information, including contact details for free advice agencies.

You do not have to agree to the proposed agreement.

How long do I have to consider this agreement?

You have at least fourteen days from the date of this document to consider the information before [name of firm] can give you the Stage Two documents to sign.

[name of firm(s)] must not contact you throughout this fourteen day period. This is to give you time to consider whether you wish to go ahead.

Should I contact my lender?

If you have arrears on your mortgage or other loan secured on your property, [name of firm] will write to your lender(s) to let them know that you are considering a sale and rent back agreement. However you should also contact your lender(s) to let them know what is happening.

*Details of the proposed sale and rent back agreement

[The text in this section ‘details of the proposed sale and rent back agreement’ is not prescribed – however it must be set out in accordance with MCOB 5.9.1R, but adapted to include the market valuation of the property rather than an estimate] *

6 Annex 3R – Cooling-Off Document of a regulated sale and rent back agreement.

1. This annex belongs to *MCOB* 6.9.10R.
2. The text in square brackets marked with an asterisk indicates instructions to the firm that must not be included in the Stage Two offer document provided to customers.



About this sale and rent back agreement

STAGE TWO – OFFER DOCUMENT

Date: [date produced by firm – must be at least fourteen days after the date of the Stage One document]

Please take time to consider the details of this sale and rent back offer and any associated documents such as the sale and rent back contract and tenancy agreement before signing.

Is the agreement right for me?

Please consider whether this sale and rent back agreement is the best option for you. You should consider taking independent advice. The consumer factsheet “Just the facts about sale and rent back schemes” which was enclosed in the stage one pre-offer document, gives impartial information and contact details for free advice agencies.

You do not have to agree to this offer.

Should I contact my lender?

If you have arrears on your mortgage or other loan secured on your property, [name of firm] will write to your lender(s) to let them know that you are considering a sale and rent back agreement. However you should also contact your lender(s) to let them know what is happening.

***Details of your offer**

[The text in this section ‘details of your offer’ is not prescribed – however it must be set out in accordance with MCOB 5.9.1R, but adapted to include the market valuation of the property rather than an estimate] *

I/we wish to accept this offer

Signatures of customer(s):	Date signed:
----------------------------	--------------

Amend the following as shown.

7.1.2 R This table belongs to *MCOB 7.1.1R*

(1) Category of firm	(2) Applicable section
...	
<i>reversion provider</i>...	...
<u><i>SRB administrator</i></u>	<u><i>MCOB 7.9</i></u>
<u><i>SRB agreement provider</i></u>	<u><i>MCOB 7.1 to MCOB 7.3 and MCOB 7.9</i></u>

...

After MCOB 7.8 insert the following new section. The text is not underlined.

7.9 Post-sale disclosure for regulated sale and rent back agreements

7.9.1 R Where the terms of a *regulated sale and rent back agreement* include a provision conferring upon the *SRB agreement seller* a right to receive any sum, or exercise any option, in relation to the transaction after it has been concluded, the *SRB agreement provider* must take reasonable steps to inform the *SRB agreement seller* in good time of any steps which the *SRB agreement seller* must take if he wishes to receive the sum or exercise the option.

Amend the following as shown.

12.1.6 R This chapter does not apply to a *firm* carrying on *reversion activities* or *regulated sale and rent back activities* in respect of a *customer* acting in his capacity as an *unauthorised reversion provider* or as an *unauthorised SRB agreement provider*.

After MCOB TP 2 insert the following new Transitional Provisions. The text is not underlined.

MCOB TP 3 Transitional Provisions

3.1 Transitional Provisions for sale and rent back agreements

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
1	Every <i>rule</i> in <i>MCOB</i> unless the context otherwise requires and subject to any more specific transitional provision relating to the matter.	R	<p>(1) If, in relation to <i>regulated sale and rent back activities</i>, or the communication of a <i>financial promotion</i> relating to a <i>regulated sale and rent back agreement</i>, provisions in <i>MCOB</i> are dependent on the occurrence of a series of events, the provision applies with respect to the events that occur on or after 30 June 2010.</p> <p>(2) Paragraph (1) is without prejudice to provisions in <i>MCOB</i> that applied before 30 June 2010 to <i>regulated sale and rent back firms</i> that held an interim authorisation or an interim variation of permission to conduct <i>regulated sale and rent back activity</i> in accordance with article 32 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order (SI 2009/1342) that had been granted by the <i>FSA</i>.</p>	From 30 June 2010 for 4 weeks.	30 June 2010
2	-	G	For example if a <i>customer</i> has not entered into a <i>regulated sale and rent back agreement</i> before 30		

			June 2010, a regulated sale and rent back firm will have to comply with the requirements in <i>MCOB</i> when taking any further action (such as issuing a written pre-offer document (Stage One) with cooling-off period (<i>MCOB</i> 6.9)).		
3	-	G	<i>MCOB</i> applies to regulated sale and rent back agreements entered into on or after 1 July 2009. <i>PERG</i> 14.4A contains guidance on the variation of plans entered into before 1 July 2009).		
4	<i>MCOB</i> 3.8B.4R; <i>MCOB</i> 3.8B.5R	R	(1) A non-real time financial promotion of a regulated sale and rent back agreement communicated: (a) in a directory (or similar publication) that is updated annually; (b) otherwise than in (a); on or after 30 June 2010 where the deadline for submission for communication was before that date.	(1)(a) from the later of 30 June 2010 or the date of first communication , for one year; (1)(b) from 30 June 2010 for three months.	30 June 2010

...

Schedule 1 Record keeping requirements

...

1.3G

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
...				
<u><i>MCOB</i> 4.11.8R</u>	<u>Customer information on which an</u>	<u>Customer information on his income,</u>	<u>The date on which the firm reached a</u>	<u>Five years, or one year after the end of the</u>

	<u>assessment of the affordability and appropriateness for a <i>regulated sale and rent back agreement</i> was based</u>	<u>expenditure, resources, needs, objectives and individual circumstances</u>	<u>conclusion on affordability and appropriateness</u>	<u>fixed term of the tenancy agreement, if later</u>
...				
<i>MCOB 5.9.2R</i>	Each pre-sale disclosure	A record of the main terms of the <i>regulated sale and rent back agreement</i>	The date on which the disclosure is made	The longer of a period of 12 months <u>one year</u> from the end of the minimum period that the <i>SRB agreement seller and his family have the contractual right to remain in the property</i> <u>fixed term of the tenancy</u> or five years from the date of the disclosure
...				
<i>MCOB 5.9.8R</i>	<u>Provider information</u>	<u>A record of the contact details of the provider, making it clear whether it is a <i>SRB agreement provider</i> or an <i>unauthorised SRB agreement provider</i></u>	<u>The date on which the <i>regulated sale and rent back mediation activity</i> is carried on</u>	<u>The longer of one year, or one year from the end of the fixed term of the tenancy under the <i>regulated sale and rent back agreement</i></u>
...				
<i>MCOB 6.9.11R</i>	<u>Each written pre-offer document (Stage One) required under <i>MCOB 6.9.3R</i></u>	<u>A record of the main terms of the proposed <i>regulated sale and rent back agreement</i></u>	<u>The date on which the document is produced</u>	<u>The longer of a period of one year from the end of the fixed term of the tenancy under the <i>regulated</i></u>

				<u>sale and rent back agreement or five years from the date of the written pre-offer document</u>
<u>MCOB 6.9.11R</u>	<u>Each written offer document for signing (Stage Two) required under MCOB 6.9.10R (1)</u>	<u>A record of the contents of the documents and the cooling-off period</u>	<u>The date on which the document is produced</u>	<u>The longer of a period of one year from the end of the fixed term of the tenancy under the regulated sale and rent back agreement or five years from the date of the written offer document</u>
...				

Annex F

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text.

TP 1 Transitional provisions

TP 1.1 Transitional provisions applying to the Supervision manual only

...

TP 1.2

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
<u>15D</u>	<u>SUP 16</u>	<u>R</u>	<p><u>A regulated sale and rent back firm need not comply with the rules in SUP 16 to the extent that they carry on regulated sale and rent back activity. A regulated sale and rent back firm must instead:</u></p> <p><u>(a) within a period of 3 months from becoming authorised (for previously unauthorised persons); or</u></p> <p><u>(b) according to their existing reporting schedules (for firms that previously held an interim authorisation or interim variation of permission in accordance with article 32 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order (SI 2009/1342) or hold a Part IV permission to carry on regulated sale and rent back activity as a result of having made a variation of permission application that has been approved by the FSA);</u></p> <p><u>and every 6 months after such date until 30 June 2011 (unless otherwise advised by the FSA), provide to the</u></p>	<u>30 June 2010 to 29 June 2011</u>	<u>30 June 2010</u>

		<p><u>FSA for the relevant period the following information:</u></p> <p><u>(i) management accounts for the firm, including a balance sheet, profit/loss statement and management report;</u></p> <p><u>(ii) details of the firm's funding arrangements; and</u></p> <p><u>(iii) where the firm is a SRB agreement provider, the number of regulated sale and rent back agreements it has entered into in that period, distinguishing between direct and indirect sales.</u></p> <p><u>If a firm does not submit a complete report by the date on which it is due in accordance with this transitional provision, the firm must pay an administrative fee of £250.</u></p>		
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Annex G

Amendments to the Perimeter Guidance manual (PERG)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

...

1.4.2 G Table: list of general guidance to be found in *PERG*

Chapter:	Applicable to:	About:
...		
<p><i>PERG</i> 14: Home reversion, and home finance <u>and regulated sale and rent back activities</u></p>	<p>Any <i>person</i> who needs to know whether his activities in relation to <i>home reversion plans</i>, or <u><i>home purchase plans or regulated sale and rent back agreements</i></u> will amount to <i>regulated activities</i> or whether the restriction in section 21 of the <i>Act</i> will apply to any <i>financial promotions</i> he may make.</p>	<ul style="list-style-type: none"> • the <i>regulated activities</i> that arise in connection with <i>home reversion plans</i>, and <u><i>home purchase plans and regulated sale and rent back agreements</i></u> and any exclusions that may be relevant • the circumstances in which <i>financial promotions</i> about <i>home reversion plans</i>, and <u><i>home purchase plans and regulated sale and rent back agreements</i></u> may be made without breaching the restriction in section 21 of the <i>Act</i>
...		

...

Rights under a regulated sale and rent back agreement

2.6.27C G In accordance with Article 63J(3)(a) of the *Regulated Activities Order*, a regulated sale and rent back agreement is an arrangement under which, at the time it is entered into:

- (1) a person (the “SRB agreement provider”) buys all or part of the qualifying interest in land (other than timeshare accommodation) in the United Kingdom from an individual or trustees (the “agreement seller”); and
- (2) the agreement seller (if he is an individual) or an individual who is the beneficiary of the trust (if the agreement seller is a trustee), or a related person, is entitled under the arrangement to occupy at least

40% of the land in question as or in connection with a dwelling, and intends to do so;

but excluding any arrangement that is a regulated *home reversion plan*.

Detailed *guidance* on this is set out in *PERG 14.4A (Activities relating to regulated sale and rent back agreements)*.

...

2.7.7A G There are ~~eight~~ ten arranging activities that are *regulated activities* under the *Regulated Activities Order*. These are:

...

- (7) *arranging (bringing about) a home purchase plan*, which includes arranging for another *person* to vary the terms of a *home purchase plan* entered into by him as home purchaser on or after 6 April 2007 (article 25C(1)); ~~and~~
- (8) *making arrangements with a view to a home purchase plan* (article 25C(2));
- (9) *arranging (bringing about) a regulated sale and rent back agreement, which includes arranging for another person ("A") to vary the terms of a regulated sale and rent back agreement entered into on or after 1 July 2009 by A as agreement seller or agreement provider, in such a way as to vary A's obligations under that agreement (article 25E(1)); and*
- (10) *making arrangements with a view to a regulated sale and rent back agreement (article 25E(2)).*

...

2.7.7B G The activity of *arranging (bringing about) deals in investments* is aimed at arrangements that would have the direct effect that a particular transaction is concluded (that is, *arrangements* that bring it about). The activity of *making arrangements with a view to transactions in investments* is concerned with arrangements of an ongoing nature whose purpose is to facilitate the entering into of transactions by other parties. This activity has a potentially broad scope and typically applies in one of two scenarios. These are where a person provides ~~facilities~~ arrangements of some kind:

- (1) to enable or assist investors to deal with or through a particular firm (such as the arrangements made by introducers); or

...

...

Advising on regulated sale and rent back agreements

2.7.16E G Under article 53D of the *Regulated Activities Order* giving advice to a person in his capacity as an *SRB agreement seller* or an *SRB agreement provider* is a *regulated activity* if it is advice on the merits of the person:

- (1) entering into a particular *regulated sale and rent back agreement*; or
- (2) varying the terms of a *regulated sale and rent back agreement*.

Advice on varying terms as referred to in (2) only comes within article 53D where the agreement is entered into by the person on or after 1 July 2009 and the variation varies the person's obligations under the agreement. Further guidance on the scope of the *regulated activity* under article 53D is in PERG 14.4A (Activities relating to regulated sale and rent back agreements).

...

Entering into and administering a regulated sale and rent back agreement

2.7.20BA G Entering into a regulated sale and rent back agreement as an agreement provider and administering a regulated sale and rent back agreement are regulated activities under Article 63J of the *Regulated Activities Order* (Regulated sale and rent back agreements). Guidance on these regulated activities is in PERG 14.4A (Activities relating to regulated sale and rent back agreements).

...

2.8.6 G The various activities that involve *arranging* fall into two general types. These are:

- (1) those relating to arranging a particular transaction or a contract, agreement or plan variation (articles 25(1), 25A(1), 25B(1), ~~and~~ 25C(1), and 25E(1) of the *Regulated Activities Order*); and
- (2) those relating to making arrangements with a view to persons entering into certain transactions (articles 25(2), 25A(2), 25B(2), ~~and~~ 25C(2), and 25E(2) of the *Regulated Activities Order*).

...

2.8.6A G The exclusions in the *Regulated Activities Order* that relate to the various *arranging* activities are as follows.

...

- (5) Under article 29A, an *unauthorised person* is excluded from the *regulated activity* of arranging for another person to vary the terms of a *regulated mortgage contract* entered into on or after 31 October 2004 (article 25A(1)(b)) or a *home reversion plan* or *home purchase plan* entered into on or after 6 April 2007 (articles 25B(1)(b) and

25C(1)(b)) or a regulated sale and rent back agreement entered into on or after 1 July 2009 (article 25E(1)(b)). This is if the *arranging* is the result of:

(a) anything done in the course of the administration, by an *authorised person*:

...

(iii) of a *home purchase plan* in the way set out in article 63G(a); ~~or~~

(iv) of a regulated sale and rent back agreement in the way set out in article 63K(a); or

(b) anything done by the *unauthorised person* in connection with the administration:

...

(iii) of a *home purchase plan* in the way set out in article 63G(b);

(iv) of a regulated sale and rent back agreement in the way set out in article 63K(b).

...

(9) Under article 33, making arrangements under which *persons* will be introduced to third parties who will provide independent services (consisting of advice or the exercise of discretion in relation to certain investments) is excluded from articles 25(2), 25A(2), 25B(2), ~~and~~ 25C(2) and 25E(2) only. The party to whom the introduction is made must be of a specified standing (including that of an *authorised person*). The exclusion does not apply where the arrangements relate to a *contract of insurance*.

(10) ...

is excluded from articles 25A(2), 25B(2), ~~and~~ 25C(2), and 25E(2) subject to certain conditions related to the receipt of client money and the disclosure of certain information.

...

2.8.12 G In certain circumstances, advice that takes the form of a regularly updated news or information service and advice which is given in one of a range of different media (for example, newspaper or television) is excluded from the *regulated activities* of:

...

- (3) *advising on a home reversion plan; ~~and~~*
- (4) *advising on a home purchase plan; and*
- (5) *advising on a regulated sale and rent back agreement.*

...

2.8.12A G ...

More detailed *guidance* on certain of these exclusions is in *PERG 4* (Regulated activities connected with mortgages), *PERG 5* (Insurance mediation activities), ~~and~~ *PERG 14.3*, ~~and~~ *PERG 14.4* and *PERG 14.4A* (Guidance on home reversion, ~~and~~ home purchase and regulated sale and rent back agreement activities).

...

2.8.14A G ...

These exclusions are subject to certain conditions and are explained in greater detail in *PERG 4.8* (Administering a regulated mortgage contract), ~~and~~ *PERG 14.3*, ~~and~~ *PERG 14.4* and *PERG 14.4A* (Guidance on home reversion, ~~and~~ home purchase and regulated sale and rent back agreement activities).

2.8.14B G The following exclusions apply in specified circumstances where a *person* is *administering a home finance ~~plan~~ transaction*:

...

...

2.9.4 G They apply where the activity relates to a *home finance transaction* under which the borrower, *reversion occupier*, ~~or~~ *home purchaser* or *SRB agreement seller* as the case may be is a beneficiary.

...

2.9.17A G The exclusions for *overseas persons* who carry on certain *regulated activities* related to *home finance transactions* work in a different way. They depend on the residency of the borrower or borrowers, the *reversion occupier* or *reversion occupiers*, ~~or~~ the *home purchaser* or *home purchasers* or the *SRB agreement seller* or *SRB agreement sellers* as the case may be. In addition, some of the exclusions also depend on the residency of the reversion provider or *SRB agreement provider*. *Guidance* on these exclusions is in *PERG 4.11* (Link between activities and the United Kingdom) and *PERG 14.6* (Guidance on home reversion, ~~and~~ home purchase and regulated sale and rent back agreement activities).

...

2 Annex 2G Regulated activities and the permission regime

...

2 Table

...

Table 1 : Regulated Activities [See note 1 to Table 1]	
Regulated activity	Specified investment in relation to which the regulated activity (in the corresponding section of column one) may be carried on
...	
(zj)...	
<u>(zk) arranging (bringing about) a regulated sale and rent back agreement (article 25E(1))</u>	<u>rights under a regulated sale and rent back agreement (Article 88C)</u>
<u>(zl) making arrangements with a view to a regulated sale and rent back agreement (article 25E(2))</u>	
<u>(zm) advising on a regulated sale and rent back agreement (article 53D))</u>	
<u>(zn) entering into a regulated sale and rent back agreement (article 63J(1))</u>	
<u>(zo) administering a regulated sale and rent back agreement (Article 63(J)(2))</u>	

...

- 4.1.6 G A person may be intending to carry on activities related to other forms of investment in connection with mortgages, such as advising on and arranging an endowment policy or ISA to repay an interest-only mortgage. Such a person should also consult the *guidance* in PERG 2 (Authorisation and regulated activities), PERG 5 (Guidance on insurance mediation activities) and PERG 8 (Financial promotion and related activities). In addition, PERG 14 (Guidance on home reversion, ~~and~~ home purchase and regulated sale and rent back agreement activities) has *guidance* on *regulated activities* relating to *home reversion plans*, ~~and~~ *home purchase plans* and regulated sale and rent back agreements.

...

7.3.1D G Under article 53D of the *Regulated Activities Order* (Advising on regulated sale and rent back agreements), advising a *person* is a specified kind of activity if:

- (1) the advice is given to the *person* in his capacity as an *SRB agreement seller* or *SRB agreement provider* or as a potential *SRB agreement seller* or *SRB agreement provider*; and
- (2) it is advice on the merits of his doing any of the following:
 - (a) entering into a particular *regulated sale and rent back agreement*; or
 - (b) varying the terms of a *regulated sale and rent back agreement* entered into by him on or after 1 July 2009 in such a way so as to vary his obligations under that agreement.

7.3.2 G Articles 53 , 53A, 53B~~2~~, and 53C and 53D of the *Regulated Activities Order* contain a number of elements, all of which must be present before a *person* will require *authorisation*. For *guidance* on whether a *person* is carrying on these *regulated activities*, see *PERG* 8 (Financial promotion and related activities), *PERG* 4 (Guidance on regulated activities connected with mortgages)~~2~~, and *PERG* 14.3~~2~~ and *PERG* 14.4 and *PERG* 14.4A (Guidance on home reversion~~2~~, and home purchase and regulated sale and rent back agreement activities).

...

7.3.3 G ... This has been amended by article 18 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No 2) Order 2003 (SI 2003/1476) ~~and~~² by article 28 of the Financial Services and Markets Act 2000 (Regulated ~~activities~~ Activities) (Amendment) (No 2) Order 2006 (SI 2006/2383) and article 27 of the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2009 (SI 2009/1342) as explained in *PERG* 7.3.3AG.

...

7.4.2 G But the exclusion applies only if the principal purpose of the publication or service is not:

...

- (2) to lead or enable *persons*:

...

- (c) ... ; ~~or~~

- (d) ... on or after 6 April 2007; or
- (e) to enter as SRB agreement seller or SRB agreement provider into regulated sale and rent back agreements or to vary the terms of regulated sale and rent back agreements entered into by them as SRB agreement seller or SRB agreement provider where the agreement was originally established on or after 1 July 2009.

...

7.4.3 G ...

- (3) ...But, in the FSA's view, a news or information 'service' is not restricted only to the giving of ~~only~~ news or information since this would not generally constitute the *regulated activity* of *advising on investments* (see PERG 8.28 (Advice or information)), *advising on regulated mortgage contracts* (see PERG 4.6.13G to PERG 4.6.16G (Advice or information)), *advising on a home reversion plan*, ~~or~~ *advising on a home purchase plan* or advising on regulated sale and rent back agreements. So the exclusion applies to services providing material in addition to news or information, such as comment or advice.

...

7.4.5 G The exclusion applies only if the principal purpose of the publication or service is not:

...

- (2) to lead or enable *persons* to:

...

- (c) ... ; ~~or~~

- (d) ... on or after 6 April 2007; or

- (e) to enter as SRB agreement seller or SRB agreement provider into regulated sale and rent back agreements or to vary the terms of regulated sale and rent back agreements entered into by them as SRB agreement seller or SRB agreement provider where the agreement was originally established on or after 1 July 2009.

...

7.4.8 G ... If the principal purpose of a publication or service is to give to *persons*, in their capacity as investors (or potential investors), as borrowers, as *reversion occupiers* or reversion providers or as *home purchasers* or as SRB

agreement sellers or SRB agreement providers (as the case may be), advice as referred to in *PERG 7.4.5G(1)*, then the publication or service will not be able to benefit from this exclusion.

...

- 8.17.1A G Section 21 also applies to *financial promotions* concerning *home reversion plans*, ~~and~~ *home purchase plans* and regulated sale and rent back agreements. Guidance on these activities and related *financial promotions* is given in *PERG 14* (Guidance on home reversion, ~~and~~ home purchase and regulated sale and rent back activities).

...

- 8.17.12 G Article 28B (Real time communications: introductions) exempts a *real time financial promotion* that relates to one or more of the *controlled activities* about *regulated mortgage contracts*, as well as *home reversion plans*, ~~and~~ *home purchase plans* and regulated sale and rent back agreements. The exemption is subject to the following conditions being satisfied:

...

...

- 8.23.3 G The *regulated activities* which are likely to be conducted in the circumstances referred to in *PERG 8.23.2G* are:
- (1) giving advice on certain investments (articles 53 (Advising on investments), 53A (Advising on regulated mortgage contracts), 53B (Advising on regulated home reversion plans), 53C (Advising on regulated home purchase plans), 53D (Advising on regulated sale and rent back agreements) and 56 (Advice on syndicate participation at Lloyd's) of the *Regulated Activities Order*) - for example, where the *financial promotion* is the advice;
 - ...
 - (2C) *making arrangements with a view to a home purchase plan* (article 25C(2) of the *Regulated Activities Order* (Arranging regulated home purchase plans)); ~~and~~
 - (2D) *making arrangements with a view to a regulated sale and rent back agreement* (article 25E(2) of the *Regulated Activities Order* (Arranging regulated sale and rent back agreements)); and
 - ...

- 8.23.4 G The *guidance* that follows is concerned with the *regulated activities* of *making arrangements with a view to transactions in investments* and *advising on investments*. Guidance on the *regulated activities* of *making arrangements with a view to regulated mortgage contracts* and *advising on regulated mortgage contracts* is in *PERG 4* (Guidance on regulated

activities connected with mortgages). *Guidance on the regulated activities of making arrangements with a view to a home reversion plan and advising on a home reversion plan, and making arrangements with a view to a home purchase plan and advising on a home purchase plan, and making arrangements with a view to a regulated sale and rent back agreement and advising on a regulated sale and rent back agreement* is in *PERG 14* (Guidance on home reversion, and home purchase and sale and rent back activities).

...

8.36.3 G Table Controlled activities

...	
<u>18A.</u>	<u>Providing a regulated sale and rent back agreement</u>
<u>18B.</u>	<u>Arranging a regulated sale and rent back agreement</u>
<u>18C.</u>	<u>Advising on a regulated sale and rent back agreement</u>
19.	Agreeing to do anything in 3 to 18 <u>18C</u> above

8.36.4 G Table Controlled investments

...	
<u>17A.</u>	<u>Rights under a regulated sale and rent back agreement</u>
...	

...

14.1 Background

...

The Q&As that follow are set out in sections:

- general issues (*PERG 14.2*);
- activities relating to home reversion plans (*PERG 14.3*);
- activities relating to home purchase plans (*PERG 14.4*);
- activities relating to regulated sale and rent back agreements (*PERG 14.4A*);
- the ‘by way of business’ test (*PERG 14.5*);
- carrying on a regulated activity in the United Kingdom (*PERG 14.6*);
- exemptions (*PERG 14.7*); and
- financial promotions (*PERG 14.8*).

14.2 General issues

Q2. What is the purpose of the Regulation of Financial Services (Land Transactions) Act 2005?

...This typically includes:

- schemes (often termed ‘equity release schemes’) where a provider buys an interest in a homeowner's property and allows the homeowner to continue to reside in the property (‘home reversion plans’); and
- certain types of Islamic financing arrangements designed to enable the purchase of a home in a way that is acceptable under Islamic law, such as Ijara or diminishing Musharaka (‘home purchase plans’);
- schemes where a provider buys an interest in a homeowner’s property and allows the homeowner to continue to reside in the property in return for payment of rent (‘sale and rent back agreement’).

Q3. I propose to carry on activities in relation to home finance arrangements of the kind mentioned in Q2. In what circumstances will I need to be authorised by the FSA or be an exempt person?

You will need to be an authorised or exempt person if you will:

- be carrying in *regulated activities*;
- be doing so by way of business;
- be doing so on or after 6 April 2007 in relation to home purchase plans and home reversion plans or on or after 1 July 2009 in relation to sale and rent back agreements; and
- be doing so in the *United Kingdom*.

Q4. How will I know if my proposed home finance activities are regulated?

Regulated activities are specified in the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (‘the *Regulated Activities Order*’). This was amended, following the enactment of the Regulation of Financial Services (Land Transactions) Act 2005, to extend its scope to cover certain home finance activities. These amendments were made in the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No 2) Order 2006 (SI 2006/2383) which came into effect on 6 April 2007 and the Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2009 (SI 2009/1342) which came into effect on 1 July 2009. Regulated home finance activities are:

- *entering into a home reversion plan*, ~~or entering into a home purchase plan~~ or entering into a regulated sale and rent back agreement as the provider of the plan/agreement or, in the case of *home reversion plans* and regulated sale and rent back agreements only, as a *person* to whom rights or obligations acquired by the provider are transferred or who, during the currency of the plan or agreement, acquires all or part of the interest in land bought by the provider;
- *administering a home reversion plan*, ~~or administering a home purchase plan~~ or administering a regulated sale and rent back agreement;

- *arranging (bringing about) a home reversion plan, ~~or~~ arranging (bringing about) a home purchase plan or arranging (bringing about) a regulated sale and rent back agreement;*
- *making arrangements with a view to home reversion plans, ~~or~~ making arrangements with a view to home purchase plans or making arrangements with a view to regulated sale and rent back agreements;*
- *advising on a home reversion plan, ~~or~~ advising on a home purchase plan or advising on a regulated sale and rent back agreement; and*
- agreeing to do any of the above.

...

14.3 Activities relating to home reversion plans

...

Q9. What exclusions may be available to me if I am entering into home reversion plans?

The main exclusions are those:

- for trustees who enter into a plan where the reversion occupier is an individual who is a beneficiary under the trust, ~~or a related person~~ (article 66(6B) of the *Regulated Activities Order*); and
- for *overseas persons* who satisfy certain conditions (see Q39).

...

Q11. What exclusions may be available to me if I am administering home reversion plans?

The other main exclusions are those:

- for trustees who administer a plan where the reversion occupier is an individual who is a beneficiary under the trust ~~or a related person~~ (article 66(6B) of the *Regulated Activities Order*); and
- for *overseas persons* who satisfy certain conditions (see Q39).

...

Q20. What exclusions may be available to me if I am advising on home reversion plans?

The main exclusions that are available include:

- advice given in a periodical publication, broadcast or other form of regularly updated news or information service (article 54 of the *Regulated Activities Order*); and
- advice that is a necessary part of other services provided by a person in the course of carrying on a profession or business other than a *regulated activity* (article 67 of the *Regulated Activities Order*); ~~and~~
- ~~*overseas persons* (article 72 of the *Regulated Activities Order*) (see Q39).~~

...

14.4 Activities relating to home purchase plans

...

Q27. What exclusions may be available to me if I am entering into home purchase plans as a provider?

The main exclusions are:

- for trustees who enter into a plan where the home purchaser is an individual who is a beneficiary under the trust ~~or a related person~~ (article 66(6C) of the *Regulated Activities Order*); and
- for *overseas persons* who satisfy certain conditions (see Q39).

...

Q30. What exclusions may be available to me if I am administering home purchase plans?

...

The other main exclusions are those:

- for trustees who administer a plan where the home purchaser is an individual who is a beneficiary under the trust ~~or a related person~~ (article 66(6C) of the *Regulated Activities Order*); and
- for *overseas persons* who satisfy certain conditions (see Q39).

...

Q36. What exclusions may be available to me if I am advising on home purchase plans?

The main exclusions that are available include:

- advice given in a periodical publication, broadcast or other form of regularly updated news or information service (article 54 of the *Regulated Activities Order*); and
- advice that is a necessary part of other services provided by a person in the course of carrying on a profession or business other than a *regulated activity* (article 67 of the *Regulated Activities Order*); ~~and~~
- ~~*overseas persons* (article 72 of the *Regulated Activities Order*) (see Q39).~~

...

Insert the following new section after PERG 14.4. The text is not underlined.

14.4A Activities relating to regulated sale and rent back agreements**Q37A. What is a regulated sale and rent back agreement?**

Broadly speaking, this is an arrangement under which, at the time it is entered into, a person (the “agreement provider”) buys all or part of an interest in land (other than time share accommodation) in the *United Kingdom* from a homeowner (being an individual or a trustee whose beneficiary is an individual) (“the agreement seller”) on

the basis that the individual or a related person is entitled under the arrangement, and intends, to use at least 40% of the land as a dwelling. However such an arrangement is not a *regulated sale and rent back agreement* if it is a *home reversion plan*.

This means that an arrangement is not a *regulated sale and rent back agreement* if:

- the agreement seller is not an individual; or
- the land is to be used for the purpose of letting as a dwelling to someone other than a related person of the individual (or beneficiary under the trust) who owns it; or
- the land is used primarily for business purposes; or
- the land is overseas; or
- if it is a *home reversion plan* (see Q5).

A related person, in relation to an individual, means:

- that person's spouse or civil partner;
- a person (whether or not of the same sex) whose relationship with that person has the characteristics of a husband and wife relationship; or
- that person's:
 - parent or grandparent;
 - child or grandchild; or
 - sibling.

As regards the requirement that the conditions need to be met 'at the time the arrangement was entered into', it should be noted that a *regulated sale and rent agreement* is an arrangement that may actually comprise several agreements. For example, a *regulated sale and rent back agreement* may include an agreement for the sale of a freehold interest in land and a subsequent tenancy agreement relating to the occupation of that land. Just because the tenancy agreement was not completed at the same time as the sale of the freehold interest does not mean there is no *regulated sale and rent back agreement*.

Q37B. Can an arrangement that was established before 1 July 2009 be a regulated sale and rent back agreement?

Yes it can be. An arrangement may still be a *regulated sale and rent back agreement* even if it was established before 1 July 2009. However, regulated activities carried on in relation to a sale and rent back agreement established before 1 July 2009 will only be subject to regulation:

- when carried on on or after 1 July 2009; and
- in certain circumstances (see Q37Q for a summary).

Q37C. When will I be carrying on the activity of entering into a regulated sale and rent back agreement?

This will occur when you enter into the agreement at the outset as the agreement provider. It can also occur at a later stage if all or part of the rights or obligations of the agreement provider are transferred to you or if you acquire all or part of the

interest in land bought by the agreement provider (where you become an 'agreement transferee'). This is so, whether you are acquiring the rights or obligations from the agreement provider or from an existing agreement transferee. This includes acquiring the rights or obligations or the interest in land purely as an investment. However, investors will only be regulated if they satisfy the 'by way of business test' (see 14.5). We refer to agreement providers and agreement transferees collectively in this guidance as 'agreement purchasers'.

So, if you are an agreement transferee under a plan that was established before 1 July 2009, you will only be subject to regulation for carrying on the regulated activity of entering into the plan if you do so on or after 1 July 2009.

Q37D. What exclusions may be available to me if I am entering into regulated sale and rent back agreements as agreement provider?

The main exclusions are those:

- for trustees who enter into a plan where the agreement seller is an individual who is a beneficiary under the trust (article 66(6D) of the *Regulated Activities Order*); and
- for *overseas persons* who satisfy certain conditions (see Q39).

Q37E. When will I be carrying on the activity of administering a regulated sale and rent back agreement?

This will arise if you carry out any one or more of the following functions for an agreement purchaser or an agreement seller in relation to an agreement that was originally entered into on or after 1 July 2009:

- taking necessary steps to make payments to the agreement seller; or
- taking necessary steps to collect or recover payments due from the agreement seller; or
- notifying the agreement seller of changes in payments due under the agreement, or of other matters of which the agreement requires him to be notified.

One effect of this is that you will not become subject to regulation if you are administering an agreement that was originally established before 1 July 2009 and an agreement transferee enters into the plan after that date. See Q37Q for more detail about when activities are regulated if an agreement was originally entered into before 1 July 2009.

It is irrelevant for the purposes of determining if you are administering a regulated sale and rent back agreement whether or not the agreement was entered into by way of business. In this respect the activity is similar to the regulated activity of *administering a home reversion plan*.

Q37F. If I collect rent due to an agreement purchaser under a regulated sale and rent back agreement or help the agreement seller set up a direct debit in favour of the agreement purchaser do I need to be regulated?

Yes, it is likely that you will need to be authorised to carry out the *regulated activity* of *administering a regulated sale and rent back agreement*. However the following exclusions may be available:

- where you arrange for an authorised person with the appropriate *Part IV permission* to administer the agreement – this includes where you administer the agreement for a period of up to one month following the termination of such an arrangement; or
- you administer the plan under an agreement with an authorised person which has a *Part IV permission* to administer such an agreement.

Q37G. Are there any other exclusions available in relation to administering a regulated sale and rent back agreement?

The other main exclusions are those:

- for trustees who administer a plan where the agreement seller is an individual who is a beneficiary under the trust (article 66(6D) of the *Regulated Activities Order*); and
- for *overseas persons* who satisfy certain conditions (see Q39).

Q37H. When will I be carrying on the activity of arranging regulated sale and rent back agreements?

There are three types of arranging activity that are regulated. These are making arrangements:

- (1) for another *person* to enter into a plan as an agreement purchaser or as an agreement seller;
- (2) for another *person*, being an agreement seller or an agreement purchaser, to vary the terms of an agreement that was originally established on or after 1 July 2009, in such a way as to vary his obligations under that agreement; and
- (3) with a view to a *person* who participates in the arrangements entering into an agreement as an agreement seller or as an agreement purchaser.

But none of these arranging activities will apply to you if they relate to an agreement to which, as a result of your arranging activities, you are or will become a party (article 28A of the *Regulated Activities Order*).

You will only be making arrangements under (1) or (2) if your actions are such as to bring about the entry into the agreement or the variation, as the case may be (article 26 of the *Regulated Activities Order*). This means that your involvement must be material to whether the transaction occurs. For example, assisting a person by completing the necessary application forms on their behalf or acting as their agent or attorney in negotiating entry will amount to bringing about the transaction.

Arranging activities under (3) will typically include making regular introductions of

homeowners to agreement providers or of agreement transferees to agreement providers or vice versa or any of these to a *firm* with *permission* (or which ought to have *permission*) to carry on a *regulated sale and rent back mediation activity*.

Q37I. I understand that any transaction that I have arranged before 1 July 2009 is not subject to regulation. But do I need permission if I arrange for an agreement transferee to enter into or vary a regulated sale and rent back agreement on or after 1 July 2009?

This depends on the type of arranging you are carrying on. If you are arranging variations, this will only be regulated if the agreement was originally established on or after 1 July 2009. But, if you are arranging for an agreement transferee to enter into an agreement and the arrangements are being made on or after 1 July 2009, you will be regulated for that arranging activity. See Q39Q for more detail about when activities are regulated if a plan was originally established before 1 July 2009.

Q37J. Will I need to be regulated for arranging for an agreement provider to dispose of his rights and obligations or his interest in land under a regulated sale and rent back agreement to an agreement transferee?

It is only arranging for a person to enter into or vary the terms of an agreement that is subject to regulation. So, you will not need to seek authorisation for providing arranging services to the existing provider who wishes to dispose of his rights, obligations or interests but you are likely to be regulated if you are arranging for the transferee to enter into the agreement by acquiring the rights, obligations or interests.

Q37K. What exclusions may be available to me if I am arranging regulated sale and rent back agreements?

If you are an *unauthorised person* the following exclusions may be available to you:

- where you are arranging for a transaction to be entered into with or through an *authorised person* (article 29 of the *Regulated Activities Order*) (see Q37L); and
- where you have arranged for an authorised person to administer the agreement or are administering it yourself during the period of one month following the termination of your arrangement with the authorised person (article 29A(4) of the *Regulated Activities Order*).

Whether or not you are an unauthorised person, the other main exclusions that may apply include:

- introductions made with a view to the provision of regulated independent advice (article 33 of the *Regulated Activities Order*) (see Q37M);
- introductions made to a regulated person who carries on regulated sale and rent back agreement activities (article 33A of the *Regulated Activities Order*) (see Q37N);

- arrangements that are a necessary part of other services provided by a person in the course of carrying on a profession or business other than a *regulated activity* (article 67 of the Regulated Activities Order); and
- *overseas persons* (article 72 of the Regulated Activities Order) (see Q39).

Q37L. When will the exclusion in article 29 of the Regulated Activities Order be available to me if I am arranging regulated sale and rent back agreements?

The exclusion will apply to you when, as an *unauthorised person*, you are arranging any of the following:

- for a homeowner (your client) to enter into an agreement with an authorised agreement provider or through an authorised intermediary;
- for an agreement provider (your client) to enter into an agreement with a homeowner or to transfer rights or obligations or an interest in land to an agreement transferee if either the agreement transferee is an authorised person or the transaction is to be effected through an authorised intermediary; or
- for an agreement transferee (your client) to acquire rights or obligations from an authorised agreement provider or through an authorised intermediary;
- for your client to vary the terms of a plan where the agreement purchaser is an authorised person or the variation is arranged through an authorised intermediary.

This is subject to your meeting certain conditions which are, broadly speaking, that:

- you must not advise your client on the merits of his entering into the transaction; and
- you must not be paid by anyone other than your client.

The requirement that you do not receive any payment other than from your client does not prevent you receiving payment from the *authorised person* but you must then treat the sums paid to you as belonging to your client. There is nothing to prevent you then using the sums to offset payments due to you from your client for services rendered to him. This is provided that you have your client's agreement to do so.

Q37M. When will the exclusion in article 33 of the Regulated Activities Order be available to me if I am arranging regulated sale and rent back agreements?

Broadly speaking, the exclusion will apply where:

- your arranging activity is limited to *making arrangements with a view to regulated sale and rent back agreements*;
- you make introductions of agreement sellers or agreement purchasers to an *authorised person*, an *exempt person* or an *overseas person*; and
- the introduction is made with a view to the provision of independent advice or the provision of independent discretionary services relating to *regulated sale and rent back agreements*.

Q37N. When will the exclusion in article 33A of the Regulated Activities Order be available to me if I am arranging regulated sale and rent back agreements?

Broadly speaking, the exclusion will apply where:

- your arranging activity is limited to *making arrangements with a view to regulated sale and rent back agreements*;
- you make introductions of agreement sellers, agreement purchasers or prospective agreement sellers or agreement purchasers (your client) to an *authorised person* or an *overseas person*;
- you do not receive any money paid by your client in relation to the transaction other than a sum that is due to you for your own account (for example, your fee for providing the introductory service); and
- you disclose to your client certain information about your relationship with the person to whom you are effecting introductions and about any reward you may receive for doing so.

Q37O. When will I be carrying on the activity of advising on a regulated sale and rent back agreement ?

This will arise if:

- you are giving advice to a *person* who is or who is contemplating becoming an agreement seller, an agreement provider or an agreement transferee; and
- the advice relates to the merits of his entering into a regulated sale and rent back agreement in that capacity or varying the terms of an agreement that he has already entered into.

Advice on the merits of varying the terms of an agreement will only be regulated where the agreement was originally established on or after 1 July 2009. However, advice given to an agreement transferee on the merits of his entering into an agreement that was originally established before 1 July 2009 will be subject to regulation. See Q37Q for more detail about when activities are regulated if an agreement was originally established before 1 July 2009.

Advice given to a person on the merits of his transferring rights or obligations or interests in land under an agreement to another person is not regulated.

Much of the detailed guidance on *advising on regulated mortgage contracts* in *PERG* 4.6 may be applied to the activity on a *regulated sale and rent back agreement*.

Q37P. What exclusions may be available to me if I am advising on regulated sale and rent back agreements?

The main exclusions that are available include:

- advice given in a periodical publication, broadcast or other form of regularly updated news or information service (article 54 of the *Regulated Activities Order*); and
- advice that is a necessary part of other services provided by a person in the course of carrying on a profession or business other than a *regulated activity* (article 67 of the *Regulated Activities Order*).

Detailed guidance on the exclusion in article 54 is in *PERG 7*.

Q37Q. I can see that the fact that the regulated sale and rent back agreement was originally established before 1 July 2009 can affect whether the services that I provide to parties to the agreement after that date are regulated. Can you summarise the position in this respect?

Yes. This all depends on the combination of the date of entry or variation and the capacity in which your customer enters or entered into the agreement. The following table clarifies when your services will be regulated activities and when they will not.

Potential regulated sale and rent back activity	Whether the activity is regulated if undertaken on or after 1 July 2009 when the agreement was originally established before 1 July 2009
Entering into an agreement as agreement provider (see Q37C)	N/A - this activity will only take place when the plan is first established
Entering into an agreement as agreement transferee (see Q37C)	Yes, any transfer of the agreement provider's interest in land will be caught
Administering an agreement (see Q37E)	No
Arranging (see Q37H) for a person to enter into an agreement as:	
(a) an agreement provider or an agreement seller	N/A - this activity will only take place when the agreement is first established
(b) an agreement transferee	Yes
Arranging variations (see Q37H) of an agreement	No
Advising (see Q37O) a person on entering into an agreement in his capacity as:	
(a) an agreement provider or an agreement seller	N/A - this activity will only take place when the agreement is first established
(b) an agreement transferee	Yes
Advising (see Q37O) a person on varying the terms of an agreement	No

Q37R. Will changes involving the circumstances of the agreement seller that may take place after the agreement has been entered into (such as moving house, marriage or change of occupants) have any implications in terms of regulated activity?

This depends on the facts and is a question of degree that requires an assessment against the criteria that make up the definition of a regulated sale and rent back agreement. There are two main issues that would need to be considered. These are:

- is the change likely to cause a new agreement to be entered into ; and
- does the change involve a variation of the terms of the agreement (if it was originally entered into on or after 1 July 2009) such as to vary the obligations of the provider or the seller?

Broadly speaking, it would seem likely that if the occupier were to move house, the *regulated sale and rent back agreement* would cease as the tenancy agreement would come to an end and the agreement seller would no longer have the right of occupation.

Changes such as may occur due to marriage or change of occupants, change of other relevant details or drawdown of funds under a staggered payment arrangement may necessitate a new agreement or may involve a variation in the existing agreement depending on the extent to which they alter the obligations of the provider or the occupier. Where such changes do involve a variation, anyone arranging or advising on the variation would potentially need to be authorised or exempt. But this applies only where the agreement was originally entered into on or after 1 July 2009.

Q37S. I am an exempt professional firm. Do I need to be authorised in relation to regulated sale and rent back agreement activities?

Yes, you may need to be authorised. See Q42 for more detail.

Q37T. I am an estate agent. Do I need to be authorised where the vendor of a property has approached me to sell their property but has expressed a desire to remain in the property as tenant?

Yes, it is likely that you will need to be authorised unless you are an exempt person or exclusions apply (see Q37K). This is because it is likely that you will be making arrangements with a view a person who participates in the arrangements entering into an agreement as *SRB agreement provider* and/or *SRB agreement seller*.

Q37U. I am a receiver appointed under the Law of Property Act 1925. Will my activities need to be regulated by the FSA?

Your activities in relation to properties subject to regulated sale and rent back agreements could amount to *administering a regulated sale and rent back agreement* where the agreements have been entered into on or after 1 July 2009. Accordingly you may need to be authorised unless you are an exempt person or exclusions apply

(see Q37E for the relevant administering activities and Q37F and Q37G for the available exclusions).

Q37V What happens when the agreement seller’s right to occupy the land in question under an assured shorthold tenancy (‘AST’) ends?

A regulated sale and rent back agreement must, at the time it is entered into, give the agreement seller, or related person, an entitlement to occupy at least 40% of the land in question. In the absence of such an entitlement there is no regulated sale and rent back agreement.

As the definition of a regulated sale and rent back agreement refers to ‘an arrangement comprised in one or more instruments or agreements’, in considering the effect of the end of the tenancy you should look at the arrangement as a whole rather than just any tenancy agreement that may comprise the arrangement. So –

- (1) if the arrangement expressly grants the agreement seller an entitlement to occupy the land in question for a specified period of time then the agreement seller retains this entitlement under the regulated sale and rent back agreement even where the AST ends before the specified period ends; and
- (2) if the regulated sale and rent back agreement is expressly stated to end after the termination of the AST then it ceases to be a regulated sale and rent back agreement at that point unless the arrangements are varied by, for example, granting the agreement seller a new AST.

Amend the following as shown.

14.5 The “by-way-of-business” test

Q38. How do I know if I am carrying on regulated activities by way of business?

A person will only need to be an *authorised* person or exempt if he is carrying on a *regulated activity* 'by way of business' (see section 22 of the *Act* (Regulated activities)). There are, in fact, three different forms of business test applied to the *home finance transactions* (see Q38A).

Whether or not any particular *person* will meet the requirement that he carries on a *regulated activity* by way of business and so needs *authorisation* or exemption will invariably depend on that person's individual circumstances. A number of factors need to be taken into account in determining whether the test is met. These include:

- the degree of continuity;
- the existence of a commercial element;
- the scale of the activity;
- the proportion which the activity bears to other activities carried on by the same person but which are not regulated; and
- the nature of the particular regulated activity that is carried on.

Corporate plan providers and those who provide professional services to them or to home occupiers are likely to be carrying on their activities by way of business. Unpaid individuals who act as trustees for home occupiers are not likely to be.

~~With *home reversion plans*, it is quite possible that the reversion provider may be an individual who is acting purely in the capacity of investor. Such a person may not be acting by way of business when the criteria listed above are applied to his particular circumstances.~~

Q38A. What are the three different forms of business test referred to in Q38?

They are:

- (1) the 'by way of business' test in section 22 of the Act applies unchanged in relation to the activity of *entering into a home finance transaction*;
- (2) the 'by way of business' test in section 22 of the Act applies unchanged in relation to the activity of *administering a home finance transaction*, but another 'by way of business' test arises in relation to *administering a home purchase plan* because the plan being administered by way of business must itself have been entered into by way of business (see Q28); and
- (3) in the case of arranging and advising, the effect of articles 3B to 3D of the *Business Order* is that a *person* is not to be regarded as acting 'by way of business' unless he is 'carrying on the business of engaging in one or more of those activities'.

Q38B. How does the business test in the Business Order differ from the business test in section 22 of the Act?

The 'carrying on the business' test in the *Business Order* is a narrower test than that of *carrying on regulated activities* 'by way of business' in section 22 of the Act as it requires the *regulated activities* to represent the carrying on of a business in their own right.

Q38C. Can you give me some examples where the business test is unlikely to be satisfied?

Examples are:

- (1) when an individual enters into a one-off sale and rent back agreement as *agreement provider for an agreement seller who is a friend or member of his family* whether at market interest rates or not; and
- (2) when a person provides a service without any expectation of reward or payment of any kind (but see *PERG 7.3.4* for examples of when the giving of

'free' advice in relation to home finance transactions might still amount to a business).

Q38D. Will I meet the business test if I only enter into one home purchase plan, home reversion plan or regulated sale and rent back agreement a year?

Yes, you might meet the business test. Whether or not you do will depend largely on the facts. The following issues may be helpful to bear in mind:

- the relevant business test here is not the narrower business test under the *Business Order* but the wider one under section 22 of the *Act*: that is whether the activity is being carried on by way of business (see Q38B);
- the expression "carrying on business" suggests the need for a degree of continuity in the activity. Hence, one-off or extremely infrequent acts would usually not be thought to be enough to satisfy the test. However, it is unlikely that a person could successfully claim that entering into a plan or agreement was a "one-off" or very infrequent act if, in all the circumstances, it cannot be shown that they intended this to be the case. This is because there is always a first time that any regular activity is carried on;
- some individuals are clearly in business as sole traders – they will represent themselves as running a business and be registered for VAT etc. Other individuals may not so clearly be in business. In the latter case, it is necessary to consider the scale of the potential regulated activity. Where a person expects to make a living, or a substantial part of their living, from entering into *home finance transactions* it is likely that they are carrying on such activities by way of business.

With this in mind, if you intend on entering into just one sale and rent back agreement, home reversion plan or home purchase plan each year this may be enough to meet the 'by way of business' test if the scale of this activity is likely to be significant in relation to your other activities.

14.6 Carrying on a regulated activity in the United Kingdom

Q39. Does a person who acts as provider, administrator, arranger or adviser in relation to home reversion plans, ~~or~~ home purchase plans or regulated sale and rent back agreements from overseas and without maintaining an office in the UK need to be an authorised or exempt person?

...In very broad terms, however, as an overseas person, you are more likely than not to be carrying on a home finance activity in the UK if the home occupier, ~~or~~ reversion ~~provider~~ occupier or agreement seller is normally resident in the UK at the time that he enters into the plan. ...

Table indicating whether authorisation or exemption is likely to be needed by a person who is carrying on home finance or sale and rent back activities from overseas.

Activity carried on by overseas person	Where the reversion occupier, or home purchaser or agreement seller is or was normally resident in the UK at the time he enters or entered into the plan			Where the reversion occupier, or home purchaser or agreement seller is or was not normally resident in the UK at the time he enters or entered into the plan		
	Home reversion plan	Home purchase plan	<u>Regulated sale and rent back agreement</u>	Home reversion plan	Home purchase plan	<u>Regulated sale and rent back agreement</u>
Entering into or administering	Yes	Yes	<u>Yes</u>	No	No	<u>No</u>
Arranging for persons to enter into plans.	Yes	Yes	<u>Yes</u>	No, provided the reversion purchaser or the reversion transferee, as the case may be, is or was also not normally resident in the UK.	No	<u>No, provided the agreement provider or agreement transferee, as the case may be, is or was also not normally resident in the UK.</u>
Arranging variations	Yes	Yes	<u>Yes</u>	No	No	<u>No</u>
Advising	Yes	Yes	<u>Yes</u>	No, unless the reversion occupier, reversion provider or reversion transferee is located in the UK at the time the advice is given to him.	No, unless the home purchaser is located in the UK at the time the advice is given.	<u>No, unless the regulated sale and rent back agreement adviser is located in the UK at the time the advice is given.</u>

14.7 Exemptions

...

Q41. What home finance activities can I carry on as an appointed representative?

...

You will not be able to carry on any of the following ~~regulated activities~~ regulated activities

- ~~entering into a home reversion plan,~~ or entering into a home purchase plan or entering into a regulated sale and rent back agreement; or
- ~~administering a home reversion plan,~~ or administering a home purchase plan or administering a regulated sale and rent back agreement; or
- arranging (bringing about) a regulated sale and rent back agreement; or
- making arrangements with a view to a regulated sale and rent back agreement; or
- advising on a regulated sale and rent back agreement; or
- agreeing to do ~~either~~ any of the above.

Q42. I am an exempt professional firm. Will I be able to carry on any of the regulated activities relating to home reversion plans, and home purchase plans and regulated sale and rent back agreements without needing FSA authorisation?

This depends on the activity in question. Subject to your being able to satisfy the general requirements of Part XX of the Financial Services and Markets Act 2000 you will be able:

- to carry on the ~~regulated activities~~ regulated activities of:
 - ~~entering into a home reversion plan;~~ or
 - ~~entering into a home purchase plan;~~ or
 - entering into a regulated sale and rent back agreement; or
 - ~~administering a home reversion plan;~~ or
 - ~~administering a home purchase plan;~~ or
 - administering a regulated sale and rent back agreement; or
 - agreeing to do any of these things,

but only where you are acting as a trustee or personal representative and the *reversion occupier,* ~~or home purchaser~~ or SRB agreement seller is a beneficiary under the trust, will or intestacy;

- to carry on the ~~regulated activities~~ regulated activities of:
 - ~~arranging (bringing about) a home reversion plan;~~ or
 - ~~arranging (bringing about) a home purchase plan;~~ or
 - arranging (bringing about) a regulated sale and rent back agreement; or
 - ~~making arrangements with a view to home reversion plans;~~ or
 - ~~making arrangements with a view to home purchase plans;~~ or
 - making arrangements with a view to regulated sale and rent back agreements; or
 - agreeing to do any of these things,

without any further restriction; and

- to carry on the ~~regulated activities~~ regulated activities of:
 - ~~advising on a home reversion plan;~~ or
 - ~~advising on a home purchase plan;~~ or

- advising on a regulated sale and rent back agreement; or
 - agreeing to do ~~either~~ any of these things,
- but only provided that:
- the advice is given to a trustee or a reversion provider or agreement purchaser who is not an individual; or
 - the advice is given to an individual but does not amount to a recommendation to enter into a plan as reversion provider, *reversion occupier*, ~~or home purchaser~~ or agreement seller; or
 - the advice is given to an individual and does amount to a recommendation to enter into a plan as reversion provider, *reversion occupier*, agreement seller, agreement provider or *home purchaser* with a reversion provider, agreement provider or a *home purchase provider* but only if the advice endorses a corresponding recommendation that has been given to the individual by a suitably authorised or exempt person.

14.8 Financial promotions

Q43. Are there any restrictions if I wish to promote my home finance activities?

Yes. The restriction in section 21 of the Financial Services and Markets Act 2000 will apply, broadly speaking, to any communication which:

- is made in the course of business; and
- invites or induces persons to:
 - become a *reversion occupier*, SRB agreement seller or *home purchaser*; or
 - become a reversion provider or SRB agreement provider; or
 - vary the terms of a *home reversion plan* or a *home purchase plan* that was originally established on or after 6 April 2007 or a regulated sale and rent back agreement that was originally established on or after 1 July 2009; or
 - be provided, as a reversion occupier, SRB agreement seller or home purchaser or as a reversion provider or SRB agreement provider, with arranging or advisory services.

...

The following table summarises when the restriction will apply.

Table indicating when the financial promotion restriction will apply to communications about home finance plans

A communication inviting or inducing...	To...	Will be a financial promotion?
...potential reversion occupiers, <u>SRB agreement sellers</u> or home purchasers	...enter into a home reversion plan, <u>regulated sale and rent back agreement</u> , or a home purchase plan	Yes
...potential home reversion purchasers or transferees <u>or SRB agreement providers or transferees</u>	...enter into a home reversion plan <u>or regulated sale and rent back agreement</u>	Yes (in the case of transferees, regardless of whether the plan was originally established before 6 April 2007 <u>in the case of</u>

		<i>home reversion transferees and 1 July 2009 in the case of <u>regulated sale and rent back agreement transferees</u>)</i>
...potential home purchase providers	...enter into a home purchase plan	No <u>Yes</u>
...potential or existing: <ul style="list-style-type: none"> • reversion occupiers, <u>SRB agreement sellers</u> or home purchasers; or • reversion or home purchase providers <u>or SRB agreement providers</u> 	...be provided with administration services	No
...potential or existing: <ul style="list-style-type: none"> • reversion occupiers, <u>SRB agreement sellers</u> or home purchasers; or • reversion purchasers or transferees <u>or SRB agreement providers or transferees</u> 	...be provided with arranging or advisory services	Yes (but where the promotion relates to such a person varying the terms of a plan <u>or agreement</u> , this is only where the plan <u>or agreement</u> was originally established on or after 6 April 2007 <u>in the case of home reversion plans or home purchase plan and 1 July 2009 in the case of regulated sale and rent back agreements</u>)
...potential or existing home purchase providers	...be provided with arranging or advisory services	No <u>in relation to advisory services</u> <u>Yes in relation to arranging services</u>
...potential or existing: <ul style="list-style-type: none"> • reversion occupiers, <u>SRB agreement sellers</u> or home purchasers; or • reversion or home purchase providers <u>or SRB agreement providers</u> 	...decline from entering into or varying the terms of a plan <u>or agreement</u>	No
...potential or existing: <ul style="list-style-type: none"> • reversion occupiers, <u>SRB agreement sellers</u> or home 	...dispose of rights, obligations or interests in land that they have under a plan <u>or agreement</u>	No

purchasers; or • reversion or home purchase providers <u>or</u> <u>SRB agreement</u> <u>providers</u>		
--	--	--

Q44. What are the restrictions that apply if I am making a financial promotion about home finance plans or activities?

...

If you are an authorised person who is communicating or approving the financial promotion and it is not exempt you will need to comply with the provisions of the Mortgages and Home Finance: Conduct of Business Sourcebook (*MCOB 3* for financial promotions of home reversion plans and *MCOB 2.2.6AR* for financial promotions of home purchase plans and regulated sale and rent back agreements).

DISPUTE RESOLUTION: COMPLAINTS (PUBLICATION OF COMPLAINTS DATA) INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 149 (Evidential provisions);
 - (3) section 156 (General supplementary powers); and
 - (4) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purposes of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 6 April 2010.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Dispute Resolution: Complaints sourcebook (DISP) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Dispute Resolution: Complaints (Publication of Complaints Data) Instrument 2010.

By order of the Board
28 January 2010

Annex A

Amendments to the Glossary of definitions

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.

complaints data publication rules *DISP 1.10A.*

Annex B

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Application to firms

...

1.1.3 R (1) ...

...

(3) The complaints data publication rules do not apply in respect of activities carried on from a branch of an EEA firm in the United Kingdom.

...

Application to payment service providers

1.1.10A R This chapter (except the *complaints record rule*, ~~and~~ the *complaints reporting rules* and the complaints data publication rules) applies to *payment service providers* in respect of *complaints* from *eligible complainants* concerning activities carried on from an establishment maintained by it or its *agent* in the *United Kingdom*.

...

FSAVC Review

1.1.11 R Where the subject matter of a *complaint* is subject to a review directly or indirectly under the terms of the policy statement for the review of specific categories of *FSAVC* business issued by the *FSA* on 28 February 2000, the *complaints resolution rules*, the *complaints time limit rules*, the *complaints record rule*, ~~and~~ the *complaints reporting rules* and the complaints data publication rules will apply only if the *complaint* is about the outcome of the review.

...

Application to licensees and VJ participants

1.1.14 R This chapter (except the *complaints record rule*, ~~and~~ the *complaints reporting rules* and the complaints data publication rules) applies to *licensees* for *complaints* from *eligible complainants*.

1.1.15 R This chapter (except the *complaints record rule*, ~~and~~ the *complaints*

reporting rules and the complaints data publication rules) applies to *VJ participants* for *complaints* from *eligible complainants* as part of the *standard terms*.

...

1.5 Complaints resolved by close of the next business day

1.5.1 R The following *rules* do not apply to a *complaint* that is resolved by a *respondent* by close of business on the *business day* following its receipt:

...

- (3) the *complaints reporting rules*; ~~and~~
- (4) the *complaints record rule*, if the *complaint* does not relate to *MiFID business*; and
- (5) the *complaints data publication rules*.

After DISP 1.10 insert the following new section. The text is not underlined.

1.10A Complaints data publication rules

Obligation to publish summary of complaints data

- 1.10A.1 R (1) Where, in accordance with *DISP 1.10.1R*, a *firm* submits a report to the *FSA* reporting 500 or more *complaints*, it must publish a summary of the *complaints* data contained in that report (the *complaints* data summary).
- (2) Where, in accordance with *DISP 1.10.1CR*, a *firm* submits a joint report on behalf of itself and other *firms* within a *group* and that report reports 500 or more *complaints*, it must publish a summary of the *complaints* data contained in the joint report (the *complaints* data summary).

Format of publication

- 1.10A.2 R The *complaints* data summary required by *DISP 1.10A.1R* must be published in the format set out in *DISP 1 Annex 1BR*.

Time limits for publication

- 1.10A.3 R (1) Where the *firm*'s relevant reporting period (as defined in *DISP 1.10.4R*) ends between 1 January and 30 June, the *firm* must publish the *complaints* data summary no later than 31 August of the same year.

- (2) Where the *firm's* relevant reporting period (as defined in *DISP* 1.10.4R) ends between 1 July and 31 December, the *firm* must publish the *complaints* data summary no later than 28 February of the following year.

Confirmation of publication

- 1.10A.4 R A *firm* must immediately confirm to the *FSA*, in an email submitted to complaintsdatasummary@fsa.gov.uk, that the *complaints* data summary accurately reflects the report submitted to the *FSA*, that the summary has been published and where it has been published.

Publication on behalf of the firm

- 1.10A.5 E A *firm* will be taken to have complied with *DISP* 1.10A.1R(1) or (2) if within the relevant time limit set out in *DISP* 1.10A.3R the *firm*:
- (1) ensures that another *person* publishes the *complaints* data summary on its behalf; and
 - (2) publishes details of where this summary is published.

Joint reports: provision of information to third party on request

- 1.10A.6 R Any *firm* covered by a joint report, other than the *firm* that submitted the joint report, must provide details of where the *complaints* data summary is published to any *person* who requests them.

Mode and content of publication

- 1.10A.7 G *Firms* may choose how they publish the *complaints* data summary. However, the summary should be readily available. For this reason, the *FSA* recommends that *firms* should publish the summary on their websites.
- 1.10A.8 G
- (1) The *FSA* recommends that *firms* should publish additional information alongside their *complaints* data summaries in order to relate the number of complaints to the scale of the *firm's* relevant business. *Firms* are recommended to publish the relevant standard metrics set out in the table at *DISP* 1 Annex 1AG with the summaries. Where the *complaints* data summary relates to a joint report the metrics should cover all the *firms* included in the joint report.
 - (2) If the recommended metrics do not accurately reflect the scale of the *firm's* relevant business, the *FSA* recommends that the *firm* should publish metrics which best reflect the scale of its business based on the number of its customers or accounts or policies. *Firms* may also publish other metrics where they consider that these would better reflect the scale of their business.
 - (3) *Firms* may also publish other information to aid understanding, for

example details of their internal processes for dealing with complaints.

Amend the following as shown.

1.11 The Society of Lloyd's

Complaints handling procedures

1.11.1 R ...

...

Referral to the Financial Ombudsman Service

1.11.4 R ...

Exemptions for members

1.11.5 R ...

Complaints reporting rule

1.11.6 R ...

Obligation to publish summary of complaints data

1.11.6A R Where, in accordance with *DISP* 1.11.6R, the *Society* submits a report to the *FSA* reporting 500 or more *complaints*, it must publish a summary of the *complaints* data contained in that report (the *complaints* data summary).

Format of publication

1.11.6B R The *Society* must publish the *complaints* data summary in the format set out in the *complaints* publication form in *DISP* 1 Annex 1BR omitting details as to the *firms* and brands/trading names covered by the summary.

Time limits for publication

1.11.6C R The deadlines for publication of the *Society's* *complaints* data summaries are:

- (1) 28 February for the summary of its report relating to the reporting period ending on 31 December of the previous year; and
- (2) 31 August for the summary of its report relating to the reporting period ending on 30 June of the same year.

Confirmation of publication

- 1.11.6D R The *Society* must immediately confirm to the *FSA*, in an email submitted to complaintsdatasummary@fsa.gov.uk, that the *complaints* data summary accurately reflects the report submitted to the *FSA*, that the summary has been published and where it has been published.

Mode and content of publication

- 1.11.6E G The *Society* may choose how it publishes the *complaints* data summary. However, the *complaints* data summary should be readily available. For this reason, the *FSA* recommends that the *Society* publishes the summary on its website. The *Society* may publish further information with the *complaints* data summary to aid understanding.

Application to members

- 1.11.7 G ...

...

Complaints about the activities of members' advisers

- 1.11.10 R ...

...

Complaints from members or former members

- 1.11.12 G

...

After DISP 1 Annex 1G insert the following new Annexes. The text is not underlined.

1 Annex 1AG Recommended metrics

This table belongs to *DISP* 1.10A.8G

Type of business	Contextualised new complaint numbers	Recommended metrics
Banking and loans	<i>Complaints</i> per 1,000 accounts	The tariff base (number of accounts) at row 1, column 2 of the table in <i>FEES</i> 5 Annex 1R as reported in the <i>firm</i> 's most recent statement of total amount of <i>relevant business</i>
General insurance	<i>Complaints</i> per	The tariff base (annual gross premium income) at

and pure protection (provision)	£1m of annual gross premium income	row 2, column 2 of the table in <i>FEES 5 Annex 1R</i> as reported in the <i>firm's</i> most recent statement of total amount of <i>relevant business</i>
General insurance and pure protection (intermediation)	<i>Complaints</i> per £1m of annual income	The tariff base (annual income) at row 17, column 2 of the table in <i>FEES 5 Annex 1R</i> reported in the <i>firm's</i> most recent statement of total amount of <i>relevant business</i>
Home finance	<i>Complaints</i> per 1,000 loans outstanding	The total number of balances outstanding (all loans) at row E.45 or E.53 of E(2) in <i>SUP 16 Annex 19AR</i> (Mortgage Lenders and Administrators Return) as reported in the <i>firm's</i> most recent return
Investment (fund management)	<i>Complaints</i> per £1m of annual eligible income	The <i>firm's</i> annual eligible income as defined in sub-class D1 of <i>FEES 6 Annex 3R</i>
Investment (intermediation)	<i>Complaints</i> per £1m of annual eligible income	The <i>firm's</i> annual eligible income as defined in sub-class D2 of <i>FEES 6 Annex 3R</i>
Decumulation, life and pensions (provision)	<i>Complaints</i> per 1,000 policyholders	The number of the <i>firm's</i> policyholders at row 3 of Forms 51 – 54 (whichever are relevant) in <i>IPRU(INS) Appendix 9.3R</i> as reported in the <i>firm's</i> most recent form
Decumulation, life and pensions (intermediation)	<i>Complaints</i> per £1m of annual eligible income	The <i>firm's</i> annual eligible income as defined in sub-class C2 of <i>FEES 6 Annex 3R</i>
Note 1: For the purposes of this annex the reference to <i>complaints</i> is a reference to <i>complaints</i> opened during the relevant reporting period.		
Note 2: Where a <i>firm</i> undertakes both (a) general insurance and pure protection provision and (b) general insurance and pure protection intermediation, it can choose to use the metric which forms the greater part of its business.		
Note 3: Where a <i>firm</i> undertakes both (a) fund management and (b) investment intermediation, it can choose to use the metric which forms the greater part of its business.		
Note 4: Where a <i>firm</i> undertakes both (a) decumulation, life and pensions provision and (b) decumulation, life and pensions intermediation, it can choose to use the metric which forms the greater part of its business.		

1 Annex 1BR Complaints publication report

This table belongs to *DISP* 1.10A.2R.

Complaints publication report

Firm name:

Group: (if applicable):

Other firms included in this report (if any):

Period covered in this report: [e.g. 1 January – 30 June 2010]

Brands/trading names covered:

1	A	B	C	D	E
		Number of complaints opened	Number of complaints closed	Complaints closed within 8 weeks (%)	Closed complaints upheld by firm (%)
2	Banking				
3	Home finance				
4	General insurance and pure protection				
5	Decumulation, life and pensions				
6	Investments				

Amend the following as shown.

1 Annex 2G Application of DISP 1 to type of respondent

...

Type of respondent	DISP 1.2 Consumer awareness rules	DISP 1.3 Complaints handling rules	DISP 1.4 – 1.8 Complaints resolution rules etc.	DISP 1.9 Complaints record rule	DISP 1.10 Complaints reporting rules	<u>DISP 1.10A</u> <u>Complaints data publication rules</u>
<i>firm in relation to complaints concerning non-MiFID business</i>	<u>Applies for eligible complainants</u>
<i>firm in relation to complaints concerning</i>	<u>Applies for eligible complainants</u>

<i>MiFID business</i>						
<i>branch of a UK firm in another EEA State in relation to complaints concerning non-MiFID business</i>	...	...	...	...	...	<u>Does not apply</u>
<i>branch of a UK firm in another EEA State in relation to complaints concerning MiFID business</i>	...	...	...	...	...	<u>Does not apply</u>
<i>incoming branch of an EEA firm in relation to complaints concerning non-MiFID business</i>	...	...	...	...	...	<u>Does not apply</u>
<i>incoming branch of an EEA firm in relation to complaints concerning MiFID business</i>	...	...	...	...	...	<u>Does not apply</u>
<i>incoming EEA firm providing cross-border services from outside the UK</i>	...	...	...	...	...	<u>Does not apply</u>
<i>branch of an overseas firm (in relation to all complaints)</i>	...	...	...	...	...	<u>Applies for eligible complainants</u>
<i>payment service provider in relation to</i>	...	...	...	...	...	<u>Does not apply</u>

<i>complaints concerning payment services</i>						
<i>EEA branch of a UK payment service provider in relation to complaints concerning payment services</i>	...	...	...	...	...	<u>Does not apply</u>
<i>incoming branch of an EEA authorised payment institution in relation to complaints concerning payment services</i>	...	...	...	...	...	<u>Does not apply</u>
<i>incoming EEA authorised payment institution providing cross border payment services from outside the UK</i>	...	...	...	...	...	<u>Does not apply</u>
<i>licensee</i>	...	...	...	...	...	<u>Does not apply</u>
<i>VJ participant</i>	...	...	...	...	...	<u>Does not apply</u>

...

TP1.1 Transitional provisions

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
<u>23</u>	<u>DISP 1.10A.1R</u>	R	<u>No firm is required to publish a complaints data summary in accordance with DISP 1.10A.1R(1) or (2) if that summary would relate to a reporting period ending on or before 31 December 2009.</u>	<u>6 April 2010 to 31 August 2010</u>	<u>6 April 2010</u>
<u>24</u>	<u>DISP 1.10A.1R</u>	R	<u>Where a firm, which has a reporting period ending on or after 1 January 2010, submits its report to the FSA in accordance with the complaints reporting rule between 1 January 2010 and 5 April 2010, the firm must publish a complaints data summary in accordance with DISP 1.10A.1R no later than 31 August 2010.</u>	<u>6 April 2010 to 31 August 2010</u>	<u>6 April 2010</u>
<u>25</u>	<u>DISP 1.11.6AR</u>	R	<u>The Society is not required to publish a complaints data summary in accordance with DISP 1.11.6AR if that summary would relate to a reporting period ending on or before 31 December 2009.</u>	<u>6 April 2010 to 31 August 2010</u>	<u>6 April 2010</u>

...

Schedule 2 Notification requirements

...

Sch 2.1G

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
...				
<i>DISP 1.10.8G</i>

<u>DISP 1.10A.4R</u>	<u>Publication of complaints data summary</u>	<u>Email confirmation of publication, containing also a statement that the data summary accurately reflects the report submitted to the FSA and stating where the summary has been published</u>	<u>Upon publication of complaints data summary</u>	<u>Immediately</u>
...				
<u>DISP 1.11.6R</u>	...	...	...	...
<u>DISP 1.11.6DR</u>	<u>Publication of complaints data summary</u>	<u>Email confirmation of publication, containing also a statement that the data summary accurately reflects the report submitted to the FSA and stating where the summary has been published</u>	<u>Upon publication of complaints data summary</u>	<u>Immediately</u>

COLLECTIVE INVESTMENT SCHEMES SOURCEBOOK (ACCOUNTING AMENDMENTS) INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in or under:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 139(4) (Miscellaneous ancillary matters);
 - (c) section 156 (General supplementary powers);
 - (d) section 157(1) (Guidance);
 - (e) section 247 (Trust scheme rules); and
 - (f) section 248 (Scheme particulars rules);
 - (2) regulation 6(1) (FSA rules) of the Open-Ended Investment Companies Regulations 2001 (SI 2001/1228); and
 - (3) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 6 March 2010.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Collective Investment Schemes sourcebook (COLL) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Collective Investment Schemes Sourcebook (Accounting Amendments) Instrument 2010.

By order of the Board
28 January 2010

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.

index-linked security (in *COLL*) a *debt security* for which the cash flows are determined by reference to an index of consumer prices.

Amend the following as shown.

distribution account (in *COLL*) the account to which the ~~*income property*~~ amount of income of an *authorised fund* allocated to classes of units that distribute income must be transferred as at the end of each *annual accounting period* under *COLL* 6.8.3R (Income allocation and distribution) or *COLL* 8.5.15R (Income).

IMA SORP the Statement of Recommended Practice for financial statements of *authorised funds* issued by the Investment Management Association ~~and effective as at 1 January 2006~~ in November 2008.

income property ~~all sums considered by an *ICVC* or by a *manager*, after consultation with the auditor, to be in the nature of income received or receivable for the account of an *authorised fund*. Income property includes income from *debt securities* calculated on a *coupon* basis or an effective yield basis if, in either case, the *coupon* figure is at least equal to the effective yield figure, but it does not include the amount available for income allocations calculated in accordance with *COLL* 6.8.3R(3A) and not including any amount for the time being standing to the credit of the *distribution account*.~~

Annex B

Amendments to the Collective Investments Schemes sourcebook (COLL)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Contents of a short report

- 4.5.5 R (1) The short report for an *authorised fund*, or for a *scheme* which is an *umbrella*, its *sub-fund*, must contain for the relevant period:
- (a) the name of the *scheme* or *sub-fund*, its stated investment objectives and the policy and strategy pursued for achieving those objectives, a brief assessment of its risk profile and the name and address of the *authorised fund manager*;

...

...

Significant information to be contained in the short report

- 4.5.6 G For the purposes of *COLL* 4.5.5R(1)(d) and *COLL* 4.5.5R(1)(e) the *authorised fund manager* should consider including the following as sufficient and significant information:

...

- (3) particulars of any other developments in relation to the investment policy and strategy of the *scheme*, or the instruments used by it during the period;

...

Contents of the annual long report

- 4.5.7 R (1) An annual long report on an *authorised fund*, other than a *scheme* which is an *umbrella*, must contain:
- (a) the ~~full~~ accounts for the *annual accounting period* which must be prepared in accordance with the requirements of the *IMA SORP*;
- ...
- (2) An annual long report on a *scheme* which is an *umbrella* must be prepared for the *umbrella* as a whole and must contain:
- (a) for each *sub-fund*:

- (i) the ~~full~~ accounts for the *annual accounting period* which must be prepared in accordance with the requirements of the *IMA SORP*;

...

- (3) The *directors* of an *ICVC* or the *manager* of an *AUT* must ensure that the accounts referred to in (1)(a), (2)(a) and (4)(a) give a true and fair view of the net ~~income~~ revenue and the net capital gains ~~and the or~~ losses on the *scheme property* of the *authorised fund*, or, in the case of (2)(a) and (4)(a), the *sub-fund*, for the *annual accounting period* in question and the financial position of the *authorised fund* or *sub-fund* as at the end of that period.

- (4) The *authorised fund manager* of a *scheme* which is an *umbrella* may, in addition to complying with (2), prepare a further annual long report for any one or more individual *sub-funds* of the *scheme*, in which case it must contain:

- (a) in relation to the *sub-fund*:

- (i) the ~~full~~ accounts for the *annual accounting period* which must be prepared in accordance with the requirements of the *IMA SORP*;

...

...

Contents of the half-yearly long report

- 4.5.8 R (1) A half-yearly long report on an *authorised fund*, other than for a *scheme* which is an *umbrella*, must contain:

- (a) the ~~full~~ accounts for the *half-yearly accounting period* which must be prepared in accordance with the requirements of the *IMA SORP*; and

...

- (2) A half-yearly long report on a *scheme* which is an *umbrella* must be prepared for the *umbrella* as a whole and must contain:

- (a) for each *sub-fund*:

- (i) the ~~full~~ accounts for the *half-yearly accounting period* which must be prepared in accordance with the requirements of the *IMA SORP*;

...

...

- (3) The *authorised fund manager* of a *scheme* which is an *umbrella* may, in addition to complying with (2), prepare a further half-yearly long report for any one or more individual *sub-funds* of the *scheme*. Such reports must contain the ~~full~~ accounts and the report of the *authorised fund manager* that would be required by (1) if the *sub-fund* were a separate *authorised fund*.

...

Signing of annual and half-yearly reports

- 4.5.8B R The annual reports in COLL 4.5.7R(1) and (2), and the half-yearly reports in COLL 4.5.8R(1) and (2), must:
- (1) in the case of an ICVC, if there is:
- (a) more than one director, be approved by the board of directors and signed on their behalf by the ACD and at least one other director; or
- (b) no director other than the ACD, be signed by the ACD;
- (2) in the case of an AUT, if the authorised fund manager has:
- (a) more than one director, be signed by at least two directors of the authorised fund manager; or
- (b) only one director, be signed by the director of the authorised fund manager.

Authorised fund manager's report

- 4.5.9 R The matters set out in (1) to (13) must be included in any *authorised fund manager's* report, except where otherwise indicated:

...

- (6) the policy and strategy pursued for achieving those objectives;
- (7) ...
- (7A) a portfolio statement prepared in accordance with the requirements of the IMA SORP;

...

...

Report of the depositary

- 4.5.11 R ...
- (2) The annual report must contain:
- ...
- (b) a statement whether, in any material respect:
- (i) the *issue, sale, redemption and cancellation*, and calculation of the *price* of the *units* and the application of the *authorised fund's income revenue*, have not been carried out in accordance with the *rules* in this sourcebook and, where applicable, the *OEIC Regulations* and the *instrument constituting the scheme*; and
- ...

Report of the auditor

- 4.5.12 R The *authorised fund manager* must ensure that the report of the auditor to the *unitholders* ~~must include a statement~~ includes the following statements:
- ...
- (2) whether, in the auditor's opinion, the accounts give a true and fair view of the net ~~income~~ revenue and the net capital gains or losses ~~of~~ on the *scheme property* of the *authorised fund* (or, as the case may be, the *scheme property* attributable to the *sub-fund*) for the *annual accounting period* in question and the financial position of the *authorised fund* or *sub-fund* as at the end of that period;
- ...

...

Allocation of payments to income or capital

- 6.7.10 R (1) ...
- (2) Where, for any class of units for any *annual accounting period*, the amount of the *income property* is less than the income distributed, the shortfall must, as from the end of that period, be charged to the *capital account* and must not subsequently be transferred to the *income account*.

...

Accounting periods

- 6.8.2 R (1) An *authorised fund* must have:
- (a) an *annual accounting ~~periods~~ period*;
- ...
- (2) A *half-yearly accounting period* begins ~~with the first day of~~ when an annual accounting period begins and ends on:
- ...
- ...
- (5) Each *annual accounting period* of a *scheme* subsequent to the first period ~~is to run for a period of 12 months, beginning on the next day after the accounting reference date~~ must begin immediately after the end of the previous period and must end on the next accounting reference date, except where (6) or (6A) applies.
- (5A) Each annual accounting period or half-yearly accounting period must end either at the end of the day determined under this rule or, if the authorised fund manager so decides, at the last valuation point on that day.
- ...
- (6A) If the authorised fund manager notifies the depositary that a particular annual accounting period or half-yearly accounting period is to end on a specified day, which is not more than seven days after, and not more than seven days before, the day on which the period would otherwise end under this rule, that notice is to have effect provided it is given before the day on which the period would otherwise end.
- ...
- ...

Income allocation and distribution

- 6.8.3 R (1) An *authorised fund* must have an *annual income allocation date*, which must be within four *months* of the *accounting reference date* end of the relevant annual accounting period.
- ...
- (3) An *authorised fund* must have a *distribution account* to which the ~~income property~~ amount of income allocated to classes of units that distribute income is transferred as at the end of the relevant accounting

period.

- (3A) The amount available for income allocations must be calculated by:
- (a) taking the net revenue after taxation determined in accordance with the *IMA SORP*;
 - (b) making any transfers, to the extent permitted by the *prospectus*, between the *income account* and the *capital account* in order that the amount available for income allocations is calculated as if the revenue from *debt securities* had been determined disregarding the effect of:
 - (i) the change in the Retail Prices Index during the period, provided that the policy is to invest predominantly in *index-linked securities* and the transfer relates only to amounts in respect of index-linked gilt-edged securities; or
 - (ii) amortisation, provided that the amount available for income allocations is not less than if such transfers had not been made;
 - (c) making any other transfers between the *income account* and the *capital account* that are required in relation to:
 - (i) stock dividends;
 - (ii) *income equalisation* included in income allocations from other *collective investment schemes*;
 - (iii) the allocation of payments in accordance with *COLL 6.7.10R* (Allocation of payments to income or capital);
 - (iv) taxation; and
 - (v) the aggregate amount of *income property* included in *units issued* and *units cancelled* during the period.
- (4) If income is allocated ~~and distributed~~ during an accounting period:
- (a) with effect from the end of the relevant *annual or interim accounting period*, the amount of income allocated to ~~units~~ *classes of units* that accumulate income becomes part of the *capital property* and requires an adjustment to the proportion of the value of the *scheme property* to which they relate if other *classes of units* are in *issue* during the period;
 - (b) the adjustment in (a) must ensure the *price* of *units* remains unchanged despite the transfer of income; and
 - (c) the amount of any interim ~~distribution~~ allocation may not be more than the amount which, in the opinion of the *authorised*

fund manager, would be available for allocation if the *interim accounting period* and all previous *interim accounting periods* in the same *annual accounting period*, taken together, were an *annual accounting period*.

Allocation of income to different classes of unit

6.8.3A G In the case of *sub-funds* with more than one *class of units* in issue, the proportionate interests of each *class of units* in the amount available for income allocations should be determined in accordance with the *instrument constituting the scheme*.

...

Contents of the annual report

- 8.3.5A R (1) An annual report, other than for a *scheme* which is an *umbrella*, must contain:
- (a) the ~~full~~ accounts for the *annual accounting period* prepared in accordance with the requirements of the *IMA SORP*;
 - ...
- (2) An annual report on a *scheme* which is an *umbrella* must be prepared for the *umbrella* as a whole and must contain:
- (a) for each *sub-fund*, the ~~full~~ accounts required by (1)(a) and the report of the *authorised fund manager* in accordance with *COLL 8.3.5CR*;
 - ...
- (3) The *authorised fund manager* of a *scheme* which is an *umbrella* may, in addition to complying with (2), prepare a further annual report for any one or more individual *sub-funds* of the *umbrella*, in which case it must contain:
- (a) for the *sub-fund*, the ~~full~~ accounts required by (1)(a) and the report of the *authorised fund manager* in accordance with *COLL 8.3.5CR*;
 - ...
- (4) The *directors* of an *ICVC* or the *manager* of an *AUT* must ensure that the accounts referred to in (1)(a), (2)(a) and (3)(a) give a true and fair view of the net ~~income~~ revenue and the net capital gains ~~and~~ or losses on the *scheme property* of the *authorised fund* or *sub-fund* for the relevant *annual accounting period*, and of the financial position of the *authorised fund* or *sub-fund* as at the end of that period.

Contents of the half-yearly report

- 8.3.5B R (1) A half-yearly report on an *authorised fund* or *sub-fund* must contain:
- (a) the ~~full~~ accounts for the *half-yearly accounting period* which must be prepared in accordance with the requirements of the *IMA SORP*; and

...

...

...

Report of the depositary

- 8.3.5D R ...

- (2) The *depositary's* report must contain:

...

- (b) a statement whether in any material respect:
- (i) the *issue, sale, redemption and cancellation* and calculation of the *price* of the *units* and the application of the *authorised fund's income revenue*, have not been carried out in accordance with the *rules* in this sourcebook and, where applicable, the *OEIC Regulations* and the *instrument constituting the scheme*; and

...

Signing of annual and half-yearly reports

- 8.3.5E R The annual reports in COLL 8.3.5AR(1) and (2) and the half-yearly reports in COLL 8.3.5BR(1) must:

- (1) in the case of an ICVC, if there is:

- (a) more than one director, be approved by the board of directors and signed on their behalf by the ACD and at least one other director; or

- (b) no director other than the ACD, be signed by the ACD;

- (2) in the case of an AUT, if the authorised fund manager has:

- (a) more than one director, be signed by at least two directors of the authorised fund manager; or

- (b) only one director, be signed by the director of the *authorised fund manager*.

...

Income

8.5.15 R ...

(3A) *COLL 6.8.3R(3) (Income allocation and distribution) to COLL 6.8.3AG (Allocation of income to difference classes of unit) also apply to a qualified investor scheme.*

(4) ~~*A qualified investor scheme must have a distribution account where the income property is transferred at the end of the relevant accounting period.* [deleted]~~

(5) ~~If income is allocated and distributed during an accounting period:~~

(a) ~~with effect from the end of the relevant accounting period, the amount of income allocated to *unit classes* that accumulate income becomes part of the *capital property* and requires an adjustment to the proportion of the value of the *scheme property* to which they relate if other *classes units* are in *issue* during the period;~~

(b) ~~the adjustment in (a) must ensure the *price* remains unchanged despite the transfer of income; and~~

(c) ~~the amount of any interim distribution may not be more than the amount which, in the opinion of the *authorised fund manager*, would be available for allocation if the *interim accounting period* and all previous *interim accounting periods* in the same *annual accounting period*, taken together, were an *annual accounting period*.~~ [deleted]

Transitional Provisions

TP 1.1

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
16	<u>COLL 4.5 and COLL 8.3.5R to COLL 8.3.5ER</u>	R	In relation to the preparation of any report pursuant to <u>COLL 4.5 or COLL 8.3.5R to COLL 8.3.5ER</u> for the last <u>annual accounting period or half-yearly accounting period ending before 6 March 2010</u> , the <u>authorised fund manager, depositary and auditor</u> may together elect to comply with those <u>rules as they were in force on 5 March 2010</u> . The <u>authorised fund manager</u> must make a record of any such election and retain it for a period of six years from the date on which that record is made.	From <u>6 March 2010 to 5 July 2010</u>	<u>6 March 2010</u>

Sch 1 Record keeping requirements

Sch 1.1 G 1 Record keeping requirements

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
...				
<u>COLL 8.5.10R(4)</u>	...			
<u>COLL TP 1.1 16</u>	<u>Election to comply with COLL 4.5 or COLL 8.3.5R to COLL 8.3.5DR as those rules were in force on 5 March 2010</u>	<u>Details</u>	<u>At election</u>	<u>6 years</u>

**DECISION PROCEDURE AND PENALTIES MANUAL (FINANCIAL PENALTIES)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers in or under:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 69(1) (Statement of policy);
 - (b) section 93(1) (Statement of policy);
 - (c) section 124(1) (Statement of policy);
 - (d) section 157(1) (Guidance); and
 - (e) section 210(1) (Statements of policy);
 - (2) regulations 36 (Financial penalties) and 42 (Guidance) of the Regulated Covered Bonds Regulations 2008; and
 - (3) regulations 86 (Proposal to take disciplinary measures) and 93 (Guidance) of and paragraph 1 of Schedule 5 (Disciplinary powers) to the Payment Services Regulations 2009.

Commencement

- B. This instrument comes into force on 6 March 2010.

Amendments to the Handbook

- C. The Decision Procedure and Penalties manual (DEPP) is amended in accordance with Annex A to this instrument.
- D. The Regulated Covered Bonds sourcebook (RCB) is amended in accordance with Annex B to this instrument.

Amendments to the Enforcement Guide

- E. The Enforcement Guide (EG) is amended in accordance with Annex C to this instrument.

Notes

- E. In Annex A to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- F. This instrument may be cited as the Decision Procedure and Penalties Manual (Financial Penalties) Instrument 2010.

By order of the Board
25 February 2010

Annex A

Amendments to the Decision Procedure and Penalties manual (DEPP)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

6.4 Financial penalty or public censure

6.4.1 G The *FSA* will consider all the relevant circumstances of the case when deciding whether to impose a penalty or issue a *public censure*. As such, the factors set out in *DEPP* 6.4.2G are not exhaustive. Not all of the factors may be relevant in a particular case and there may be other factors, not listed, that are relevant.

6.4.2 G The criteria for determining whether it is appropriate to issue a *public censure* rather than impose a financial penalty ~~are similar to those for~~ include those factors that the *FSA* will consider in determining the amount of penalty set out in *DEPP* 6.5 6.5A to *DEPP* 6.5D. Some particular considerations that may be relevant when the *FSA* determines whether to issue a *public censure* rather than impose a financial penalty are:

...

(8) the impact on the *person* concerned. ~~In exceptional circumstances, if the *person* has inadequate means (excluding any manipulation or attempted manipulation of their assets) to pay the level of financial penalty which their *breach* would otherwise attract, this may be a factor in favour of a lower level of penalty or a public statement. However, it~~ It would only be in an exceptional case that the *FSA* would be prepared to agree to issue a *public censure* rather than impose a financial penalty if a financial penalty would otherwise be the appropriate sanction. Examples of such exceptional cases could include where there is:

- (a) verifiable evidence that a *person* would suffer serious financial hardship if the *FSA* imposed a financial penalty where the application of the *FSA*'s policy on serious financial hardship (set out in *DEPP* 6.5D) results in a financial penalty being reduced to zero;
- (b) where there is verifiable evidence that the *person* would be unable to meet other regulatory requirements, particularly financial resource requirements, if the *FSA* imposed a financial penalty at an appropriate level; or
- (c) in Part VI cases in which the *FSA* may impose a financial penalty, where there is the likelihood of a severe adverse impact on a *person*'s shareholders or a consequential impact on market confidence or market stability if a financial penalty was imposed. However, this does not exclude the imposition

of a financial penalty even though this may have an impact on a *person's* shareholders.

DEPP 6.5 is deleted in its entirety. The deleted text is not shown.

DEPP 6.5 is replaced by DEPP 6.5, DEPP 6.5A, DEPP 6.5B, DEPP 6.5C and DEPP 6.5D. The new text is not underlined.

6.5 Determining the appropriate level of financial penalty

6.5.1 G For the purpose of *DEPP 6.5* to *DEPP 6.5D* and *DEPP 6.6.2G*, the term “firm” means *firms* and those *unauthorised persons* who are not individuals.

6.5.2 G The *FSA's* penalty-setting regime is based on the following principles:

- (1) Disgorgement - a firm or individual should not benefit from any *breach*;
- (2) Discipline - a firm or individual should be penalised for wrongdoing; and
- (3) Deterrence - any penalty imposed should deter the firm or individual who committed the *breach*, and others, from committing further or similar *breaches*.

6.5.3 G (1) The total amount payable by a person subject to enforcement action may be made up of two elements: (i) disgorgement of the benefit received as a result of the *breach*; and (ii) a financial penalty reflecting the seriousness of the *breach*. These elements are incorporated in a five-step framework, which can be summarised as follows:

- (a) Step 1: the removal of any financial benefit derived directly from the *breach*;
- (b) Step 2: the determination of a figure which reflects the seriousness of the *breach*;
- (c) Step 3: an adjustment made to the Step 2 figure to take account of any aggravating and mitigating circumstances;
- (d) Step 4: an upwards adjustment made to the amount arrived at after Steps 2 and 3, where appropriate, to ensure that the penalty has an appropriate deterrent effect; and
- (e) Step 5: if applicable, a settlement discount will be applied. This discount does not apply to disgorgement of any financial benefit derived directly from the *breach*.

- (2) These steps will apply in all cases, although the details of Steps 1 to 4 will differ for cases against firms (*DEPP 6.5A*), cases against individuals (*DEPP 6.5B*) and *market abuse* cases against individuals (*DEPP 6.5C*).
- (3) The *FSA* recognises that a penalty must be proportionate to the *breach*. The *FSA* may decrease the level of the penalty arrived at after applying Step 2 of the framework if it considers that the penalty is disproportionately high for the *breach* concerned. For cases against firms, the *FSA* will have regard to whether the *firm* is also an individual (for example, a sole trader) in determining whether the figure arrived at after applying Step 2 is disproportionate.
- (4) The lists of factors and circumstances in *DEPP 6.5A* to *DEPP 6.5D* are not exhaustive. Not all of the factors or circumstances listed will necessarily be relevant in a particular case and there may be other factors or circumstances not listed which are relevant.
- (5) The *FSA* may decide to impose a financial penalty on a mutual (such as a *building society*), even though this may have a direct impact on that mutual's *customers*. This reflects the fact that a significant proportion of a mutual's *customers* are shareholder-members; to that extent, their position involves an assumption of risk that is not assumed by *customers* of a firm that is not a mutual. Whether a firm is a mutual will not, by itself, increase or decrease the level of a financial penalty.
- (6) Part III (Penalties and Fees) of Schedule 1 to the *Act* specifically provides that the *FSA* may not, in determining its policy with respect to the amount of penalties, take account of expenses which it incurs, or expects to incur, in discharging its functions.

6.5A The five steps for penalties imposed on firms

Step 1 – disgorgement

- 6.5A.1 G
- (1) The *FSA* will seek to deprive a firm of the financial benefit derived directly from the *breach* (which may include the profit made or loss avoided) where it is practicable to quantify this. The *FSA* will ordinarily also charge interest on the benefit.
 - (2) Where the success of a firm's entire business model is dependent on breaching *FSA rules* or other requirements of the *regulatory system* and the *breach* is at the core of the firm's *regulated activities*, the *FSA* will seek to deprive the firm of all the financial benefit derived from such activities. Where a firm agrees to carry out a redress programme to compensate those who have suffered loss as a result of the *breach*, or where the *FSA* decides to impose a redress programme, the *FSA* will take this into consideration. In such cases

the final penalty might not include a disgorgement element, or the disgorgement element might be reduced.

[**Note:** For the purposes of *DEPP* 6.5A, “firm” has the special meaning given to it in *DEPP* 6.5.1G.]

Step 2 – the seriousness of the *breach*

- 6.5A.2 G (1) The *FSA* will determine a figure that reflects the seriousness of the *breach*. In many cases, the amount of revenue generated by a firm from a particular product line or business area is indicative of the harm or potential harm that its *breach* may cause, and in such cases the *FSA* will determine a figure which will be based on a percentage of the firm’s revenue from the relevant products or business areas. The *FSA* also believes that the amount of revenue generated by a firm from a particular product or business area is relevant in terms of the size of the financial penalty necessary to act as a credible deterrent. However, the *FSA* recognises that there may be cases where revenue is not an appropriate indicator of the harm or potential harm that a firm’s *breach* may cause, and in those cases the *FSA* will use an appropriate alternative.
- (2) In those cases where the *FSA* considers that revenue is an appropriate indicator of the harm or potential harm that a firm’s *breach* may cause, the *FSA* will determine a figure which will be based on a percentage of the firm’s “relevant revenue”. “Relevant revenue” will be the revenue derived by the firm during the period of the *breach* from the products or business areas to which the *breach* relates. Where the *breach* lasted less than 12 months, or was a one-off event, the relevant revenue will be that derived by the firm in the 12 months preceding the end of the *breach*. Where the firm was in existence for less than 12 months, its relevant revenue will be calculated on a pro rata basis to the equivalent of 12 months’ relevant revenue.
- (3) Having determined the relevant revenue, the *FSA* will then decide on the percentage of that revenue which will form the basis of the penalty. In making this determination the *FSA* will consider the seriousness of the *breach* and choose a percentage between 0% and 20%. This range is divided into five fixed levels which represent, on a sliding scale, the seriousness of the *breach*. The more serious the *breach*, the higher the level. For penalties imposed on firms there are the following five levels:
- (a) level 1 - 0%;
 - (b) level 2 - 5%;
 - (c) level 3 - 10%;
 - (d) level 4 - 15%; and

- (e) level 5 - 20%.
- (4) The *FSA* will assess the seriousness of a *breach* to determine which level is most appropriate to the case.
- (5) In deciding which level is most appropriate to a case involving a firm, the *FSA* will take into account various factors, which will usually fall into the following four categories:
- (a) factors relating to the impact of the *breach*;
 - (b) factors relating to the nature of the *breach*;
 - (c) factors tending to show whether the *breach* was deliberate; and
 - (d) factors tending to show whether the *breach* was reckless.
- (6) Factors relating to the impact of a *breach* committed by a firm include:
- (a) the level of benefit gained or loss avoided, or intended to be gained or avoided, by the firm from the *breach*, either directly or indirectly;
 - (b) the loss or risk of loss, as a whole, caused to *consumers*, investors or other market users in general;
 - (c) the loss or risk of loss caused to individual *consumers*, investors or other market users;
 - (d) whether the *breach* had an effect on particularly vulnerable people, whether intentionally or otherwise;
 - (e) the inconvenience or distress caused to *consumers*; and
 - (f) whether the *breach* had an adverse effect on markets and, if so, how serious that effect was. This may include having regard to whether the orderliness of, or confidence in, the markets in question has been damaged or put at risk.
- (7) Factors relating to the nature of a *breach* by a firm include:
- (a) the nature of the *rules*, requirements or provisions breached;
 - (b) the frequency of the *breach*;
 - (c) whether the *breach* revealed serious or systemic weaknesses in the firm's procedures or in the management systems or internal controls relating to all or part of the firm's business;
 - (d) whether the firm's senior management were aware of the

breach;

- (e) the nature and extent of any *financial crime* facilitated, occasioned or otherwise attributable to the *breach*;
 - (f) the scope for any potential *financial crime* to be facilitated, occasioned or otherwise occur as a result of the *breach*;
 - (g) whether the firm failed to conduct its business with integrity;
 - (h) whether the firm, in committing the *breach*, took any steps to comply with *FSA rules*, and the adequacy of those steps; and
 - (i) in the context of contraventions of Part VI of the *Act*, the extent to which the *behaviour* which constitutes the contravention departs from current market practice.
- (8) Factors tending to show the *breach* was deliberate include:
- (a) the *breach* was intentional, in that the firm's senior management, or a responsible individual, intended or foresaw that the likely or actual consequences of their actions or inaction would result in a *breach*;
 - (b) the firm's senior management, or a responsible individual, knew that their actions were not in accordance with the firm's internal procedures;
 - (c) the firm's senior management, or a responsible individual, sought to conceal their misconduct;
 - (d) the firm's senior management, or a responsible individual, committed the *breach* in such a way as to avoid or reduce the risk that the *breach* would be discovered;
 - (e) the firm's senior management, or a responsible individual, were influenced to commit the *breach* by the belief that it would be difficult to detect;
 - (f) the *breach* was repeated; and
 - (g) in the context of a contravention of any *rule* or requirement imposed by or under Part VI of the *Act*, the firm obtained reasonable professional advice before the contravention occurred and failed to follow that advice. Obtaining professional advice does not remove a *person's* responsibility for compliance with applicable *rules* and requirements.
- (9) Factors tending to show the *breach* was reckless include:
- (a) the firm's senior management, or a responsible individual, appreciated there was a risk that their actions or inaction

- could result in a *breach* and failed adequately to mitigate that risk; and
- (b) the firm's senior management, or a responsible individual, were aware there was a risk that their actions or inaction could result in a *breach* but failed to check if they were acting in accordance with the firm's internal procedures.
- (10) Additional factors to which the *FSA* will have regard when determining the appropriate level of financial penalty to be imposed under regulation 34 of the *RCB Regulations* are set out in *RCB* 4.2.5G.
- (11) In following this approach factors which are likely to be considered 'level 4 factors' or 'level 5 factors' include:
- (a) the *breach* caused a significant loss or risk of loss to individual *consumers*, investors or other market users;
- (b) the *breach* revealed serious or systemic weaknesses in the firm's procedures or in the management systems or internal controls relating to all or part of the firm's business;
- (c) *financial crime* was facilitated, occasioned or otherwise attributable to the *breach*;
- (d) the *breach* created a significant risk that *financial crime* would be facilitated, occasioned or otherwise occur;
- (e) the firm failed to conduct its business with integrity; and
- (f) the *breach* was committed deliberately or recklessly.
- (12) Factors which are likely to be considered 'level 1 factors', 'level 2 factors' or 'level 3 factors' include:
- (a) little, or no, profits were made or losses avoided as a result of the *breach*, either directly or indirectly;
- (b) there was no or little loss or risk of loss to *consumers*, investors or other market users individually and in general;
- (c) there was no, or limited, actual or potential effect on the orderliness of, or confidence in, markets as a result of the *breach*;
- (d) there is no evidence that the *breach* indicates a widespread problem or weakness at the firm; and
- (e) the *breach* was committed negligently or inadvertently.
- (13) In those cases where revenue is not an appropriate indicator of the

harm or potential harm that a firm's *breach* may cause, the *FSA* will adopt a similar approach, and so will determine the appropriate Step 2 amount for a particular *breach* by taking into account relevant factors, including those listed above. In these cases the *FSA* may not use the percentage levels that are applied in those cases in which revenue is an appropriate indicator of the harm or potential harm that a firm's *breach* may cause.

Step 3 – mitigating and aggravating factors

- 6.5A.3 G (1) The *FSA* may increase or decrease the amount of the financial penalty arrived at after Step 2, but not including any amount to be disgorged as set out in Step 1, to take into account factors which aggravate or mitigate the *breach*. Any such adjustments will be made by way of a percentage adjustment to the figure determined at Step 2.
- (2) The following list of factors may have the effect of aggravating or mitigating the *breach*:
- (a) the conduct of the firm in bringing (or failing to bring) quickly, effectively and completely the *breach* to the *FSA*'s attention (or the attention of other regulatory authorities, where relevant);
 - (b) the degree of cooperation the firm showed during the investigation of the *breach* by the *FSA*, or any other regulatory authority allowed to share information with the *FSA*;
 - (c) where the firm's senior management were aware of the *breach* or of the potential for a *breach*, whether they took any steps to stop the *breach*, and when these steps were taken;
 - (d) any remedial steps taken since the *breach* was identified, including whether these were taken on the firm's own initiative or that of the *FSA* or another regulatory authority; for example, identifying whether *consumers* or investors or other market users suffered loss and compensating them where they have; correcting any misleading statement or impression; taking disciplinary action against staff involved (if appropriate); and taking steps to ensure that similar problems cannot arise in the future. The size and resources of the firm may be relevant to assessing the reasonableness of the steps taken;
 - (e) whether the firm has arranged its resources in such a way as to allow or avoid disgorgement and/or payment of a financial penalty;
 - (f) whether the firm had previously been told about the *FSA*'s

concerns in relation to the issue, either by means of a private warning or in supervisory correspondence;

- (g) whether the firm had previously undertaken not to perform a particular act or engage in particular behaviour;
- (h) whether the firm concerned has complied with any requirements or rulings of another regulatory authority relating to the *breach*;
- (i) the previous disciplinary record and general compliance history of the firm;
- (j) action taken against the firm by other domestic or international regulatory authorities that is relevant to the *breach* in question;
- (k) whether *FSA guidance* or other published materials had already raised relevant concerns, and the nature and accessibility of such materials; and
- (l) whether the *FSA* publicly called for an improvement in standards in relation to the behaviour constituting the *breach* or similar behaviour before or during the occurrence of the *breach*.

Step 4 – adjustment for deterrence

- 6.5A.4 G (1) If the *FSA* considers the figure arrived at after Step 3 is insufficient to deter the firm who committed the *breach*, or others, from committing further or similar *breaches* then the *FSA* may increase the penalty. Circumstances where the *FSA* may do this include:
- (a) where the *FSA* considers the absolute value of the penalty too small in relation to the *breach* to meet its objective of credible deterrence;
 - (b) where previous *FSA* action in respect of similar *breaches* has failed to improve industry standards. This may include similar *breaches* relating to different products (for example, action for mis-selling or claims handling failures in respect of ‘x’ product may be relevant to a case for mis-selling or claims handling failures in respect of ‘y’ product);
 - (c) where the *FSA* considers it is likely that similar *breaches* will be committed by the firm or by other firms in the future in the absence of such an increase to the penalty; and
 - (d) where the *FSA* considers that the likelihood of the detection of such a *breach* is low.

Step 5 – settlement discount

- 6.5A.5 G The *FSA* and the firm on whom a penalty is to be imposed may seek to agree the amount of any financial penalty and other terms. In recognition of the benefits of such agreements, *DEPP* 6.7 provides that the amount of the financial penalty which might otherwise have been payable will be reduced to reflect the stage at which the *FSA* and the firm concerned reached an agreement. The settlement discount does not apply to the disgorgement of any benefit calculated at Step 1.

6.5B The five steps for penalties imposed on individuals in non-market abuse cases

Step 1 – disgorgement

- 6.5B.1 G The *FSA* will seek to deprive an individual of the financial benefit derived directly from the *breach* (which may include the profit made or loss avoided) where it is practicable to quantify this. The *FSA* will ordinarily also charge interest on the benefit. Where the success of a firm's entire business model is dependent on breaching *FSA rules* or other requirements of the *regulatory system* and the individual's *breach* is at the core of the firm's *regulated activities*, the *FSA* will seek to deprive the individual of all the financial benefit he has derived from such activities.

[**Note:** For the purposes of *DEPP* 6.5B, “firm” has the special meaning given to it in *DEPP* 6.5.1G.]

Step 2 – the seriousness of the *breach*

- 6.5B.2 G (1) The *FSA* will determine a figure which will be based on a percentage of an individual's “relevant income”. “Relevant income” will be the gross amount of all benefits received by the individual from the employment in connection with which the *breach* occurred (the “relevant employment”), and for the period of the *breach*. In determining an individual's relevant income, “benefits” includes, but is not limited to, salary, bonus, pension contributions, *share* options and *share* schemes; and “employment” includes, but is not limited to, employment as an adviser, *director*, partner or contractor.
- (2) Where the *breach* lasted less than 12 *months*, or was a one-off event, the relevant income will be that earned by the individual in the 12 *months* preceding the end of the *breach*. Where the individual was in the relevant employment for less than 12 months, his relevant income will be calculated on a pro rata basis to the equivalent of 12 *months*' relevant income.
- (3) This approach reflects the *FSA*'s view that an individual receives remuneration commensurate with his responsibilities, and so it is reasonable to base the amount of penalty for failure to discharge his duties properly on his remuneration. The *FSA* also believes that the

extent of the financial benefit earned by an individual is relevant in terms of the size of the financial penalty necessary to act as a credible deterrent. The *FSA* recognises that in some cases an individual may be approved for only a small part of the work he carries out on a day-to-day basis. However, in these circumstances the *FSA* still considers it appropriate to base the relevant income figure on all of the benefit that an individual gains from the relevant employment, even if his employment is not totally related to a controlled function.

- (4) Having determined the relevant income the *FSA* will then decide on the percentage of that income which will form the basis of the penalty. In making this determination the *FSA* will consider the seriousness of the *breach* and choose a percentage between 0% and 40%.
- (5) This range is divided into five fixed levels which reflect, on a sliding scale, the seriousness of the *breach*. The more serious the *breach*, the higher the level. For penalties imposed on individuals there are the following five levels:
 - (a) level 1 – 0%;
 - (b) level 2 - 10%;
 - (c) level 3 - 20%;
 - (d) level 4 - 30%; and
 - (e) level 5 - 40%.
- (6) The *FSA* will assess the seriousness of a *breach* to determine which level is most appropriate to the case.
- (7) In deciding which level is most appropriate to a case against an individual, the *FSA* will take into account various factors which will usually fall into the following four categories:
 - (a) factors relating to the impact of the *breach*;
 - (b) factors relating to the nature of the *breach*;
 - (c) factors tending to show whether the *breach* was deliberate; and
 - (d) factors tending to show whether the *breach* was reckless.
- (8) Factors relating to the impact of a *breach* committed by an individual include:
 - (a) the level of benefit gained or loss avoided, or intended to be gained or avoided, by the individual from the *breach*, either

- directly or indirectly;
- (b) the loss or risk of loss, as a whole, caused to *consumers*, investors or other market users in general;
 - (c) the loss or risk of loss caused to individual *consumers*, investors or other market users;
 - (d) whether the *breach* had an effect on particularly vulnerable people, whether intentionally or otherwise;
 - (e) the inconvenience or distress caused to *consumers*; and
 - (f) whether the *breach* had an adverse effect on markets and, if so, how serious that effect was. This may include having regard to whether the orderliness of, or confidence in, the markets in question has been damaged or put at risk.
- (9) Factors relating to the nature of a *breach* by an individual include:
- (a) the nature of the *rules*, requirements or provisions breached;
 - (b) the frequency of the *breach*;
 - (c) the nature and extent of any *financial crime* facilitated, occasioned or otherwise attributable to the *breach*;
 - (d) the scope for any potential *financial crime* to be facilitated, occasioned or otherwise occur as a result of the *breach*;
 - (e) whether the individual failed to act with integrity;
 - (f) whether the individual abused a position of trust;
 - (g) whether the individual committed a breach of any professional code of conduct;
 - (h) whether the individual caused or encouraged other individuals to commit *breaches*;
 - (i) whether the individual held a prominent position within the industry;
 - (j) whether the individual is an experienced industry professional;
 - (k) whether the individual held a senior position with the firm;
 - (l) the extent of the responsibility of the individual for the product or business areas affected by the *breach*, and for the particular matter that was the subject of the *breach*;

- (m) whether the individual acted under duress;
 - (n) whether the individual took any steps to comply with *FSA rules*, and the adequacy of those steps; and
 - (o) in the context of contraventions of Part VI of the *Act*, the extent to which the *behaviour* which constitutes the contravention departs from current market practice.
- (10) Factors tending to show the *breach* was deliberate include:
- (a) the *breach* was intentional, in that the individual intended or foresaw that the likely or actual consequences of his actions or inaction would result in a *breach*;
 - (b) the individual intended to benefit financially from the *breach*, either directly or indirectly;
 - (c) the individual knew that his actions were not in accordance with his firm's internal procedures;
 - (d) the individual sought to conceal his misconduct;
 - (e) the individual committed the *breach* in such a way as to avoid or reduce the risk that the *breach* would be discovered;
 - (f) the individual was influenced to commit the *breach* by the belief that it would be difficult to detect;
 - (g) the individual knowingly took decisions relating to the *breach* beyond his field of competence; and
 - (h) the individual's actions were repeated.
- (11) Factors tending to show the *breach* was reckless include:
- (a) the individual appreciated there was a risk that his actions or inaction could result in a *breach* and failed adequately to mitigate that risk; and
 - (b) the individual was aware there was a risk that his actions or inaction could result in a *breach* but failed to check if he was acting in accordance with internal procedures.
- (12) In following this approach factors which are likely to be considered 'level 4 factors' or 'level 5 factors' include:
- (a) the *breach* caused a significant loss or risk of loss to individual *consumers*, investors or other market users;
 - (b) *financial crime* was facilitated, occasioned or otherwise

- attributable to the *breach*;
- (c) the *breach* created a significant risk that *financial crime* would be facilitated, occasioned or otherwise occur;
 - (d) the individual failed to act with integrity;
 - (e) the individual abused a position of trust;
 - (f) the individual held a prominent position within the industry; and
 - (g) the *breach* was committed deliberately or recklessly.
- (13) Factors which are likely to be considered ‘level 1 factors’, ‘level 2 factors’ or ‘level 3 factors’ include:
- (a) little, or no, profits were made or losses avoided as a result of the *breach*, either directly or indirectly;
 - (b) there was no or little loss or risk of loss to *consumers*, investors or other market users individually and in general;
 - (c) there was no, or limited, actual or potential effect on the orderliness of, or confidence in, markets as a result of the *breach*; and
 - (d) the *breach* was committed negligently or inadvertently.

Step 3 – mitigating and aggravating factors

- 6.5B.3 G (1) The *FSA* may increase or decrease the amount of the financial penalty arrived at after Step 2, but not including any amount to be disgorged as set out in Step 1, to take into account factors which aggravate or mitigate the *breach*. Any such adjustments will be made by way of a percentage adjustment to the figure determined at Step 2.
- (2) The following list of factors may have the effect of aggravating or mitigating the *breach*:
- (a) the conduct of the individual in bringing (or failing to bring) quickly, effectively and completely the *breach* to the *FSA*’s attention (or the attention of other regulatory authorities, where relevant);
 - (b) the degree of cooperation the individual showed during the investigation of the *breach* by the *FSA*, or any other regulatory authority allowed to share information with the *FSA*;
 - (c) whether the individual took any steps to stop the *breach*, and

when these steps were taken;

- (d) any remedial steps taken since the *breach* was identified, including whether these were taken on the individual's own initiative or that of the *FSA* or another regulatory authority;
- (e) whether the individual has arranged his resources in such a way as to allow or avoid disgorgement and/or payment of a financial penalty;
- (f) whether the individual had previously been told about the *FSA's* concerns in relation to the issue, either by means of a private warning or in supervisory correspondence;
- (g) whether the individual had previously undertaken not to perform a particular act or engage in particular behaviour;
- (h) whether the individual has complied with any requirements or rulings of another regulatory authority relating to the *breach*;
- (i) the previous disciplinary record and general compliance history of the individual;
- (j) action taken against the individual by other domestic or international regulatory authorities that is relevant to the *breach* in question;
- (k) whether *FSA guidance* or other published materials had already raised relevant concerns, and the nature and accessibility of such materials;
- (l) whether the *FSA* publicly called for an improvement in standards in relation to the behaviour constituting the *breach* or similar behaviour before or during the occurrence of the *breach*; and
- (m) whether the individual agreed to undertake training subsequent to the *breach*.

Step 4 – adjustment for deterrence

- 6.5B.4 G (1) If the *FSA* considers the figure arrived at after Step 3 is insufficient to deter the individual who committed the *breach*, or others, from committing further or similar *breaches* then the *FSA* may increase the penalty. Circumstances where the *FSA* may do this include:
- (a) where the *FSA* considers the absolute value of the penalty too small in relation to the *breach* to meet its objective of credible deterrence;

- (b) where previous *FSA* action in respect of similar *breaches* has failed to improve industry standards. This may include similar *breaches* relating to different products (for example, action for mis-selling or claims handling failures in respect of ‘x’ product may be relevant to a case for mis-selling or claims handling failures in respect of ‘y’ product);
- (c) where the *FSA* considers it is likely that similar *breaches* will be committed by the individual or by other individuals in the future;
- (d) where the *FSA* considers that the likelihood of the detection of such a *breach* is low; and
- (e) where a penalty based on an individual’s income may not act as a deterrent, for example, if an individual has a small or zero income but owns assets of high value.

Step 5 – settlement discount

- 6.5B.5 G The *FSA* and the individual on whom a penalty is to be imposed may seek to agree the amount of any financial penalty and other terms. In recognition of the benefits of such agreements, *DEPP* 6.7 provides that the amount of the financial penalty which might otherwise have been payable will be reduced to reflect the stage at which the *FSA* and the individual concerned reached an agreement. The settlement discount does not apply to the disgorgement of any benefit calculated at Step 1.

6.5C The five steps for penalties imposed on individuals in market abuse cases

Step 1 – disgorgement

- 6.5C.1 G The *FSA* will seek to deprive an individual of the financial benefit derived as a direct result of the *market abuse* (which may include the profit made or loss avoided) where it is practicable to quantify this. The *FSA* will ordinarily also charge interest on the benefit.

Step 2 – the seriousness of the *market abuse*

- 6.5C.2 G (1) The *FSA* will determine a figure dependent on the seriousness of the *market abuse* and whether or not it was referable to the individual’s employment. This reflects the *FSA*’s view that where an individual has been put into a position where he can commit *market abuse* because of his employment the fine imposed should reflect this by reference to the gross amount of all benefits derived from that employment.
- (2) In cases where the *market abuse* was referable to the individual’s employment, the figure for the purpose of Step 2 will be the greater

of:

- (a) a figure based on a percentage of the individual's "relevant income". The percentage of relevant income which will apply is explained in paragraphs (6) and (8) to (16) below;
 - (b) a multiple of the profit made or loss avoided by the individual for his own benefit, or for the benefit of other individuals where the individual has been instrumental in achieving that benefit, as a direct result of the *market abuse* (the "profit multiple"). The profit multiple which will apply is explained in paragraphs (6) and (8) to (16) below; and
 - (c) for *market abuse* cases which the *FSA* assesses to be seriousness level 4 or 5, £100,000. How the *FSA* will assess the seriousness level of the *market abuse* is explained in paragraphs (9) to (16) below. The *FSA* usually expects to assess *market abuse* committed deliberately as seriousness level 4 or 5.
- (3) In cases where the *market abuse* was not referable to the individual's employment, the figure for the purpose of Step 2 will be the greater of:
- (a) a multiple of the profit made or loss avoided by the individual for his own benefit, or for the benefit of other individuals where the individual has been instrumental in achieving that benefit, as a direct result of the *market abuse* (the "profit multiple"). The profit multiple which will apply is explained in paragraphs (7) to (16) below; and
 - (b) for *market abuse* cases which the *FSA* assesses to be seriousness level 4 or 5, £100,000. How the *FSA* will assess the seriousness level of the *market abuse* is explained in paragraphs (9) to (16) below. The *FSA* usually expects to assess *market abuse* committed deliberately as seriousness level 4 or 5.
- (4) An individual's "relevant income" will be the gross amount of all benefits received by the individual from the employment in connection with which the *market abuse* occurred (the "relevant employment") for the period of the *market abuse*. In determining an individual's relevant income, "benefits" includes, but is not limited to, salary, bonus, pension contributions, *share* options and *share* schemes; and "employment" includes, but is not limited to, employment as an adviser, *director*, partner or contractor.
- (5) Where the *market abuse* lasted less than 12 months, or was a one-off event, the relevant income will be that earned by the individual in the 12 months preceding the final *market abuse*. Where the individual was in the relevant employment for less than 12 months, his relevant

income will be calculated on a pro rata basis to the equivalent of 12 *months*' relevant income.

- (6) In cases where the *market abuse* was referable to the individual's employment:
 - (a) the *FSA* will determine the percentage of relevant income which will apply by considering the seriousness of the *market abuse* and choosing a percentage between 0% and 40%; and
 - (b) the *FSA* will determine the profit multiple which will apply by considering the seriousness of the *market abuse* and choosing a multiple between 0 and 4.
- (7) In cases where the *market abuse* was not referable to the individual's employment the *FSA* will determine the profit multiple which will apply by considering the seriousness of the *market abuse* and choosing a multiple between 0 and 4.
- (8) The percentage range (where the *market abuse* was referable to the individual's employment) and profit multiple range (in all cases) are divided into five fixed levels which reflect, on a sliding scale, the seriousness of the *market abuse*. The more serious the *market abuse*, the higher the level. For penalties imposed on individuals for *market abuse* there are the following five levels (the percentage figures only apply where the *market abuse* was referable to the individual's employment):
 - (a) level 1 – 0%, profit multiple of 0;
 - (b) level 2 – 10%, profit multiple of 1;
 - (c) level 3 – 20%, profit multiple of 2;
 - (d) level 4 – 30%, profit multiple of 3; and
 - (e) level 5 – 40%, profit multiple of 4.
- (9) The *FSA* will assess the seriousness of the *market abuse* to determine which level is most appropriate to the case.
- (10) In deciding which level is most appropriate to a *market abuse* case, the *FSA* will take into account various factors which will usually fall into the following four categories:
 - (a) factors relating to the impact of the *market abuse*;
 - (b) factors relating to the nature of the *market abuse*;
 - (c) factors tending to show whether the *market abuse* was deliberate; and

- (d) factors tending to show whether the *market abuse* was reckless.
- (11) Factors relating to the impact of the *market abuse* include:
- (a) the level of benefit gained or loss avoided, or intended to be gained or avoided, by the individual from the *market abuse*, either directly or indirectly;
 - (b) whether the *market abuse* had an adverse effect on markets and, if so, how serious that effect was. This may include having regard to whether the orderliness of, or confidence in, the markets in question has been damaged or put at risk; and
 - (c) whether the *market abuse* had a significant impact on the price of *shares* or other *investments*.
- (12) Factors relating to the nature of the *market abuse* include:
- (a) the frequency of the *market abuse*;
 - (b) whether the individual abused a position of trust;
 - (c) whether the individual caused or encouraged other individuals to commit *market abuse*;
 - (d) whether the individual has a prominent position in the market;
 - (e) whether the individual is an experienced industry professional;
 - (f) whether the individual held a senior position with the firm; and
 - (g) whether the individual acted under duress.
- (13) Factors tending to show the *market abuse* was deliberate include:
- (a) the *market abuse* was intentional, in that the individual intended or foresaw that the likely or actual consequences of his actions would result in *market abuse*;
 - (b) the individual intended to benefit financially from the *market abuse*, either directly or indirectly;
 - (c) the individual knew that his actions were not in accordance with exchange rules, *share* dealing rules and/or the firm's internal procedures;
 - (d) the individual sought to conceal his misconduct;

- (e) the individual committed the *market abuse* in such a way as to avoid or reduce the risk that the *market abuse* would be discovered;
 - (f) the individual was influenced to commit the *market abuse* by the belief that it would be difficult to detect;
 - (g) the individual's actions were repeated;
 - (h) for *market abuse* falling within section 118(2) of the *Act*, the individual knew or recognised that the information on which the *dealing* was based was *inside information*; and
 - (i) for *market abuse* falling within section 118(4) of the *Act*, the individual's behaviour was based on information which he knew or recognised was not generally available to those using the market, and the individual regarded the information as relevant when deciding the terms on which transactions in qualifying *investments* should be effected.
- (14) Factors tending to show the *market abuse* was reckless include:
- (a) the individual appreciated there was a risk that his actions could result in *market abuse* and failed adequately to mitigate that risk; and
 - (b) the individual was aware there was a risk that his actions could result in *market abuse* but failed to check if he was acting in accordance with internal procedures.
- (15) In following this approach factors which are likely to be considered 'level 4 factors' or 'level 5 factors' include:
- (a) the level of benefit gained or loss avoided, or intended to be gained or avoided, directly by the individual from the *market abuse* was significant;
 - (b) the *market abuse* had a serious adverse effect on the orderliness of, or confidence in, markets;
 - (c) the *market abuse* was committed on multiple occasions;
 - (d) the individual breached a position of trust;
 - (e) the individual has a prominent position in the market; and
 - (f) the *market abuse* was committed deliberately or recklessly.
- (16) In following this approach factors which are likely to be considered 'level 1 factors', 'level 2 factors' or 'level 3 factors' include:

- (a) little, or no, profits were made or losses avoided as a result of the *market abuse*, either directly or indirectly;
- (b) there was no, or limited, actual or potential effect on the orderliness of, or confidence in, markets as a result of the *market abuse*; and
- (c) the *market abuse* was committed negligently or inadvertently.

[Note: For the purposes of *DEPP* 6.5C, “firm” has the special meaning given to it in *DEPP* 6.5.1G.]

Step 3 – mitigating and aggravating factors

- 6.5C.3 G (1) The *FSA* may increase or decrease the amount of the financial penalty arrived at after Step 2, but not including any amount to be disgorged as set out in Step 1, to take into account factors which aggravate or mitigate the *market abuse*. Any such adjustments will be made by way of a percentage adjustment to the figure determined at Step 2.
- (2) The following list of factors may have the effect of aggravating or mitigating the *market abuse*:
- (a) the conduct of the individual in bringing (or failing to bring) quickly, effectively and completely the *market abuse* to the *FSA*'s attention (or the attention of other regulatory authorities, where relevant);
 - (b) the degree of cooperation the individual showed during the investigation of the *market abuse* by the *FSA*, or any other regulatory authority allowed to share information with the *FSA*;
 - (c) whether the individual assists the *FSA* in action taken against other individuals for *market abuse* and/or in criminal proceedings;
 - (d) whether the individual has arranged his resources in such a way as to allow or avoid disgorgement and/or payment of a financial penalty;
 - (e) whether the individual had previously been told about the *FSA*'s concerns in relation to the issue, either by means of a private warning or in supervisory correspondence;
 - (f) the previous disciplinary record and general compliance history of the individual;
 - (g) action taken against the individual by other domestic or international regulatory authorities that is relevant to the

market abuse in question;

- (h) whether *FSA guidance* or other published materials had already raised relevant concerns, and the nature and accessibility of such materials; and
- (i) whether the individual agreed to undertake training subsequent to the *market abuse*.

Step 4 – adjustment for deterrence

- 6.5C.4 G (1) If the *FSA* considers the figure arrived at after Step 3 is insufficient to deter the individual who committed the *market abuse*, or others, from committing further or similar abuse then the *FSA* may increase the penalty. Circumstances where the *FSA* may do this include:
- (a) where the *FSA* considers the absolute value of the penalty too small in relation to the *market abuse* to meet its objective of credible deterrence;
 - (b) where previous *FSA* action in respect of similar *market abuse* has failed to improve industry standards; and
 - (c) where the penalty may not act as a deterrent in light of the size of the individual's income or net assets.

Step 5 – settlement discount

- 6.5C.5 G The *FSA* and the individual on whom a penalty is to be imposed may seek to agree the amount of any financial penalty and other terms. In recognition of the benefits of such agreements, *DEPP* 6.7 provides that the amount of the financial penalty which might otherwise have been payable will be reduced to reflect the stage at which the *FSA* and the individual concerned reached an agreement. The settlement discount does not apply to the disgorgement of any benefit calculated at Step 1.

6.5D Serious financial hardship

- 6.5D.1 G (1) The *FSA*'s approach to determining penalties described in *DEPP* 6.5 to *DEPP* 6.5C is intended to ensure that financial penalties are proportionate to the *breach*. The *FSA* recognises that penalties may affect persons differently, and that the *FSA* should consider whether a reduction in the proposed penalty is appropriate if the penalty would cause the subject of enforcement action serious financial hardship.
- (2) Where an individual or firm claims that payment of the penalty proposed by the *FSA* will cause them serious financial hardship, the *FSA* will consider whether to reduce the proposed penalty only if:

- (a) the individual or firm provides verifiable evidence that payment of the penalty will cause them serious financial hardship; and
 - (b) the individual or firm provides full, frank and timely disclosure of the verifiable evidence, and cooperates fully in answering any questions asked by the *FSA* about their financial position.
- (3) The onus is on the individual or firm to satisfy the *FSA* that payment of the penalty will cause them serious financial hardship.

[**Note:** For the purposes of *DEPP* 6.5D, “firm” has the special meaning given to it in *DEPP* 6.5.1G.]

Individuals

- 6.5D.2 G (1) In assessing whether a penalty would cause an individual serious financial hardship, the *FSA* will consider the individual’s ability to pay the penalty over a reasonable period (normally no greater than three years). The *FSA*’s starting point is that an individual will suffer serious financial hardship only if during that period his net annual income will fall below £14,000 and his capital will fall below £16,000 as a result of payment of the penalty. Unless the *FSA* believes that both the individual’s income and capital will fall below these respective thresholds as a result of payment of the penalty, the *FSA* is unlikely to be satisfied that the penalty will result in serious financial hardship.
- (2) The *FSA* will consider all relevant circumstances in determining whether the income and capital threshold levels should be increased in a particular case.
- (3) The *FSA* will consider agreeing to payment of the penalty by instalments where the individual requires time to realise his assets, for example by waiting for payment of a salary or by selling property.
- (4) For the purposes of considering whether an individual will suffer serious financial hardship, the *FSA* will consider as capital anything that could provide the individual with a source of income, including savings, property (including personal possessions), *investments* and land. The *FSA* will normally consider as capital the equity that an individual has in the home in which he lives, but will consider any representations by the individual about this; for example, as to the exceptionally severe impact a sale of the property might have upon other occupants of the property or the impracticability of re-mortgaging or selling the property within a reasonable period.
- (5) The *FSA* may also consider the extent to which the individual has access to other means of financial support in determining whether he

is able to pay the penalty without being caused serious financial hardship.

- (6) Where a penalty is reduced it will be reduced to an amount which the individual can pay without going below the threshold levels that apply in that case. If an individual has no income, any reduction in the penalty will be to an amount that the individual can pay without going below the capital threshold.
- (7) There may be cases where, even though the individual has satisfied the *FSA* that payment of the financial penalty would cause him serious financial hardship, the *FSA* considers the *breach* to be so serious that it is not appropriate to reduce the penalty. The *FSA* will consider all the circumstances of the case in determining whether this course of action is appropriate, including whether:
 - (a) the individual directly derived a financial benefit from the *breach* and, if so, the extent of that financial benefit;
 - (b) the individual acted fraudulently or dishonestly with a view to personal gain;
 - (c) previous *FSA* action in respect of similar *breaches* has failed to improve industry standards; or
 - (d) the individual has spent money or dissipated assets in anticipation of *FSA* or other enforcement action with a view to frustrating or limiting the impact of action taken by the *FSA* or other authorities.

Prohibition orders and withdrawal of approval

- 6.5D.3 G In cases against individuals, including *market abuse* cases, the *FSA* may make a *prohibition order* under section 56 of the *Act* or withdraw an individual's approval under section 63 of the *Act*, as well as impose a financial penalty. Such action by the *FSA* reflects the *FSA*'s assessment of the individual's fitness to perform *regulated activity* or suitability for a particular role, and does not affect the *FSA*'s assessment of the appropriate financial penalty in relation to a *breach*. However, the fact that the *FSA* has made a *prohibition order* against an individual or withdrawn his approval, as a result of which the individual may have less earning potential, may be relevant in assessing whether the penalty will cause the individual serious financial hardship.

Firms

- 6.5D.4 G (1) The *FSA* will consider reducing the amount of a penalty if a firm will suffer serious financial hardship as a result of having to pay the entire penalty. In deciding whether it is appropriate to reduce the penalty, the *FSA* will take into consideration the firm's financial circumstances, including whether the penalty would render the firm

insolvent or threaten the firm's solvency. The *FSA* will also take into account its regulatory objectives, for example in situations where *consumers* would be harmed or market confidence would suffer, the *FSA* may consider it appropriate to reduce a penalty in order to allow a firm to continue in business and/or pay redress.

- (2) There may be cases where, even though the firm has satisfied the *FSA* that payment of the financial penalty would cause it serious financial hardship, the *FSA* considers the *breach* to be so serious that it is not appropriate to reduce the penalty. The *FSA* will consider all the circumstances of the case in determining whether this course of action is appropriate, including whether:
- (a) the firm directly derived a financial benefit from the *breach* and, if so, the extent of that financial benefit;
 - (b) the firm acted fraudulently or dishonestly in order to benefit financially;
 - (c) previous *FSA* action in respect of similar *breaches* has failed to improve industry standards; or
 - (d) the firm has spent money or dissipated assets in anticipation of *FSA* or other enforcement action with a view to frustrating or limiting the impact of action taken by the *FSA* or other authorities.

Transfers of assets

- 6.5D.5 G Where the *FSA* considers that, following commencement of an *FSA* investigation, an individual or firm has reduced their solvency in order to reduce the amount of any disgorgement or financial penalty payable, for example by transferring assets to third parties, the *FSA* will normally take account of those assets when determining whether the individual or firm would suffer serious financial hardship as a result of the disgorgement and financial penalty.

Amend the following as shown.

6.6 Financial penalties for late and incomplete submission of reports

- 6.6.1 G (1) The *FSA* attaches considerable importance to the timely submission by *firms* of reports. This is because the information that they contain is essential to the *FSA*'s assessment of whether a *firm* is complying with the requirements and standards of the *regulatory system* and to the *FSA*'s understanding of that *firm's* business.
- (2) *DEPP* 6.6.1G to *DEPP* 6.6.5G set out the *FSA*'s policy in relation to financial penalties for late submission of reports and is in addition to the *FSA*'s policy relating to financial penalties ~~including the factors~~

~~relevant to determining their appropriate level (see *DEPP 6.5.2G*) as set out in *DEPP 6.5* to *DEPP 6.5D*.~~

6.6.2 G In addition to the factors ~~relevant to determining the appropriate level of financial penalty (see *DEPP 6.5.2G*) considered in Step 2 for cases against firms (*DEPP 6.5A*) and cases against individuals (*DEPP 6.5B*), the following considerations are relevant.~~

- (1) In general, the *FSA's* approach to disciplinary action arising from the late submission of a report will depend upon the length of time after the due date that the report in question is submitted.
- (2) If the *person* concerned is an individual, it is open to him to make representations to the *FSA* as to why he should not be the subject of a financial penalty, or why a lower penalty should be imposed. If he does so, the matters to which the *FSA* will have regard will include the matters set out in ~~*DEPP 6.5.2G(4)* and *DEPP 6.5.2G(5)*~~ *6.5B*. It should be noted that an administrative difficulty such as pressure of work does not, in itself, constitute a relevant circumstance for this purpose.

...

[Note: For the purposes of *DEPP 6.6.2G*, “firm” has the special meaning given to it in *DEPP 6.5.1G*.]

6.7 Discount for early settlement

...

6.7.2 G In appropriate cases the *FSA's* approach will be to negotiate with the *person* concerned to agree in principle the amount of a financial penalty having regard to the ~~factors set out in *DEPP 6.5.2G*~~ *FSA's* statement of policy as set out in *DEPP 6.5* to *DEPP 6.5D* and *DEPP 6.6*. (This starting figure will take no account of the existence of the *settlement discount scheme* described in this section.) Such amount ("A") will then be reduced by a percentage of A according to the stage in the process at which agreement is reached. The resulting figure ("B") will be the amount actually payable by the *person* concerned in respect of the *breach*. However, where part of a proposed financial penalty specifically equates to the disgorgement of profit accrued or loss avoided then the percentage reduction will not apply to that part of the penalty.

...

Schedule 4 Powers Exercised

...

4.2	G	The following additional powers and related provisions have been exercised by the <i>FSA</i> to make the statements of policy in <i>DEPP</i> :
		...
		Regulation 44 ...
		<u>Regulation 86 (Proposal to take disciplinary measures) of the <i>Payment Services Regulations</i></u>
		...

Annex B

Amendments to the Regulated Covered Bonds sourcebook (RCB)

In this Annex, underlining indicates new text and striking through indicates deleted text.

4.2 Enforcement powers and penalties

...

Financial penalties

- 4.2.4 G The *FSA's* policy on imposing financial penalties (including the amount of any such penalties) under the *RCB Regulations* will be consistent with the policy as set out in *DEPP* and *EG* with appropriate modifications.
- 4.2.5 G When considering whether to impose a financial penalty, the amount of penalty, and whether to impose the penalty on the *issuer* or the *owner*, the *FSA* will have regard, where relevant, to:
- (1) the statement on determining the appropriate level of a financial penalty set out in *DEPP* 6.5 to *DEPP* 6.5D;
 - (2) the particular arrangements between the *issuer* and the *owner*;
 - (3) the likely impact of the penalty on the interests of investors in a *regulated covered bond*; and
 - (4) the conduct of the *issuer* or the *owner*.

Annex C

Amendments to the Enforcement Guide (EG)

In this Annex, underlining indicates new text and striking through indicates deleted text.

6 Publicity

Publicity during FSA investigations

...

- 6.4 The exceptional circumstances referred to above may arise where the matters under investigation have become the subject of public concern, speculation or rumour. In this case it may be desirable for the FSA to make public the fact of its investigation in order to allay concern, or contain the speculation or rumour. Where the matter in question relates to a *takeover bid*, the FSA will discuss any announcement beforehand with the *Takeover Panel*. Any announcement will be subject to the restriction on disclosure of *confidential information* in section 348 of the *Act*.
- 6.5 ~~There will also be cases where publicity is unavoidable. For example, investigations into suspected criminal offences may often lead the FSA into making enquiries amongst the general public which might attract publicity. [deleted]~~

...

Publicity during, or upon the conclusion of criminal action (see chapter 12)

- 6.17 ~~Like civil proceedings, criminal court proceedings nearly always take place in public from the time they begin. However, the FSA will always be very careful to ensure that any FSA publicity does not prejudice the fairness of any subsequent trial. The FSA will normally publicise the outcome of public hearings in criminal prosecutions.~~
- 6.17A When conducting a criminal investigation the FSA will generally consider making a public announcement when suspects are arrested, when search warrants are executed and when charges are laid. A public announcement may also be made at other stages of the investigation when this is considered appropriate.
- 6.17B The FSA will always be very careful to ensure that any FSA publicity does not prejudice the fairness of any subsequent trial.

...

7 Financial penalties and public censures

...

FSA's statements of policy

- 7.4 The FSA's statement of policy in relation to the imposition of financial penalties is set out in *DEPP* 6.2 (Deciding whether to take action), *DEPP* 6.3 (Penalties for market abuse) and *DEPP* 6.4 (Financial penalty or public censure). The FSA's statement of policy in relation to the amount of a financial penalty is set out in *DEPP* 6.5 to *DEPP* 6.5D.

...

Payment of financial penalties

- 7.6 Financial penalties must be paid within the period (usually 14 days) that is stated on the FSA's *final notice*. The FSA's policy in relation to reducing a penalty because its payment may cause a person serious financial hardship is set out in *DEPP* 6.5D.
- 7.7 ~~A person may ask the FSA to allow them to pay a financial penalty by instalments. However, the FSA will consider agreeing to payment of a financial penalty by instalments only where there is verifiable evidence of serious financial hardship or financial difficulties if the person was required to pay the full payment in a single instalment. This reflects the fact that the purpose of a penalty is not to render a person insolvent or to threaten solvency. The FSA will determine the appropriate level and number of instalments having regard to the overall circumstances of the case. However, in such cases, the full payment of the penalty will generally have to be made within one year from the date of the *final notice*. [deleted]~~

...

19 Non-FSMA powers

...

The conduct of investigations under the Money Laundering Regulations

...

- 19.82 When imposing or determining the level of a financial penalty under the Regulations, the FSA's policy includes having regard, where relevant, to relevant factors in *DEPP* 6.2.1G and *DEPP* 6.5 to *DEPP* 6.5D. The FSA may not impose a penalty where there are reasonable grounds for it to be satisfied that the subject of the proposed action took all reasonable steps and exercised all due diligence to ensure that the relevant requirement of the *Money Laundering Regulations* would be met. In deciding whether a person has failed to comply with a requirement of the *Money Laundering Regulations*, the FSA must consider whether he followed any relevant guidance which was issued by a supervisory authority or other appropriate body; approved by the Treasury; and published in a manner approved by the Treasury. The Joint Money Laundering Steering Group Guidance satisfies this requirement.

...

Regulated Covered Bonds Regulations 2008

...

- 19.88 The FSA's approach to the use of its enforcement powers, and its statement of policy in relation to imposing and determining financial penalties under the *RCB Regulations*, are set out in *RCB 4.2*. The FSA's penalty policy includes having regard, where relevant, to the relevant factors in *DEPP 6.2.1G* and *DEPP 6.5* to *DEPP 6.5D* and such other specific matters as the likely impact of the penalty on the interests of investors in the relevant bonds. The FSA's statement of procedure in relation to giving *warning notices* or *decision notices* under the *RCB Regulations* is set out in *RCB 6*. It confirms that the *RDC* will be the decision maker in relation to the imposition of financial penalties under the *RCB Regulations*, following the procedure outlined in *DEPP 3.2* or, where appropriate, *DEPP 3.3* and that decision notices given under the Regulations may be referred to the *Tribunal*.

...

Payment Services Regulations 2009

...

Imposition of penalties under the Payment Services Regulations

- 19.101 When imposing ~~or determining the level of~~ a financial penalty the FSA's policy includes having regard to the relevant factors in *DEPP 6.2.1G* and *DEPP 6.5* *6.2*, *DEPP 6.3* and *DEPP 6.4*. The FSA's policy in relation to determining the level of a financial penalty includes having regard, where relevant, to *DEPP 6.5* to *DEPP 6.5D*.

FUNDS OF ALTERNATIVE INVESTMENT FUNDS INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in or under:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 156 (General supplementary powers);
 - (c) section 157(1) (Guidance);
 - (d) section 247 (Trust scheme rules); and
 - (e) section 248 (Scheme particulars rules); and
 - (2) regulation 6(1) (FSA rules) of the Open-Ended Investment Companies Regulations 2001 (SI 2001/1228); and
 - (3) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 6 March 2010.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Collective Investment Schemes sourcebook (COLL) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Funds of Alternative Investment Funds Instrument 2010.

By order of the Board
25 February 2010

Annex A**Amendments to the Glossary of definitions**

Insert the following new definitions in the appropriate alphabetical position.

FAIF *fund of alternative investment funds.*

fund of alternative investment funds *an authorised fund whose instrument constituting the scheme contains the statement in COLL 3.2.6R(7C) (Table: contents of the instrument constituting the scheme) that it is a fund of alternative investment funds.*

Annex B

Amendments to the Collective Investment Schemes sourcebook (COLL)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Types of authorised fund

- 1.2.1 R An application for an *authorisation order* must propose that the *scheme* be one of the following types:

...

- (2) a *non-UCITS retail scheme* including a *non-UCITS retail scheme* operating as a *fund of alternative investment funds (FAIF)*; or

...

Types of authorised fund - explanation

- 1.2.2 G ...

- (2) *Non-UCITS retail schemes* are *schemes* that do not comply with all the conditions set out in the *UCITS Directive*. Such *schemes* could become *UCITS schemes* provided they are changed, so as to comply with the conditions set out in the *UCITS Directive*. *Non-UCITS retail schemes* operating as *FAIFs* have wider powers to invest in *collective investment schemes* than other *non-UCITS retail schemes*.

...

...

Table: contents of the instrument constituting the scheme

- 3.2.6 R ...

...	
	<u>Funds of alternative investment funds</u>
<u>7C</u>	<u>For a <i>non-UCITS retail scheme</i> operating as a <i>FAIF</i>, a statement that it is a <i>fund of alternative investment funds</i>.</u>
...	

...

Table: contents of the prospectus

4.2.5 R ...

...	
Investment objectives and policy	
3	The following particulars of the investment objectives and policy of the <i>authorised fund</i> :
	...
	(k) ...
	(ka) <u>where a <i>scheme</i> is a feeder <i>scheme</i>, which (in respect of investment in <i>units</i> in <i>collective investment schemes</i>) is dedicated to <i>units</i> in a single <i>collective investment scheme</i>, details of the master <i>scheme</i> and the minimum (and, if relevant, maximum) investment that the feeder <i>scheme</i> may make in it;</u>
	...
...	
<u>Funds of alternative investment funds</u>	
<u>22B</u>	<u>For a <i>non-UCITS retail scheme</i> operating as a <i>FAIF</i>, a statement that it is a <i>fund of alternative investment funds</i>.</u>
...	

...

4.2.6 G ...

- (5) Additional matters which are not contained in COLL 4.2.5R may be required to be included in the *prospectus*, for example for the purposes of making the *scheme* eligible under relevant tax legislation.

...

Application

5.1.1 R ...

- (2) Subject to 2(A), COLL 5.1, COLL 5.4 and COLL 5.6 apply to the *authorised fund manager* and *depository* of an *authorised fund*, and

to an *ICVC*, which is a *non-UCITS retail scheme*.

(2A) *COLL 5.1, COLL 5.4 and COLL 5.7 apply to the authorised fund manager and the depositary of an authorised fund and to an ICVC which is a non-UCITS retail scheme operating as a fund of alternative investment funds.*

(3) ~~Paragraph~~ Paragraphs (2) and (2A) ceases to apply if a *non-UCITS retail scheme* converts to be authorised as a *UCITS scheme*.

...

Indicative overview of investment and borrowing powers

5.1.4 G This table belongs to *COLL 5.1.2G(2)*.

<i>Scheme investments and investment techniques</i>	<i>Limits for UCITS schemes</i>		<i>Limits for non-UCITS retail schemes</i>	
	<i>Permissible investment</i>	<i>Maximum limit</i>	<i>Permissible investment</i>	<i>Maximum limit</i>
...				
<i>Regulated schemes other than <u>qualified investor schemes</u></i>	Yes	None	Yes	None
<i>Unregulated schemes and <u>qualified investor schemes</u></i>	No	N/A	Yes	20% (C)
...				
Note:	Meaning of terms used:			
...				
“N/A”	...			
“(C)”	<u>In the case of a non-UCITS retail scheme operating as a FAIF there is no maximum limit – see COLL 5.7.7R.</u>			

...

Spread: general

5.6.7 R ...

(6) Except for a *feeder fund* or a *scheme dedicated to units in a single*

property authorised investment fund, not more than 35% in value of the *scheme* is to consist of the *units* of any one *scheme*.

- (6A) Schemes which (in respect of investment in *units* in *collective investment schemes*) are *dedicated to units* in a single *property authorised investment fund* must, in addition to the investment in the *property authorised investment fund*, only hold cash or near cash to maintain sufficient liquidity to enable the *scheme* to meet its commitments, such as *redemptions*. *Schemes* may also use techniques and instruments for the purpose of *efficient portfolio management*, where appropriate, such as forward foreign exchange transactions entered into for the purpose of reducing the effect of fluctuations in the rate of exchange between relevant currencies.

...

- (9) For the purpose of calculating the limit in (5), *OTC derivative* positions with the same counterparty may be netted provided that the netting procedures:
- (a) comply with the conditions set out in ~~Section 3~~ Part 7 (Contractual netting (Contracts for novation and other netting agreements)) of Annex III to the *Banking Consolidation Directive*; and

...

...

...

Guidance on spread: general

- 5.6.7A G (1) *COLL 5.6.7R(7) to (10)* replicate the provisions of Article 5 of the Commission Recommendation 2004/383/EC of 27 April 2004 on the use of financial derivative instruments for undertakings for collective investment in transferable securities, so as to enable *non-UCITS retail schemes* to benefit from the same flexibility. ~~This Recommendation may be accessed via http://europa.eu.int/eur-lex/pr/en/oj/dat/2004/1_199/1_19920040607en00240029.pdf.~~

...

Insert the following new section after COLL 5.6. The text is not underlined.

5.7 Investment powers and borrowing limits for NURS operating as FAIFs

Application

- 5.7.1 R (1) This section applies to the *authorised fund manager* and the *depository* of a *non-UCITS retail scheme* operating as a *FAIF* and to

an *ICVC* which is a *non-UCITS retail scheme* operating as a *FAIF*.

- (2) Where this section refers to:
- (a) a *rule* or *guidance* in *COLL 5.1* to *COLL 5.6*, these *rules* and *guidance*, and any *rules* and *guidance* to which they refer, must be read as if a reference to a *UCITS scheme* or *non-UCITS retail scheme* were a reference to a *non-UCITS retail scheme* operating as a *FAIF*;
 - (b) a second *scheme*, and the second *scheme* is a feeder *scheme* which (in respect of investment in *units* in *collective investment schemes*) is *dedicated* to *units* in a single *collective investment scheme*, the reference in this section to the second *scheme* must be read as if it were a reference to any *scheme* into which the feeder *scheme*'s master *scheme* invests; and
 - (c) a second *scheme*, and the second *scheme* is a master *scheme* to which (in respect of investment in *units* in *collective investment schemes*) the relevant *non-UCITS retail scheme* operating as a *FAIF* is *dedicated*, the reference in this section to the second *scheme* must be read as if it were a reference to any *scheme* into which that master *scheme* invests.

Purpose

- 5.7.2 G (1) This section contains *rules* on the types of permitted investments and any relevant limits with which *non-UCITS retail schemes* operating as *FAIFs* must comply. These *rules* allow for the relaxation of certain investment and borrowing powers from the requirements for *non-UCITS retail schemes* under *COLL 5.6*.
- (2) Some examples of the different investment and borrowing powers under the *rules* in this section for *non-UCITS retail schemes* operating as *FAIFs* are the power to:
- (a) invest up to 100% of the value of the *scheme property* in *schemes* captured by *COLL 5.7.7R*; and
 - (b) invest in a single master *scheme*.
- (3) In order to ensure adequate *unitholder* protection, the *authorised fund manager* is required to implement certain due diligence procedures in respect of investment in second *schemes*.

Applicable rules in COLL 5.6

- 5.7.3 R The following *rules* and *guidance* in *COLL 5.6* (Investment powers and borrowing limits for *non-UCITS retail schemes*) apply to the *authorised fund manager* and the *depository* of a *non-UCITS retail scheme* operating as a *FAIF* and to an *ICVC* which is a *non-UCITS retail scheme* operating as a

FAIF:

- (1) *COLL 5.6.3R*;
- (2) *COLL 5.6.5R* to *5.6.6R*;
- (3) *COLL 5.6.8R* to *5.6.9R*; and
- (4) *COLL 5.6.11R* to *5.6.24R*.

Investment powers: general

- 5.7.4 R (1) The *scheme property* of a *non-UCITS retail scheme* operating as a *FAIF* may, subject to the *rules* in this section, comprise any assets or *investments* to which it is *dedicated*.
- (2) For an *ICVC*, the *scheme property* may also include movable or immovable property that is necessary for the direct pursuit of the *ICVC's* business of investing in those assets or *investments*.
- (3) The *scheme property* must be invested only in accordance with the relevant provisions in this section that are applicable to that *non-UCITS retail scheme* operating as a *FAIF* and within any upper limit specified in this section.
- (4) The *instrument constituting the scheme* may restrict the investment powers of a *scheme* further than the relevant restrictions in this section.
- (5) The *scheme property* may only, except where otherwise provided in the *rules* in this section, consist of any one or more of:
- (a) *transferable securities*;
 - (b) money market instruments;
 - (c) *units* in *collective investment schemes* permitted under *COLL 5.7.7R* (Investment in collective investment schemes);
 - (d) *derivatives* and forward transactions permitted under *COLL 5.6.13R* (Permitted transactions (derivatives and forwards));
 - (e) *deposits* permitted under *COLL 5.2.26R* (Investment in deposits);
 - (f) immovables permitted under *COLL 5.6.18R* (Investment in property) to *COLL 5.6.19R* (Investment limits for immovables); and
 - (g) gold up to a limit of 10% in value of the *scheme property*.

Spread: general

- 5.7.5 R (1) This *rule* does not apply in respect of *government and public securities*.
- (2) Not more than 20% in value of the *scheme property* is to consist of *deposits* with a single body.
- (3) Not more than 10% in value of the *scheme property* is to consist of *transferable securities* or *approved money-market instruments* issued by any single body subject to *COLL 5.6.23R* (Schemes replicating an index).
- (4) The limit of 10% in (3) is raised to 25% in value of the *scheme property* in respect of *covered bonds*.
- (5) In applying (3) *certificates representing certain securities* are to be treated as equivalent to the underlying *security*.
- (6) The exposure to any one counterparty in an *OTC derivative* transaction must not exceed 10% in value of the *scheme*.
- (7) Except for a feeder *scheme* which (in respect of investment in *units* in *collective investment schemes*) is *dedicated* to the *units* of a master *scheme*, not more than 35% in value of the *scheme* is to consist of the *units* of any one *scheme*.
- (8) For the purpose of calculating the limit in (6), the exposure in respect of an *OTC derivative* may be reduced to the extent that collateral is held in respect of it if the collateral meets each of the conditions specified in (9).
- (9) The conditions referred to in (8) are that the collateral:
- (a) is marked-to-market on a daily basis and exceeds the value of the amount at risk;
 - (b) is exposed only to negligible risks (e.g. government bonds of first credit rating or cash) and is liquid;
 - (c) is held by a third party custodian not related to the provider or is legally secured from the consequences of a failure of a related party; and
 - (d) can be fully enforced by the *non-UCITS retail scheme* operating as a *FAIF* at any time.
- (10) For the purpose of calculating the limit in (6), *OTC derivative* positions with the same counterparty may be netted provided that the netting procedures:

- (a) comply with the conditions set out in Part 7 (Contractual netting (Contracts for novation and other netting agreements)) of Annex III to the *Banking Consolidation Directive*; and
 - (b) are based on legally binding agreements.
- (11) In applying this *rule*, all *derivatives* transactions are deemed to be free of counterparty risk if they are performed on an exchange where the *clearing house* meets each of the following conditions:
- (a) it is backed by an appropriate performance guarantee; and
 - (b) it is characterised by a daily mark-to-market valuation of the *derivative* positions and an at least daily margining.
- (12) For the purposes of this *rule* a single body is:
- (a) in relation to *transferable securities* and money market instruments, the *person* by whom they are issued; and
 - (b) in relation to *deposits*, the *person* with whom they are placed.

Guidance on spread: general

- 5.7.6 G (1) *COLL 5.7.5R(8)* to (11) replicate the provisions of Article 5 of the Commission Recommendation 2004/383/EC of 27 April 2004 on the use of financial derivative instruments for undertakings for collective investment in transferable securities, so as to enable *non-UCITS retail schemes* to benefit from the same flexibility.
- (2) The attention of *authorised fund managers* is specifically drawn to condition (d) in *COLL 5.7.5R(9)* under which the collateral has to be legally enforceable at any time. It is the *FSA's* view that it is advisable for an *authorised fund manager* to undertake a legal due diligence exercise before entering into any financial collateral arrangement. This is particularly important where the collateral arrangements in question have a cross-border dimension. The *depository* will also need to exercise reasonable care to review the collateral arrangements in accordance with its duties under *COLL 6.6.4R* (General duties of the depository).
- (3) In applying the spread limit of 20% in value of *scheme property* which may consist of *deposits* with a single body, all uninvested cash comprising *capital property* that the *depository* holds should be included in calculating the total sum of the *deposits* held by it on behalf of the *scheme*.

Investment in collective investment schemes

- 5.7.7 R A *non-UCITS retail scheme* operating as a *FAIF* must not invest in *units* in a *collective investment scheme* (second *scheme*) unless the second *scheme* is a

scheme which satisfies the criteria in *COLL 5.6.10R(1)(a)* to (d) or meets each of the requirements at (1) to (4):

- (1) the second *scheme* operates on the principle of the prudent spread of risk;
- (2) the second *scheme* is prohibited from investing more than 15% in value of the property of that *scheme* in *units* in *collective investment schemes* or, if there is no such prohibition, the *non-UCITS retail scheme's authorised fund manager* is satisfied, on reasonable grounds and after making all reasonable enquiries, that no such investment will be made;
- (3) the *participants* in the second *scheme* must be entitled to have their *units* redeemed in accordance with the *scheme* at a *price*:
 - (a) related to the net value of the property to which the *units* relate; and
 - (b) determined in accordance with the *scheme*; and
- (4) where the second *scheme* is an *umbrella*, the provisions in (1) to (3) and *COLL 5.7.5R* (Spread: general) apply to each *sub-fund* as if it were a separate *scheme*.

- 5.7.8 R Feeder *schemes* which (in respect of investment in *units* in *collective investment schemes*) are *dedicated* to *units* in a single *collective investment scheme* must, in addition to the investment in the master *scheme*, only hold cash or *near cash* to maintain sufficient liquidity to enable the *scheme* to meet its commitments, such as *redemptions*. Feeder *schemes* may also use techniques and instruments for the purpose of *efficient portfolio management*, where appropriate, such as forward foreign exchange transactions entered into for the purpose of reducing the effect of fluctuations in the rate of exchange between relevant currencies.

Due diligence requirements

- 5.7.9 R (1) A *non-UCITS retail scheme* operating as a *FAIF* must not invest in *units* in *schemes* in *COLL 5.7.7R(1)* to (3) ('second *schemes*') unless the *authorised fund manager* has carried out appropriate due diligence on each of the second *schemes* and:
- (a) is satisfied, on reasonable grounds and after making all reasonable enquiries, that each of the second *schemes* complies with relevant legal and regulatory requirements;
 - (b) has taken reasonable care to determine that:
 - (i) the property of each of the second *schemes* is held in safekeeping by a third party, which is subject to prudential regulation and independent of the investment manager of

the second *scheme*;

- (ii) the calculation of the net asset value of each of the second *schemes* and the maintenance of their accounting records is segregated from the investment management function; and
- (iii) each of the second *schemes* is regularly audited by an independent auditor in accordance with international standards on auditing.

- (2) The *authorised fund manager* of a *non-UCITS retail scheme* operating as a *FAIF* invested in one or more second *schemes* must carry out appropriate due diligence as detailed in (1) on those *schemes* on an ongoing basis.

5.7.10 R The *authorised fund manager* of a *non-UCITS retail scheme* operating as a *FAIF* which is a feeder *scheme* must ensure that:

- (1) its master *scheme*; and
- (2) where its master *scheme* is itself a feeder *scheme*, any *scheme* into which that master *scheme* invests;

operates on a basis that is consistent with the *rules* in this section notwithstanding any due diligence previously carried out which suggested that those *schemes* would so operate.

5.7.11 G An *authorised fund manager* carrying out due diligence for the purpose of the *rules* in this section should make enquiries or otherwise obtain information needed to enable him properly to consider:

- (1) whether the experience, expertise, qualifications and professional standing of the second *scheme's* investment manager is adequate for the type and complexity of the second *scheme*;
- (2) the adequacy of the regulatory, legal and accounting regimes applicable to the second *scheme* and its investment manager;
- (3) whether the second *scheme*, its investment manager and administrator have complied with their legal and regulatory obligations, including but not limited to an evaluation of the investment manager's written policies with respect to such compliance;
- (4) the extent to which the second *scheme's* investment manager adheres to guidance and codes which amount to good practice in the industry;
- (5) the adequacy of the second *scheme's* systems, controls, governance, accounting, administration, business continuity, disaster recovery, safekeeping, custody and trading and execution arrangements;

- (6) the extent to which the property of the second *scheme* may be rehypothecated and the potential impact of such rehypothecation on the *non-UCITS retail scheme* operating as a *FAIF*;
- (7) the adequacy of the second *scheme's* risk management process, in particular:
 - (a) the methodology by which risk is measured and its practical adequacy in the light of the limitations inherent in risk measures (such as value at risk), including where appropriate, reference to market risk, credit risk (including counterparty credit risk), liquidity risk, operational risk and outsourcing risk;
 - (b) the extent to which the second *scheme's* investment manager carries out stress testing and backtesting, to determine how potential changes in market conditions could impact on the value of the second *scheme's* portfolio;
 - (c) the reporting, escalation and review processes within the second *scheme's* governance structure;
 - (d) the manner in which risks arising from services provided by third parties are managed, including where those third parties provide prime brokerage, administration, auditing, valuation, risk monitoring, business continuity and disaster recovery services; and
 - (e) the management of key person risk;
- (8) the adequacy of the second *scheme's* investment strategy and trading philosophy;
- (9) the implications of currency convertibility (if any);
- (10) whether the second *scheme* produces a valuation that is sufficiently accurate for the *authorised fund manager* to be reasonably satisfied that the price of the *FAIF's units* can be calculated in accordance with *COLL* 6.3 (Valuation and pricing), including but not limited to an assessment of:
 - (a) the roles and responsibilities of each of the parties involved in the second *scheme's* valuation process and the extent to which these are defined;
 - (b) the extent to which the valuation process is segregated or is functionally separate from the second *scheme's* investment manager where the second *scheme* is not subject to completely independent valuation by a third party;
 - (c) the methods used by the second *scheme* for the valuation of each part of its property including those assets which are

- difficult to value or which are not subject to independent market pricing;
- (d) the extent to which the investment manager of the second *scheme* does not rely on prices from external sources, and its written policies relating to this;
 - (e) the manner in which the investment manager of the second *scheme* selects and monitors the adequacy of its pricing sources;
 - (f) the extent to which the investment manager of the second *scheme* operates a valuation policy that is consistent and fair to both subscribing and redeeming investors from the second *scheme*;
- (11) the level of liquidity, redemption policy and *dealing* arrangements offered by the second *scheme* and whether they are sufficient for the investing *scheme* to be able to meet its obligations in respect of redemptions; wherever appropriate the *authorised fund manager* may need to consider how many second *schemes* the investing *scheme* should invest in to ensure that that *scheme* can meet its redemption obligations; and
- (12) any relevant conflicts of interest that may arise out of the relationships of the second *scheme's* investment manager with other relevant parties and in particular detract from the integrity of the second *scheme's* decision-making process, including:
- (a) relationships with brokers or service providers;
 - (b) conflicts that may be generated by fee structures;
 - (c) use of dealing commission to purchase goods or services;
 - (d) conflicts that may arise from the second *scheme's* investment manager managing that *scheme* alongside other business; and
 - (e) the conflicts of interest that may arise (if any) between the second *scheme's* investment manager and any *person* instructed to carry out due diligence on the *authorised fund manager's* behalf.

Amend the following as shown.

Sale and redemption

6.2.16 R ...

- (5) ~~The~~ Except where (5A) applies the period in (4) expires at the close of business on the fourth *business day* following the later of:

...

- (5A) Where a non-UCITS retail scheme operating as a FAIF operates limited redemption arrangements, the period in (4) expires no later than the expiry of a period of 185 days from the date of receipt and acceptance of the instruction to redeem.

...

...

- 6.2.19 R (1) The *instrument constituting the scheme* and the *prospectus* of a *non-UCITS retail scheme operating as a FAIF*, or that invests substantially in immovables or whose investment objective is to provide a specified level of return, may provide for *limited redemption arrangements* appropriate to its aims and objectives.
- (2) Where (1) applies, the *scheme* must provide for *sales and redemptions* at least once in every six *months*.
- (3) Within a *scheme*, *unit classes* may operate different arrangements for ~~*redemption*~~ *sales and redemptions* of *units* provided there is no prejudice to the interests of any *unitholder*.
- (4) The *scheme* may provide for *sales of units of any class* to be executed at a greater frequency than *redemptions of units of the same class*.

...

Deferred redemption

- 6.2.21 R (1) ~~The~~ Subject to (1A) and (3) the *instrument constituting the scheme* and the *prospectus* of an *authorised fund* which has at least one *valuation point* on each *business day*, may permit deferral of *redemptions* at a *valuation point* to the next *valuation point* where the requested *redemptions* exceed 10%, or some other reasonable proportion disclosed in the *prospectus*, of the *authorised fund's* value.
- (1A) Subject to (3) the *instrument constituting the scheme* and the *prospectus* of a *non-UCITS retail scheme* operating as a *FAIF* may permit deferral of *redemptions* at a *valuation point* to a following *valuation point* where the requested *redemptions* exceed 10%, or some other reasonable proportion disclosed in the *prospectus*, of the *authorised fund's* value.
- (2) Any deferral of *redemptions* under (1) or (1A) must be undertaken in accordance with the procedures explained in the *prospectus* which must ensure:
- (a) the consistent treatment of all *unitholders* who have sought to *redeem units* at any *valuation point* at which *redemptions* are

deferred; and

- (b) that all *deals* relating to an earlier *valuation point* are completed before those relating to a later *valuation point* are considered.
- (3) Any deferral under (1A) is subject to the limitations on payments to unitholders in COLL 6.2.16R(5A).

...

Valuation points

6.3.4 R ...

- (6) Higher volatility funds must have at least one valuation point every business day except where the scheme is a non-UCITS retail scheme operating as a FAIF.

...

...

Table: contents of qualified investor scheme prospectus

8.3.4 R ...

...	
3	Investment objectives and policy
	...
(5)	<u>Where a scheme is a feeder scheme which (in respect of investment in units in a single collective investment scheme) is dedicated to units in a collective investment scheme, details of the master scheme and the minimum (and, if relevant, maximum) investment that the feeder scheme may make in it;</u>
...	

...

Application

...

- 8.4.1A R (1) Where this section refers to a second scheme, and the second scheme is a feeder scheme, which (in respect of investment in units in collective investment schemes) is dedicated to units in a single collective investment scheme, the reference in this section to the second scheme must be read as if it were a reference to any scheme into which the feeder scheme's master scheme invests.

(2) Where this section refers to a second *scheme*, and the second *scheme* is a master *scheme* to which (in respect of investment in *units* in *collective investment schemes*) the relevant *qualified investor scheme* is *dedicated*, the reference in this section to the second *scheme* must be read as if it were a reference to any *scheme* into which that master *scheme* invests.

...

8.4.5 R (1) A *qualified investor scheme* may invest in *units* in a *scheme* (a ‘second *scheme*’) only if the second *scheme* is:

~~(1)~~(a) a *regulated collective investment scheme*; or

~~(2)~~(b) a *scheme* not within ~~(1)~~(a) where the *authorised fund manager* has taken reasonable care to determine that:

~~(a)~~(i) it is the subject of an independent annual audit conducted in accordance with international ~~accounting~~ standards on auditing;

~~(b)~~(ii) it has its value verified by a *person* independent from its *operator* in relation to each *day* on which ~~dealing in that *scheme's units* may take place~~ the calculation of the net asset value of each of the *second schemes* and the maintenance of their accounting records is segregated from the investment management function;

~~(c)~~ there are mechanisms in place to enable *unitholders* to redeem their *units* within a reasonable time;

~~(d)~~(iii) (unless it is a master *scheme* to whose *units* the relevant *qualified investor scheme* is *dedicated*) it is prohibited from ~~having~~ investing more than 15% of its value in *units* of *schemes* or, if there is no such prohibition, the *qualified investor scheme's authorised fund manager* is satisfied, on reasonable grounds and after making all reasonable enquiries, that no such investment will be made; and

~~(e)~~(iv) it operates in accordance with the principle of risk spreading as described in COLL 8.4.2R.

(2) A *qualified investor scheme* must not invest more than 20% in value of the *scheme property* in *units* in *second schemes* which are unregulated *schemes* or *qualified investor schemes* unless the *authorised fund manager* has carried out appropriate due diligence on each of the *second schemes* and has taken reasonable care to determine that, after making all reasonable enquiries and on reasonable grounds, the second *scheme* complies with relevant legal and regulatory requirements.

- (3) The authorised fund manager of a qualified investor scheme with more than 20% in value of the scheme property invested in one or more second schemes which are unregulated schemes or qualified investor schemes must carry out appropriate due diligence on those schemes on an ongoing basis.

...

- 8.4.5B G (1) The guidance at COLL 5.7.11G applies to an authorised fund manager of a qualified investor scheme carrying out due diligence for the purpose of COLL 8.4.5R, as if that guidance related to COLL 8.4.5R.
- (2) Where COLL 5.7.11G(10) refers to COLL 6.3 (Valuation and pricing), that reference should be read as if it were a reference to COLL 8.5.9R (Valuation, pricing and dealing).
- (3) In addition to the guidance at COLL 5.7.11G the authorised fund manager should, as part of its due diligence process, consider whether the property of each of the second schemes is held in safekeeping by a third party, which is subject to prudential regulation and independent of the investment manager of the second scheme and, if not, what controls over the property of the second scheme are in place to protect investors.

**ALTERNATIVE FINANCE INVESTMENT BONDS (CONSEQUENTIAL
AMENDMENTS) INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Financial Services and Markets Act 2000.

Commencement

- C. This instrument comes into force on 26 February 2010.

Amendments to the Handbook

- D. The modules of the FSA's Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2) below.

(1)	(2)
Glossary of definitions	Annex A
Collective Investment Schemes sourcebook (COLL)	Annex B
Listing Rules sourcebook (LR)	Annex C

Amendments to material outside the Handbook

- E. The Perimeter Guidance manual (PERG) is amended in accordance with Annex D to this instrument.

Citation

- F. This instrument may be cited as the Alternative Finance Investment Bonds (Consequential Amendments) Instrument 2010.

By order of the Board
25 February 2010

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.

alternative debenture the *investment* specified in article 77A of the *Regulated Activities Order* (Alternative finance investment bonds).

Amend the following definitions as shown.

certificate representing certain securities the *investment* specified in article 80 of the *Regulated Activities Order* (Certificates representing certain securities), which is in summary: a certificate or other instrument which confers contractual or property rights (other than rights consisting of *options*):

- (a) in respect of any *share, debenture, alternative debenture, government and public security or warrant* held by a *person* other than the *person* on whom the rights are conferred by the certificate or instrument; and

...

certificate representing debt securities (in *LR*) a *certificate representing certain securities* where the certificate or other instrument confers rights in respect of *debentures, alternative debentures, or government and public securities*.

collateral

...

- (2) (in *COBS* and *CASS*) any of the following:
- (a) an *investment* specified in articles 76 to 81 of the *Regulated Activities Order*, that is:
- (i) *shares* (article 76);
- (ii) *debentures* (article 77);
- (iii) an *alternative debenture* (article 77A);

...

...

...

- debt security*
- (1) (in *DTR 2*, *DTR 3* and *LR*) ~~debentures~~ *debentures*, *alternative debentures*, debenture stock, loan stock, bonds, certificates of deposit or any other instrument creating or acknowledging indebtedness.
- ...
- (3) (except in *DTR* and *LR*) any of the following:
- (a) a *debenture*;
- (aa) an *alternative debenture*;
- ...
- designated investment*
- a *security* or a contractually-based investment (other than a *funeral plan contract* and a right to or interest in a funeral plan contract), that is, any of the following *investments*, specified in Part III of the *Regulated Activities Order* (Specified Investments), and a *long-term care insurance contract* which is a *pure protection contract*:
- (a) *life policy* (subset of article 75 (Contracts of insurance));
- (b) *share* (article 76);
- (c) *debenture* (article 77);
- (ca) *alternative debenture* (article 77A);
- ...
- inter-professional investment*
- any of the following *investments* specified in Part III of the *Regulated Activities Order* (~~Specified investments~~ Investments) or, in the case of *units* in an *exchange traded fund*, defined in the *Glossary*:
- (a) *share* (article 76);
- (b) *debenture* (article 77);
- (ba) *alternative debenture* (article 77A);
- ...
- security*
- (1) (except in *LR*) (in accordance with article 3(1) of the *Regulated Activities Order* (Interpretation)) any of the following *investments* specified in that Order:
- (a) *share* (article 76);
- (b) *debenture* (article 77);

(ba) alternative debenture (article 77A);

...

...

specified investment

any of the following *investments* specified in Part III of the *Regulated Activities Order* (Specified Investments):

...

and then further sub-divided into *classes* of *contract of insurance*;

(c) *share* (article 76);

(d) *debenture* (article 77);

(da) alternative debenture (article 77A);

...

warrant

(1) (except in *COLL*) the *investment*, specified in article 79 of the *Regulated Activities Order* (Instruments giving entitlements to investments), which is in summary: a warrant or other instrument entitling the holder to subscribe for a *share, debenture, alternative debenture* or *government and public security*.

...

Annex B**Amendments to the Collective Investment Schemes sourcebook (COLL)**

In this Annex, underlining indicates new text.

- 5.2.7 R (1) *A transferable security is an investment which is any of the following:*
- (a) *a share;*
 - (b) *a debenture;*
 - (ba) *an alternative debenture;*
- ...
- ...

Annex C

Amendments to the Listing Rules sourcebook (LR)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Appendix 1

1.1

Relevant definitions

certificate representing certain securities

the *investment* specified in article 80 of the *Regulated Activities Order* (Certificates representing certain securities), which is in summary: a certificate or other instrument which confers contractual or property rights (other than rights consisting of *options*):

- (a) in respect of any *share, debenture, alternative debenture, government and public security or warrant* held by a *person* other than the *person* on whom the rights are conferred by the certificate or instrument; and

...

certificate representing debt securities

a *certificate representing certain securities* where the certificate or other instrument confers rights in respect of *debentures, alternative debentures, or government and public securities*.

debt security

~~debentures~~ *debentures, alternative debentures, debenture stock, loan stock, bonds, certificates of deposit or any other instrument creating or acknowledging indebtedness.*

specified investment

any of the following *investments* specified in Part III of the *Regulated Activities Order* (Specified Investments):

...

and then further sub-divided into *classes of contract of insurance*;

- (c) *share* (article 76);
- (d) *debenture* (article 77);
- (da) *alternative debenture* (article 77A);

...

warrant

the *investment*, specified in article 79 of the *Regulated Activities Order* (Instruments giving entitlements to investments), which is in summary: a warrant or other instrument entitling the holder to subscribe for a *share, debenture, alternative debenture or government and public security*.

Annex D

Amendments to the Perimeter Guidance manual (PERG)

In this Annex, underlining indicates new text and striking through indicates deleted text.

...

Debt instruments

2.6.11 G ...

Alternative finance investment bonds

2.6.11A G Alternative finance investment bonds (defined in article 77A of the Regulated Activities Order and referred to in the Handbook as alternative debentures) are a form of Sharia compliant bond (known as ‘sukuk’ in the plural or ‘sakk’ in the singular) which are intended to be regulated in an equivalent manner to conventional debt securities, where appropriate. Sukuk arrangements allow assets to be held for the benefit of investors in certificates issued by a company. The benefits may include the payment of a return that is economically equivalent to interest and redemption of the certificates out of the proceeds from the disposal of the assets. Alternative debentures are not limited to those wishing to issue Sharia compliant sukuk.

2.6.11B G The arrangements which grant rights under alternative debentures are similar to the tax definition of arrangements relating to alternative finance investment bonds at section 48A of the Finance Act 2005 (see http://opsi.gov.uk/acts/acts2007/ukpga_20070011_en_5#pt3-pb9-11g53). However the purposes of the two provisions are not the same. One of the objectives of the FSA under the Act is consumer protection. Accordingly, secondary legislation made under the Act, like article 77A of the Regulated Activities Order, is likely to be interpreted by the FSA with consumer protection in mind. This may mean that whilst the arrangements described at section 48A of the Finance Act 2005 and those described at article 77A of the Regulated Activities Order are similar, they are likely to be construed differently by the courts. PERG 2.6.11FG and PERG 2.6.11GG explain the consumer protection features in the definition of alternative debentures in more detail.

2.6.11C G The arrangements which grant rights under an alternative debenture arise where:

- (1) the arrangements provide for a person (‘the bond-holder’) to pay a sum of money (‘the capital’) to another (‘the bond-issuer’);
- (2) the arrangements identify assets, or a class of assets, which the bond-issuer will acquire for the purpose of generating income or gains directly or indirectly (‘the bond assets’);
- (3) the arrangements specify a period at the end of which they cease to

have effect ('the bond term');

- (4) the bond-issuer undertakes under the arrangements:
 - (a) to make a repayment of the capital ('the redemption payment') to the bond-holder during or at the end of the bond term (whether or not in instalments); and
 - (b) to pay to the bond-holder other payments on one or more occasions during or at the end of the bond term (the 'additional payments');
- (5) the amount of the additional payments does not exceed an amount which would, at the time at which the bond is issued, be a reasonable commercial return on a loan of capital; and
- (6) the arrangements are a security admitted to:
 - (a) an official list; or
 - (b) trading on a regulated market or on a recognised investment exchange.

2.6.11D G Different types of alternative debentures are permitted so that, for example:

- (1) the assets of the arrangement may be acquired before or after it commences;
- (2) the bond-holder may (but need not) be entitled under the arrangements to terminate them, or participate in terminating them before the end of the bond term;
- (3) the return may be fixed, floating or determined in some other way;
- (4) the amount of the redemption payment may (but need not) be subject to reduction in the event of a fall in the value of the bond assets or in the rate of income generated by them.

2.6.11E G As these arrangements might amount to a collective investment scheme (see PERG 9.4.2GG for a broad description) a consequential amendment to the Financial Services and Markets Act 2000 (Collective Investment Scheme) Order 2001 (SI 2001/1062) has been made so that, like conventional bonds, alternative debentures are excluded from the definition of collective investment scheme.

2.6.11F G The range of instruments that are caught by the alternative debenture definition have been tightly circumscribed to ensure that only those arrangements that grant, in substance, debt-like returns are captured. This is because arrangements giving rights under an alternative debenture cannot amount to a collective investment scheme (see PERG 2.6.11EG). If other types of investments were covered by the alternative debenture definition this could have the effect of undermining the regime for regulating

collective investment schemes, which is primarily aimed at protecting the consumer from investing in unsuitable products. For example, under section 238 of the Act (Restrictions on promotion) an authorised person cannot communicate an invitation or inducement to participate in an unregulated collective investment scheme.

2.6.11G G The condition set out at PERG 2.6.11CG(6) is also intended to protect consumers. This provides that alternative debentures must be listed on an official list or traded on a regulated market or recognised investment exchange. This is because there is a risk that alternative debentures could lead to regulatory arbitrage (i.e. the risk that the exclusion from being classified as a collective investment scheme is exploited by instruments not intended to be excluded). Mandatory listing is aimed at ensuring an enhanced level of transparency, reducing the likelihood of regulatory arbitrage.

2.6.11H G (1) The main provision within the definition of alternative debenture arrangements that seeks to ensure that only instruments that display the characteristics of a debt security can be alternative debentures is set out at PERG 2.6.11CG(5). It provides that the amount of additional payments under the arrangements must not exceed an amount which would, at the time the bond is issued, be a 'reasonable commercial return on a loan of capital'. Where the return is not fixed at the outset, it is the maximum possible amount of the additional payments that must be considered in deciding this question. The following example demonstrates how this condition should be approached.

Example

ABC Ltd is a property development company. It wishes to increase its portfolio on a short-term basis. It issues 5-year sukuk to investors and uses the proceeds to buy the head lease of a commercial property. The rental income from the lease is distributed to investors in proportion to their holdings without a cap on the level of return. After 5 years, the head lease is sold on at a profit and the proceeds shared between investors.

In this example, the investors participate directly in the success or failure of the underlying property business. The sukuk is not really in the nature of a debt instrument. It is unlikely to be an alternative debenture as:

(a) additional payments under the arrangements would exceed a reasonable commercial return on a loan of the capital.

Further, where the return is not fixed at the outset, it is the maximum possible amount of the additional payments that must be considered. Here, the issue terms of the sukuk impose no upper limit on the amount of the periodic distributions: a sukuk holder subscribing £1,000 may, in a

year, get back £200 or £2,000 or nothing depending on the rental market. The maximum potential return is clearly in excess of a reasonable commercial return on a loan of £1,000; and

(b) the arrangements have not been admitted to an official list or admitted to trading on a regulated market or recognised investment exchange (see PERG 2.6.11CG(6)).

- (2) If, in the above example, investors' returns were capped at £500 per sakk per year, then this is the amount that must be considered in deciding whether the return exceeds a reasonable commercial return on a loan, even where the amounts actually received turn out to be far lower.
- (3) In applying the "reasonable commercial return" test, the sakk should be compared to a hypothetical loan to the issuer on similar terms and carrying similar risks. For example, a conventional security convertible into shares will normally carry a lower rate of interest because the conversion right has a value. The return on an "exchangeable" or "convertible" sakk should be measured against the return on an equivalent exchangeable or convertible debt security.
- (4) The risk to investors in sukuk may vary slightly from that of a conventional bond in some instances. This may be due to the fact that sukuk holders only have recourse to the bond assets or some other structural feature which results in the risk profile being higher. In such instances it may be justifiable for the rate of return to be slightly higher than that of a conventional loan.
- (5) As with any financial instrument, the pricing of sukuk will depend on the issuer's view of the market at the time of issue and "reasonable commercial return" may vary depending on the issuer and the economic circumstances prevalent at the time of issue.

2.6.12 G Certain instruments are excluded from both ~~these~~ of the categories of specified investments referred to in PERG 2.6.11G. These include trade bills, specified banking documents (such as cheques and banknotes though not bills of exchange accepted by a banker) and *contracts of insurance*. There is a further exclusion from this category of *specified investment* dealing with public debt for National Savings deposits and products. However, for the purposes of article 78 of the Financial Services and Markets Act (Regulated Activities) Order 2001, this exclusion does not apply to instruments that meet the requirements of PERG 2.6.11CG(1) to (5).

Warrants

2.6.13 G The category of *specified investment* of instruments giving entitlements to investments (referred to in the *Handbook* as *warrants*) covers warrants and other instruments which confer an entitlement to subscribe for *shares*, *alternative debentures*, *debentures* and *government and public securities*. ...

...

2.8.4 G The *regulated activity* of *dealing in investments as principal* applies to specified transactions relating to any security or to any *contractually based investment* (apart from rights under *funeral plan contracts* or rights to or interests in such contracts). The activity is cut back by exclusions as follows:

...

(4) A *company* does not *deal* as principal by issuing its own *shares* or *share warrants* and a *person* does not *deal* as principal by issuing his own *debentures*, *alternative debentures* or *debenture warrants* or *alternative debenture warrants*.

...

2.8.6A G The exclusions in the *Regulated Activities Order* that relate to the various *arranging* activities are as follows.

...

(11) Under article 34, a *company* is not carrying on a *regulated activity* under article 25(1) or (2) of the *Regulated Activities Order* (Arranging deals in investments) by arranging for the issue of its own *shares* or *share warrants* and a *person* is not doing so by arranging for the issue of his own *debentures* or *alternative debentures* or *debenture warrants* or *alternative debenture warrants*.

...

2 Annex 2G Regulated activities and the permission regime

...

5 Table

<p>Table 3 : Securities, contractually based investments and relevant investments [see notes 1 and 2 to table 3]</p>

Security (article 3(1))	Contractually based investment (article 3(1))	Relevant investments (article 3(1))
<i>share</i> (article 76) <i>debenture</i> (article 77) <u><i>alternative debenture</i></u> (article 77A) <i>government and public security</i> (article 78)
...		

...

8.14.21 G This exemption disapples the restriction in section 21 of the *Act* from *non-real time financial promotions* or *solicited real time financial promotions* which are made to a *person* who the communicator believes on reasonable grounds to be a certified high net worth individual and which relate to certain *investments*. These *investments* must be either;

- (1) *shares* in or *debentures* or *alternative debentures* of an unlisted *company*; or
- (2) *warrants*, *certificates representing certain securities*, *options*, *futures* or *contracts for differences* relating to *shares* in or *debentures* or *alternative debentures* of an unlisted *company*; or
- (3) *collective investment schemes* investing predominantly in *shares* in or *debentures* or *alternative debentures* of an unlisted *company*.

...

...

8.14.30 G Article 52 concerns *non-real time* and *solicited real time financial promotions* about offers of *shares* or *debentures* or *alternative debentures* of a *company*. The offers must be made only to or be reasonably regarded as only directed at certain *persons*. These *persons* must belong to an identified group of *persons* who, when the *financial promotion* is made, might reasonably be regarded as having an existing and common interest with each other and the *company*.

...

8.14.41 G Several exemptions, including article 43 of the *Financial Promotion Order* (Members and creditors of certain bodies corporate), apply only in relation to relevant *investments* being *shares* or *debentures* or *alternative debentures* in the *body corporate* or a member of its group, or *warrants* or

certificates representing certain securities relating to such *shares* or *debentures* or *alternative debentures*. In the FSA's view, an exchangeable *debt security* which is partly a *debenture* or *alternative debenture* and partly an *option* is a relevant *investment* for these purposes.

...

8.21.9 G A 'relevant investment' in article 43 means:

(1) *shares* or *debentures* or *alternative debentures*; and

...

...

8.21.12 G Article 59 imposes certain conditions:

...

(2) The inducement must not relate to any *investment* other than *shares* or *debentures* or *alternative debentures* issued, or to be issued, by the *company* making the *financial promotion* (or a member of its *group*) or *warrants* relating to or certificates representing such *shares* or *debentures* or *alternative debentures*.

...

8.21.13 G Article 67 exempts any *financial promotion* other than an *unsolicited real time financial promotion* which relates to *shares*, *debentures*, *alternative debentures*, *government and public securities*, *warrants* or *certificates representing certain securities* which are permitted to be traded or dealt in on a relevant market.

...

8.21.17 G ... There are two main differences between article 69 and article 59.

...

(2) The requirement in article 59 that the *financial promotion* be accompanied by accounts or a report is replaced in article 69. It is replaced by a requirement that *shares* or *debentures* or *alternative debentures* of the *company* or another *body corporate* in its *group* (or *warrants* relating to or certificates representing such *investments*) are permitted to be traded on a relevant market (relevant market having the same meaning as in article 67 - see *PERG 8.21.13G*).

...

8.25.1 G For the purposes of article 53 of the *Regulated Activities Order*, a *security*

or *relevant investment* is any one of the following:

- (1) *shares*;
- (2) *debentures*;
- (2A) *alternative debentures*;

...

...

8.36.4 G Table Controlled investments

1.	...
...	
4.	Instruments creating or acknowledging indebtedness (referred to in the Glossary as debentures <u>and alternative debentures</u>).
...	

...

13 Annex 2 ...

...

Table 2 – MiFID financial instruments and the Part IV permission regime

MiFID financial instrument	Part IV permission category	Commentary
C1 – Transferable securities	share (article 76) debenture (article 77) <u>alternative debenture (article 77A)</u> government and public security (article 78) ...	...

C2 – Money market instruments	debenture (article 77) <u>alternative debenture</u> <u>(article 77A)</u> government and public security (article 78) ...	...
...		

LISTING RULES SOURCEBOOK (AMENDMENT NO 4) INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000:
- (1) section 73A (Part 6 rules);
 - (2) section 75 (Applications for listing);
 - (3) section 77 (Discontinuance and suspension of listing);
 - (4) section 79 (Listing particulars and other documents);
 - (5) section 80 (General duty of disclosure in listing particulars);
 - (6) section 81 (Supplementary listing particulars);
 - (7) section 88 (Sponsors);
 - (8) section 89 (Public censure of sponsor);
 - (9) section 96 (Obligations of issuers of listed securities);
 - (10) section 99 (Fees);
 - (11) section 101 (Part 6 rules: general provisions);
 - (12) section 138 (General rule-making power);
 - (13) section 156 (General supplementary powers);
 - (14) section 157(1) (Guidance); and
 - (15) schedule 7 (The Authority as Competent Authority for Part VI).

Commencement

- B. This instrument comes into force on 6 April 2010.

Amendments to the Handbook

- C. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- D. The Listing Rules sourcebook (LR) is amended in accordance with Annex B to this instrument.

Notes

- E. In Annex B (LR) to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- F. This instrument may be cited as the Listing Rules Sourcebook (Amendment No 4) Instrument 2010.

By order of the Board
25 February 2010

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

- miscellaneous securities* (in *LR*) *securities* which are not:
- (a) *shares*; or
 - (b) *debt securities*; or
 - (c) *asset backed securities*; or
 - (d) *certificates representing debt securities*; or
 - (e) *convertible securities* which convert to *debt securities*; or
 - (f) *convertible securities* which convert to *equity securities*; or
 - (g) *convertible securities* which are exchangeable for *securities* of another *company*; or
 - (h) *certificates representing certain securities*; or
 - (i) *securitised derivatives*.
- standard listing (shares)* a *standard listing* of *shares* other than *preference shares* that are *specialist securities*.

Amend the following as shown.

- preference share*
- (1) ~~(except in *GENPRU*) a *share* conferring preference as to income or return of capital which is not convertible into an *equity share* and does not form part of the *equity share capital* of a *company*.~~
 - (2) ~~(in *GENPRU*) a *share* conferring preference as to income or return of capital which does not form part of the *equity share capital* of a *company*.~~
- premium listing*
- (a) in relation to *equity securities* *shares* (other than those of a *closed-ended investment fund* or of an *open-ended investment company*), means a *listing* where the *issuer* is required to comply with those requirements in *LR 6*

(Additional requirements for premium listing (commercial company)) and the other requirements in the listing rules that are expressed to apply to such *securities* with a *premium listing*;

(b) in relation to *equity securities shares* of a *closed-ended investment fund*, means a *listing* where the *issuer* is required to comply with the requirements in *LR 15 (Closed-Ended Investment Funds: Premium listing)* and other requirements in the *listing rules* that are expressed to apply to such *securities* with a *premium listing*;

(c) in relation to *equity securities shares* of an *open-ended investment company*, means a *listing* where the *issuer* is required to comply with *LR 16 (Open-ended investment companies: Premium listing)* and other requirements in the *listing rules* that are expressed to apply to such *securities* with a *premium listing*.

~~*standard listing (commercial company)*~~

~~*a standard listing of equity securities.*~~

tender offer

(in *LR*) an offer by a *company* to purchase all or some of a *class* of its *listed equity securities* ~~or preference shares~~ at a maximum or fixed price (that may be established by means of a formula) that is:

...

Annex B

Amendments to the Listing Rules sourcebook (LR)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

- 1.5.1 G ...
- (3) *Premium listing exists for equity securities shares of commercial companies, ~~closed-ended investment funds~~ and ~~open-ended investment companies~~. Any other listing will be a standard listing.*
 - (4) In one case, for *equity securities shares* of a commercial company, an issuer will have a choice under the listing rules as to whether it has a *standard listing* or a *premium listing*. The type of listing it applies for will therefore determine the requirements it must comply with.
 - (5) LR 5.4A provides a process for the transfer of the category of listing of *equity securities shares*.
 - (6) In one case, for further classes of equity shares of an investment entity, the equity shares may be admitted to a standard listing provided that, and only for so long as, the issuer has a premium listing of equity shares.

Misleading statements about status

- 1.5.2 R An issuer that is not an issuer with a *premium listing* of its ~~securities equity shares~~ must not describe itself or hold itself out (in whatever terms) as having a *premium listing* or make any representation which suggests, or which is reasonably likely to be understood as suggesting, that it has a *premium listing* or complies or is required to comply with the requirements that apply to a *premium listing*.

After LR 1.5 insert the following new section. The text is not underlined.

1.6 Listing Categories

- 1.6.1 G Under other provisions of LR an issuer must comply with the rules that are applicable to every security in the category of listing which applies to each security the issuer has listed. The categories of listing are:
- (1) *premium listing (commercial company);*
 - (2) *premium listing (closed ended investment fund);*

- (3) *premium listing (open ended investment companies);*
- (4) *standard listing (shares);*
- (5) *standard listing (debt and debt-like securities);*
- (6) *standard listing (certificates representing certain securities);*
- (7) *standard listing (securitised derivatives);*
- (8) *standard listing (miscellaneous securities).*

- 1.6.2 R An *issuer* must inform the *FSA* if the characteristics of a *security* change so that the *security* no longer meets the definition of a *security* in the category in which it has been placed.

Amend the following as shown.

- 2.2.3 R Other than in regard to *securities* to which *LR 4* applies, ~~To~~ to be listed, *equity securities* must be admitted to trading on ~~an~~ a *regulated market for listed securities* operated by a *RIE*. All other *securities* must be admitted to trading on a *RIE*'s market for *listed securities*.

...

Convertible securities and miscellaneous securities carrying the right to buy or subscribe for other securities

- 2.2.12 R *Convertible securities and miscellaneous securities* giving the holder the right to buy or subscribe for other *securities* may be admitted to listing only if the *securities* into which they are convertible or over which they give a right to buy or subscribe are already, or will become at the same time:

...

~~Warrants or options to subscribe~~

- 2.2.14 R ~~The requirements for listing of warrants to subscribe, or options to subscribe, for *equity securities* (not being options or warrants accompanied by other *securities*) are the same as would apply if the application was for listing of the *equity securities* to be subscribed. [deleted]~~

Overseas company applying for a premium listing

- 2.2.15 R If the law of the country of its incorporation does not confer on *shareholders* rights which are at least equivalent to *LR 9.3.11R*, an *overseas company* applying for a *premium listing* must:

- (1) ensure its constitution provides for rights which are at least equivalent to the rights provided for in LR 9.3.11R (as qualified by LR 9.3.12R); and
- (2) be satisfied that conferring such rights would not be incompatible with the law of the country of its incorporation.

...

3.2.2 R An *applicant* for admission must apply to the FSA by:

- (1) submitting, in final form:
 - (a) the documents described in LR 3.3 in the case of an application in respect of *equity securities shares*;

...

...

...

3.3 ~~Equity securities~~ Shares

Application

3.3.1 R LR 3.3.2R to LR 3.3.7R apply to an *applicant* which is applying for a listing of its ~~equity securities or other shares~~ except for preference shares that are specialist securities.

Documents to be provided 48 hours in advance

3.3.2 R The following documents must be submitted, in final form, to the FSA by midday two *business days* before the FSA is to consider the application:

- (1) ...
 - (2) ...
 - (b) a copy of the *prospectus*, a certificate of approval and (if applicable) a translation of the *summary* of the *prospectus*, if another EEA State is the home Member State for the *securities shares*; or
 - (c) ...
- ...
- (5) written confirmation of the number of *securities shares* to be allotted (pursuant to a board resolution allotting the *securities shares*); and [**Note:** If this is not possible, see LR 3.3.4R.]

- (6) if a *prospectus* or *listing particulars* have not been produced, a copy of the *RIS* announcement detailing the number and type of *securities shares* that are the subject of the application and the circumstances of their issue.

...

Documents to be provided on the day

- 3.3.3 R The following documents signed by a *sponsor* (if a *sponsor* is required under *LR 8*) or by a duly authorised officer of the *applicant* (if a *sponsor* is not required under *LR 8*) must be submitted, in final form, to the *FSA* before 9 a.m. on the day the *FSA* is to consider the application:
- (1) a completed Shareholder Statement, in the case of an *applicant* that is applying for a *listing* of a class of *equity shares* or *preference shares* for the first time; or [**Note:** see *LR 8.4.3R* and *LR 8.4.9R*];

...

- 3.3.4 R If written confirmation of the number of *securities shares* to be allotted pursuant to a board resolution cannot be submitted to the *FSA* by the deadline set out in *LR 3.3.2R* or, the number of *securities shares* to be *admitted* is lower than the number notified under *LR 3.3.2R*, written confirmation of the number of *securities shares* to be allotted or *admitted* must be provided to the *FSA* by the *applicant* or its *sponsor* at least one hour before the *admission to listing* is to become effective.
- 3.3.4A R If the *FSA* has considered an application for *listing* and the *securities shares* the subject of the application are not all allotted and *admitted* following the initial allotment of the *securities shares* (for example, under an *offer for subscription*), further allotments of *securities shares* may be *admitted* if before 4pm on the day before *admission* is sought the *FSA* has been provided with:
- (1) written confirmation of the number of *securities shares* allotted pursuant to a board resolution; and
- (2) a copy of the *RIS* announcement detailing the number and type of *securities shares* and the circumstances of their issue.

Other documents to be submitted

- 3.3.5 R Written confirmation of the number of *securities shares* that were allotted (pursuant to a board resolution allotting the *securities shares*) must be submitted to the *FSA* as soon as practicable after *admission* if the number is lower than the number that was announced under *LR 3.2.7G* as being *admitted to listing*.

...

- 3.3.6 R An *applicant* must keep copies of the following for six years after the *admission to listing*:
- (1) any agreement to acquire any assets, business or ~~shares~~ shares in consideration for or in relation to which the company's ~~securities~~ shares are being issued;
 - (2) any letter, report, valuation, contract or other documents referred to in the *prospectus*, *listing particulars*, *circular* or other document issued in connection with those ~~securities~~ shares;
 - ...
 - (7) in the case of an application in respect of ~~securities~~ shares issued pursuant to an *employees' share scheme*, the scheme document;
 - ...
 - (9) copies of board resolutions of the *applicant* allotting or issuing the ~~securities~~ shares.
- ...
- 3.4.1 R LR 3.4.4R to LR 3.4.6R apply to an *applicant* that is seeking *admission* of any of the following types of *securities*:
- ...
 - (3) *certificates representing certain securities*; ~~and~~
 - (4) [deleted]
 - (5) *convertible securities* ~~other than those referred to in LR 3.3.1R(3)~~;
 - (6) *miscellaneous securities*; and
 - (7) *preference shares that are specialist securities*.
- ...
- 5.1.2 G Examples of when the *FSA* may suspend the *listing* of *securities* include (but are not limited to) situations where it appears to the *FSA* that:
- ...
 - (8) ...; or
 - (9) for a *miscellaneous security* that carries a right to buy or subscribe for another *security*, the *security* over which the *listed miscellaneous security* carries a right to buy or subscribe has been suspended.
- ...

- 5.2.2 G Examples of when the *FSA* may cancel the *listing* of *securities* include (but are not limited to) situations where it appears to the *FSA* that:
- ...
- (3) the *securities'* *listing* has been suspended for more than six months;
- (4) the *securities* are *equity shares* with a *standard listing* issued by an *investment entity* where the *investment entity* no longer has a *premium listing* of *equity shares*.

- 5.2.3 G The *FSA* will generally cancel the *listing* of a *listed company's securities equity shares* when it completes a *reverse takeover*.
- ...

Cancellation of listing of ~~ordinary~~ equity shares

- 5.2.5 R Subject to *LR 5.2.7R*, *LR 5.2.10R* and *LR 5.2.12R*, an *issuer* with a *premium listing* that wishes the *FSA* to cancel the *listing* of any of its ~~ordinary~~ *equity shares* with a *premium listing* must:
- ...
- ...

- 5.2.7 R *LR 5.2.5R(2)* will not apply where an *issuer* of ~~ordinary~~ *equity shares* notifies a *RIS*:
- ...

- 5.2.7A R Where an *investment entity* no longer has a *premium listing* of *equity shares* it must apply under *LR 5.2.8R* for *cancellation* of the *listing* of any other class of *listed equity shares*.

Requirements for cancellation of other securities

- 5.2.8 R An *issuer* that wishes the *FSA* to cancel the *listing* of *listed securities* (other than ~~ordinary~~ *equity shares* with a *premium listing*) must notify a *RIS*, giving at least 20 *business days* notice of the intended cancellation but is not required to obtain the approval of the holders of those *securities* contemplated in *LR 5.2.5R(2)*.
- ...

- 5.2.10 R *LR 5.2.5R* does not apply to the cancellation of ~~ordinary~~ *equity shares* of an *issuer* with a *premium listing* when, in the case of a takeover offer:
- ...

- 5.2.11 R In the circumstances of *LR 5.2.10R*, the *company* must notify ~~the security holders~~ shareholders that the required 75% has been attained and that the

notice period has commenced and of the anticipated date of cancellation, or the explanatory letter or other material accompanying the section 979 notice must state that the notice period has commenced and the anticipated date of cancellation.

Cancellation as a result of schemes of arrangement etc

5.2.12 R *LR 5.2.5R and LR 5.2.8R do not apply to the cancellation of ~~ordinary equity shares of an issuer~~ with a premium listing as a result of:*

...

...

5.4.7 G For a *miscellaneous security* that carries a right to buy or subscribe for another *security*, the *miscellaneous security's* listing will be restored if the *security* over which the *miscellaneous security* carries a right to buy or subscribe is restored.

5.4A **Transfer between listing categories: Equity securities shares**

...

5.4A.1 R This section applies to an *issuer* that wishes to transfer its category of *equity securities shares* listing from:

- (1) a *standard listing* (~~*commercial company shares*~~) to a *premium listing* (*commercial company*); or
- (2) a *standard listing* (~~*commercial company shares*~~) to a *premium listing* (*investment company*); or
- (3) a *premium listing* (*commercial company*) to a *standard listing* (~~*commercial company shares*~~); or

...

- (6) a *premium listing* (*investment company*) to a *standard listing* (~~*commercial company shares*~~).

5.4A.2 G An *issuer* will only be able to transfer a *listing* of its *equity securities shares* from a *premium listing* (*investment company*) to a *standard listing* (~~*commercial company shares*~~) if it has ceased to be an *investment entity* (for example if it has become a *commercial company*) or if it continues to have a *premium listing* of a class of *equity shares*. This is because *LR 14.1.1R* provides that *LR 14* does not apply to *equity shares* of an *investment entity* without a *premium listing* of *equity shares*.

...

5.4A.3 R (1) If an *issuer* wishes to transfer its category of *equity securities shares* listing it must notify the *FSA* of the proposal.

...

...

5.4A.4 R (1) This rule applies to a transfer of the *listing* of *equity securities shares with a premium listing* into or out of the category of *premium listing (investment company)* or a transfer of the *listing* of *equity securities shares* out of the category of *premium listing (commercial company)*.

(2) The *issuer* must:

(a) send a *circular* to the holders of the *equity securities shares*;

(b) notify a *RIS*, at the same time as the circular is despatched to the relevant holders of the *equity securities shares*, of the intended transfer and of the notice period and meeting date;

(c) obtain at a general meeting, the prior approval of a resolution for the transfer from not less than 75% of the holders of the *equity securities shares* as (being entitled to do so) vote in person or, where proxies are allowed, by proxy; and

...

...

5.4A.5 R (1) This rule applies to any transfer of a *listing* of *equity securities shares* other than a transfer referred to in *LR 5.4A.4R(1)*.

...

...

5.4A.10 R If an *issuer* has initially notified the *FSA* under *LR 5.4A.3R* it may apply to the *FSA* to transfer the *listing* of its *equity securities shares* from one category to another. The application must include:

...

(2) details of the *equity securities shares* to which the transfer relates;

...

Issuer must comply with eligibility requirements

5.4A.11 R (1) An *issuer* applying for a transfer of its *equity securities shares* must comply with all eligibility requirements that would apply if the *issuer* was seeking admission to *listing* of the *equity securities*

shares to the category of *listing* to which it wishes to transfer.

(2) For the purposes of applying the eligibility requirements referred to in (1) to a transfer then, unless the context otherwise requires, a reference in such a requirement:

(a) to the admission of *equity securities shares* is to be taken to be a reference to the transfer of the *securities equity shares*; and

...

...

5.4A.12 R If an *issuer* applies under LR 5.4A.10R, the *FSA* may approve the transfer if it is satisfied that:

...

(3) the *issuer* and the *equity securities shares* will comply with all eligibility requirements that would apply if the *issuer* was seeking admission to *listing* of the *securities equity shares* to the category of *listing* to which it wishes to transfer.

5.4A.13 G The *FSA* will not generally reassess compliance with eligibility requirements (for example LR 6.1.16R (Working capital)) if the *issuer* has previously been assessed by the *FSA* as meeting those requirements under its existing *listing* category when its *equity securities shares* were *listed*.

...

5.4A.16 G There may be situations in which an *issuer's* business has changed over a period of time so that it no longer meets the requirements of the applicable *listing* category against which it was initially assessed for *listing*. In those situations, the *FSA* may consider cancelling the *listing* of the *securities equity shares* or suggest to the *issuer* that, as an alternative, it applies for a transfer of its *listing* category.

...

5.5.3 G (1) The *FSA* will not automatically suspend, cancel or restore the *listing* of *securities* at the request of an *overseas* exchange or *overseas* authority (for example, if listing of a ~~*secondary*~~ *listed issuer's securities* are suspended, cancelled or restored on its home exchange).

(2) The *FSA* will not normally suspend the *listing* of *securities* where there is a trading halt for the *security* on its home exchange.

(3) If a ~~*secondary*~~ *listed issuer* requests a suspension, cancellation or restoration of the *listing* of its *securities*, after a suspension, cancellation or restoration on its home exchange, the *issuer* should

send to the *FSA* written confirmation:

...

...

6 Additional requirements for premium listing (commercial company)

...

- 6.1.1 R This chapter applies to an *applicant* for the *admission* of *equity securities shares* to *premium listing (commercial company)*.

Applicant must satisfy requirements in this chapter

- 6.1.2 G An *applicant* for the *admission* of *equity securities shares* to a *premium listing (commercial company)* must satisfy the requirements in this chapter (in addition to those in *LR 2*).

Accounts

- 6.1.3 R (1) A *new applicant* for the *admission* of *equity shares* ~~or securities convertible into its own shares~~ to a *premium listing* must have published or filed audited accounts that:

...

...

Nature and duration of business activities

- 6.1.4 R A *new applicant* for the *admission* of *equity shares* ~~or securities convertible into its own shares~~ to a *premium listing* must demonstrate that:

...

...

Mineral companies

- 6.1.8 R If a *mineral company* applies for the *admission* of its *equity securities shares*:

...

- 6.1.9 R *LR 6.1.4R* does not apply to a *mineral company* that applies for the *admission* of its *equity securities shares*.

- 6.1.10 R (1) This rule applies to a *mineral company* that is a *new applicant* for the *admission* of its *equity securities shares*.

...

...

- 6.1.11 R If a *scientific research based company* applies for the *admission* of its *equity securities shares*:

...

- 6.1.12 R An *applicant* for the *admission* of *equity securities shares* of a *scientific research based company* does not need to satisfy LR 6.1.4R but must:

...

- (3) have a capitalisation, before the marketing at the time of *listing*, of at least £20 million (based on the issue price and excluding the value of any *securities equity shares* which have been issued in the six months before *listing*);

...

Other cases where the FSA may modify accounts and track record requirements

- 6.1.13 G The *FSA* may modify or dispense with LR 6.1.3R(1)(a) or LR 6.1.4R if it is satisfied that it is desirable in the interests of investors and that investors have the necessary information available to arrive at an informed judgment about the *applicant* and the *securities equity shares* for which *listing* is sought.

[Note: article 44 CARD]

...

- 6.1.15 G For the purposes of LR 6.1.14G the *FSA* will take into account factors such as whether the *applicant*:

...

- (2) is undertaking a significant marketing of *securities equity shares* in connection with the *admission* and has demonstrated that having listed status is a significant factor in the ability to raise funds; and

...

...

- 6.1.17 G The *FSA* may dispense with the requirement under LR 6.1.16R if an *applicant* already has *equity securities shares listed*, and the *FSA* is satisfied that the *prospectus* or *listing particulars* (as the case may be) contain satisfactory proposals for providing the additional working capital thought by the *applicant* to be necessary.

...

6.1.23 R To be *listed*, ~~securities~~ equity shares must be eligible for electronic settlement.

...

7.1.1 R The Listing Principles apply to every *listed company* with a *premium listing* of ~~equity securities~~ shares in respect of all its obligations arising from the *listing rules* and the *disclosure rules* and *transparency rules*.

...

7.2.1 R The Listing Principles are as follows:

...	
Principle 3	A <i>listed company</i> must act with integrity towards holders and potential holders of its <i>listed equity securities</i> <u>shares</u> .
Principle 4	A <i>listed company</i> must communicate information to holders and potential holders of its <i>listed equity securities</i> <u>shares</u> in such a way as to avoid the creation or continuation of a false market in such <i>listed equity securities</i> <u>shares</u> .
Principle 5	A <i>listed company</i> must ensure that it treats all holders of the same <i>class</i> of its <i>listed equity securities</i> <u>shares</u> that are in the same position equally in respect of the rights attaching to such <i>listed equity securities</i> <u>shares</u> .
...	

...

8.2.1 R A *company* with, or applying for, a *premium listing* of its equity shares must appoint a *sponsor* on each occasion that it:

- (1) makes an application for *admission* of ~~equity securities~~ shares which:

...

...

8.2.1A R A *company* must appoint a *sponsor* where it applies to transfer its category of ~~equity securities~~ shares' listing from:

- (1) a *standard listing* (~~commercial company~~ shares) to a *premium listing* (*commercial company*); or
- (2) a *standard listing* (~~commercial company~~ shares) to a *premium listing* (*investment company*); or

- ...
- ...
- 8.4.1 R *LR 8.4.2R to LR 8.4.4G apply in relation to an application for admission of equity ~~securities~~ shares if an applicant does not have equity ~~securities~~ shares already listed and:*
- ...
- ...
- 8.4.3 R *A sponsor must:*
- ...
- (4) *submit a letter to the FSA setting out how the applicant satisfies the criteria in LR 2 (Requirements for listing - all securities), LR 6 (Additional requirements for ~~listing for equity securities~~ premium listing (commercial company)) and, if applicable, LR 15 or LR 16, no later than when the first draft of the prospectus or listing particulars is submitted (or, if the FSA is not approving a prospectus or if it is determining whether a document is an equivalent document, at a time to be agreed with the FSA).*
- ...
- 8.4.4 G *Depending on the circumstances of the case, a sponsor providing services to an applicant on an application for admission to listing may have to confirm in writing to the FSA that the board of the applicant has allotted the equity ~~securities~~ shares.*
- ...
- 8.4.7 R *LR 8.4.8R to LR 8.4.10G apply in relation to an application for admission of equity ~~securities~~ shares of an applicant that has equity ~~securities~~ shares already listed.*
- ...
- 8.4.10 G *Depending on the circumstances of the case, a sponsor providing services to an applicant on an application for admission to listing may have to confirm in writing to the FSA the number of ~~securities~~ equity shares to be allotted or admitted. [Note: see LR 3.3]*
- Class 1 circulars, refinancing and purchase of own equity shares
- 8.4.11 R *LR 8.4.12R to LR 8.4.13R apply in relation to transactions involving a ~~listed company of equity shares with an issuer with a premium listing of~~ equity shares that:*

...

...

Application: ~~equity shares~~

- 9.1.1 R ~~A This chapter applies to a company that has a *premium listing of equity shares* must comply with all of the requirements of this chapter.~~

Application: preference shares

- 9.1.2 R ~~A company that has a *premium listing of preference shares* must comply with: [deleted]~~

(1) ~~LR 9.2.1R to LR 9.2.6BR (other than LR 9.2.2AR);~~

(2) ~~LR 9.2.11R to LR 9.2.12G;~~

(3) ~~LR 9.2.14R to LR 9.2.17G;~~

(4) ~~LR 9.3.1R to LR 9.3.10G;~~

(5) ~~LR 9.5.1R to LR 9.5.9R;~~

(6) ~~LR 9.6.1R to LR 9.6.4R;~~

(7) ~~LR 9.6.6R;~~

(8) ~~LR 9.6.11R;~~

(9) ~~LR 9.6.19R to LR 9.6.22G;~~

(10) ~~LR 9.7A; and~~

(11) ~~LR 9.8, but not:~~

(a) ~~LR 9.8.4R(3);~~

(b) ~~[deleted]~~

(c) ~~[deleted]~~

(d) ~~LR 9.8.6R(5), (6) and (7);~~

(e) ~~LR 9.8.8R.~~

(12) ~~[deleted]~~

- 9.1.2A G ~~For the purposes of compliance with the *transparency rules*, the FSA considers that a *listed company* that issues *preference shares* should comply with *DTR 4* (Periodic financial reporting), *DTR 5* (Vote holder and issuer notification rules) and *DTR 6* (Access to information) as if it were~~

~~an issuer of debt securities as defined in the *transparency rules*. [deleted]~~

Application: securities convertible into equity shares

- 9.1.3 R ~~A company that has a *premium listing* of securities convertible into equity shares must comply with: [deleted]~~
- (1) ~~LR 9.2.1R to LR 9.2.6BR;~~
 - (2) ~~LR 9.2.11R;~~
 - (3) ~~LR 9.2.13G;~~
 - (4) ~~[deleted]~~
 - (5) ~~LR 9.5.11R to LR 9.5.12R;~~
 - (6) ~~LR 9.5.15R to LR 9.5.16R;~~
 - (7) ~~LR 9.6.1R;~~
 - (8) ~~LR 9.6.3R;~~
 - (9) ~~LR 9.6.4R to LR 9.6.6R;~~
 - (10) ~~LR 9.6.19R to LR 9.6.22G; and~~
 - (11) ~~LR 9.8 but not:~~
 - (a) ~~LR 9.8.4R(3);~~
 - (b) ~~[deleted]~~
 - (c) ~~[deleted]~~
 - (d) ~~LR 9.8.6R(6) and LR 9.8.6R(7); and~~
 - (e) ~~LR 9.8.8R.~~
- 9.1.4 R ~~A company that has a *premium listing* of securities convertible into equity shares must comply with LR 9.2.7R to LR 9.2.10R if the equity shares that the securities convert into are listed. [deleted]~~
- ...
- 9.2.2 R A listed company must inform the FSA in writing as soon as possible if it has:
- (1) requested a RIE to admit or re-admit any of its *listed equity shares securities* or ~~listed preference shares~~ to trading; or
 - (2) requested a RIE to cancel or suspend trading of any of its *listed equity securities* or *listed preference shares*; or

- (3) been informed by a *RIE* that trading of any of its *listed equity securities shares* ~~or listed preference shares~~ will be cancelled or suspended.

Control of assets and independent business

9.2.2A R A *listed company* that has equity shares listed, ~~or securities convertible into its own shares listed~~, must comply with *LR* 6.1.4R(2) and (3) at all times. This rule does not apply to a *mineral company*, a *scientific research based company*, a *closed-ended investment fund* or an *open-ended investment company*.

...

9.2.5 G A *listed company*, whose ~~securities~~ equity shares are admitted to trading on a *regulated market* in the *United Kingdom*, should consider its obligations under *DTR* 2 (Disclosure and control of inside information by issuers).

...

9.2.6A G A *listed company*, whose ~~securities~~ equity shares are admitted to trading on a *regulated market*, should consider its obligations under *DTR* 4 (Periodic financial reporting), *DTR* 5 (Vote holder and issuer notification rules), *DTR* 6 (Access to information) and *DTR* 7 (Corporate governance).

...

9.3.11 R A *listed company* proposing to issue *equity shares* for cash or to sell *treasury shares* that are ~~equity securities~~ equity shares for cash must first offer those equity shares in proportion to their existing holdings to:

...

9.3.12 R *LR* 9.3.11R does not apply if to:

- (1) a listed company incorporated in the United Kingdom if a ~~general~~ disapplication of statutory pre-emption rights has been authorised by shareholders in accordance with section 570 (Disapplication of pre-emption rights: directors acting under general authorisation) or section 571 (Disapplication of pre-emption rights by special resolution) of the Companies Act 2006 and the issue of *equity securities shares* or sale of *treasury shares* that are *equity shares* by the *listed company* is within the terms of the authority; or
- (2) ~~the a~~ a listed company is undertaking a *rights issue* or *open offer* ~~and provided~~ the disapplication of pre-emption rights is with respect to:
 - (a) *equity shares* representing fractional entitlements; or
 - (b) *equity shares* which the *company* considers necessary or

expedient to exclude from the offer on account of the laws or regulatory requirements of ~~another~~ a territory other than its country of incorporation unless that territory is the United Kingdom; or

- (3) ~~the a listed company~~ is selling *treasury shares* for cash to an *employee share scheme*; or
- (4) ~~the company is an overseas company with a primary listing an overseas company with a premium listing~~ that has obtained the consent of its shareholders to issue *equity shares* other than in accordance with *LR 9.3.11R* either:
 - (a) within the terms of an authority equivalent to that required by section 570 or 571 of the Companies Act 2006; or
 - (b) in accordance with the law of its country of incorporation provided that the country has implemented Article 29 of Directive 77/91/EEC.

...

- 9.5.1 R For a placing of rights arising from a *rights issue* before the official start of dealings, a *listed company* must ensure that:
- (1) the placing relates to at least 25% of the maximum number of *equity securities* offered;
 - (2) ...
 - (3) the price paid by the placees does not exceed the price at which the *equity securities which are* the subject of the *rights issue* are offered by more than one half of the calculated premium over that offer price (that premium being the difference between the offer price and the theoretical ex-rights price); and
 - (4) the *equity securities which are* the subject of the *rights issue* are of the same *class* as the equity securities already listed.

...

- 9.5.3 G In a *rights issue*, the *FSA* may list the *equity securities* at the same time as ~~the securities~~ they are admitted to trading in nil paid form. On the *equity securities* being paid up and the allotment becoming unconditional, the *listing* will continue without any need for a further application to list fully paid *securities*.

- 9.5.4 R If existing ~~security holders~~ *shareholders* do not take up their rights to subscribe in a *rights issue*:
- (1) the *listed company* must ensure that the *equity securities* to which the offer relates are offered for subscription or purchase on terms

that any premium obtained over the subscription or purchase price (net of expenses) is to be for the account of the holders, except that if the proceeds for an existing holder do not exceed 5.00, the proceeds may be retained for the *company's* benefit; and

- (2) the *equity securities* may be allotted or sold to underwriters, if on the expiry of the subscription period no premium (net of expenses) has been obtained.

...

9.5.7 R A *listed company* must ensure that the timetable for an *open offer* is approved by the *RIE* on which its *equity securities* are traded.

...

9.5.11 R A *listed company* must ensure that for an *offer for sale* or an *offer for subscription of equity securities*:

...

- (2) if the *equity securities* may be held in uncertificated form, there is equal treatment of those who elect to hold the *equity securities* in certificated form and those who elect to hold them in uncertificated form;

...

9.5.13 R If, for an issue of *equity securities* ~~*shares*~~ (other than an issue in lieu of dividend), a shareholders entitlement includes a fraction of a security, a *listed company* must ensure that the fraction is sold for the benefit of the holder except that if its value (net of expenses) does not exceed 5.00 it may be sold for the *company's* benefit. Sales of fractions may be made before *listing* is granted.

...

9.5.15 R A *listed company* must ensure that any temporary document of title (other than one issued in global form) for an *equity security*:

...

- (2) states where applicable:

...

- (h) for a *rights issue*, the time, being not less than 10 *business days*, in which the offer may be accepted, and how *equity securities* not taken up will be dealt with; and

- (3) if renounceable:

...

- (b) advises holders of *equity securities* who are in any doubt as to what action to take to consult appropriate independent advisers immediately;

...

9.5.16 R A *listed company* must ensure that any definitive document of title for an *equity security share* (other than a bearer *security*) includes the following matters on its face (or on the reverse in the case of paragraphs (5) and (7)):

...

- (6) ~~for a fixed income security, the interest payable and the interest payment dates and on the reverse (with reference shown on the face) an easily legible summary of the rights as to redemption or repayment and (where applicable) conversion; and [deleted]~~
- (7) for *equity shares* with preferential rights, on the face (or, if not practicable, on the reverse), a statement of the conditions thereof as to capital, dividends and (where applicable) conversion.

...

9.6.4 R A *listed company* must notify a *RIS* as soon as possible (unless otherwise indicated in this rule) of the following information relating to its capital:

...

- (6) (except in relation to a block listing of *securities*) the results of any new issue of *equity securities* or ~~preference shares~~ or of a public offering of existing ~~shares~~ or ~~other equity securities~~.

...

10.1.2 G The purpose of this chapter is to ensure that shareholders of *companies* with *equity securities shares* listed:

...

...

Cancellation of listing

10.6.2 G When a *listed company* completes a *reverse takeover*, the *FSA* will generally cancel the *listing* of its ~~securities~~ *equity shares* (see *LR 5.2.3G*) and the *company* will be required to re-apply for the *listing* of the ~~securities~~ *equity shares* and satisfy the relevant requirements for *listing* (except that *LR 6.1.3R(1)(b)*) will not apply in relation to the *listed company's* accounts).

...

- 10.7.2 R (1) In addition to the tests in *LR 10 Annex 1G*, if the transaction is an acquisition of *property* by a *listed property company* and any of the consideration is in the ~~ordinary~~ *equity shares* of that *company*, the *listed company* must determine the *percentage ratios* that result from the calculations under the test in ~~paragraph~~ (2).
- (2) The share capital test is calculated by dividing the number of consideration *shares* to be issued by the number of ~~ordinary~~ *equity shares* in issue (excluding *treasury shares*).

...

- 12.1.1 R This chapter applies to a *company* that has a *premium listing* of *equity securities* or *preference shares*.

...

- 12.5.1 R Except where the purchases will consist of individual transactions made in accordance with the terms of issue of the relevant *securities*, where a *listed company* intends to purchase any of its *securities convertible into its equity shares* ~~*securities with a premium listing*~~ (other than ~~*equity shares*~~) or ~~*preference shares*~~ it must:

...

...

- 12.5.2 R Any purchases, early redemptions or cancellations of a *company's* own *listed equity securities convertible into equity shares* with a *premium listing* (other than ~~*equity shares*~~) or ~~*preference shares*~~, by or on behalf of the *company* or any other member of its *group* must be notified to a *RIS* when an aggregate of 10% of the initial amount of the relevant *class* of *securities* has been purchased, redeemed or cancelled, and for each 5% in aggregate of the initial amount of that *class* acquired thereafter.

...

- 12.5.4 R ~~Where a *listed company* purchases or makes an early redemption of *shares* other than *equity shares*, the notification required by *LR 12.5.2R* must include the matters set out in *LR 12.5.3R* and, in addition, the number of the *shares* purchased or redeemed early for cancellation and the number purchased to be held as *treasury shares*. [deleted]~~

...

- 12.5.6 R ~~In the case of *securities* which are convertible into, exchangeable for, or carry a right to subscribe for *equity shares*, unless a *tender offer* is made to all holders of the *class*, purchases must not be made at a price higher than 5% above the average of the market values for the *securities* for the five~~

~~business days immediately prior to the date of purchase.~~ [deleted]

...

- 13.1.2 R A *listed company* must ensure that *circulars* it issues to holders of its *listed equity securities shares* comply with the requirements of this chapter.

...

When circulars about purchase of own equity ~~securities~~ shares need approval

- 13.2.3 R (1) A *circular* relating to a resolution to give a *listed company* authority to purchase its own *equity securities shares* must be approved by the *FSA* under *LR* 13.2.1R if:
- (a) the purchase by the *company* of its own *equity securities shares* is to be made from a *related party* (whether directly or through intermediaries); or

...

13.7 Circulars about purchase of own equity ~~securities~~ shares

Purchase of own equity ~~securities~~ shares

...

- 13.8.2 R A *circular* relating to a resolution proposing to disapply the statutory pre-emption rights under section 561 of the Companies Act 2006 (Existing shareholders' right of pre-emption) must include:

...

- (2) if there is a general disapplication for *equity securities* for cash made otherwise than to existing shareholders in proportion to their existing holdings, the percentage which the amount generally disappplied represents of the total ~~ordinary~~ *equity* share capital in issue as at the latest practicable date before publication of the *circular*.

...

Scrip dividend mandate schemes/dividend reinvestment plans

- 13.8.7 R (1) ...
- (2) The timetable in the *circular* for each scrip alternative covered by a scrip dividend mandate plan must have been approved by the *RIE* on which the *company's equity securities shares* are traded.

Notices of meetings

- 13.8.8 R (1) When holders of *listed equity securities shares* are sent a notice of meeting which includes any business, other than ordinary business at an annual general meeting, an explanatory *circular* must accompany the notice. If the other business is to be considered at or on the same day as an annual general meeting, the explanation may be incorporated in the *directors'* report.

...

14 ~~Equity securities: Standard listing (shares)~~

...

- 14.1.1 R This chapter applies to a *company* with, or applying for, a *standard listing* of *equity securities shares* other than:

- (1) *equity shares issued by a company that is an investment entity unless it has a premium listing of a class of its equity shares; and*
- (2) *preference shares that are specialist securities.*

...

- 14.2.1 R An *applicant* which is applying for a *standard listing (shares) of equity securities* must comply with all of *LR 2* (Requirements for listing: All securities).

...

- 14.2.5 G A *company* applying for a *standard listing* of *equity securities shares* will need to comply with *LR 3* (Listing applications: All securities).

...

- 14.3.1 R ~~The~~ Other than in regard to *securities* to which *LR 4* applies, the *listed equity securities* of a *company* must be admitted to trading on ~~an RIE's~~ *market for listed securities at all times a regulated market for listed securities operated by a RIE.*

...

- 14.3.4 R Where ~~*equity security shares*~~ of the same *class* as ~~*equity securities shares*~~ that are *listed* are allotted, an application for *admission to listing* of such ~~*equity securities shares*~~ must be made as soon as possible and in any event within one year of the allotment. [**Note:** Article 64 *CARD*]

...

- 14.3.9 R A *company* must ensure that any temporary document of title (other than one issued in global form) for ~~an *equity security*~~ a *share*:
- ...
- (2) states where applicable:
- ...
- (d) how the ~~*equity securities*~~ *shares* rank for dividend or interest;
- ...
- (g) for a *rights issue*, the time, being not less than 10 *business days*, in which the offer may be accepted, and how ~~*equity securities*~~ *shares* not taken up will be dealt with; and
- (3) if renounceable:
- (a) ...
- (b) advises holders of ~~*equity securities*~~ *shares* who are in any doubt as to what action to take to consult appropriate independent advisers immediately;
- (c) states that where all of the ~~*equity securities*~~ *shares* have been sold by the addressee (other than ex rights or ex capitalisation), the document should be passed to the person through whom the sale was effected for transmission to the purchaser;
- ...

Definitive documents of title

- 14.3.10 R A *company* must ensure that any definitive document of title for ~~an *equity security*~~ a *share* (other than a bearer *security*) includes the following matters on its face (or on the reverse in the case of (5) and (7)):
- ...
- (2) the number or amount of ~~*equity securities*~~ *shares* the certificate represents and, if applicable, the number and denomination of units (in the top right-hand corner);
- (3) a footnote stating that no transfer of the ~~*equity security*~~ *share* or any portion of it represented by the certificate can be registered without production of the certificate;
- (4) if applicable, the minimum amount and multiples thereof in which

the ~~equity security~~ share is transferable;

...

Disclosure and Transparency Rules

14.3.11 G A company, whose ~~securities~~ shares are admitted to trading on a *regulated market* in the *United Kingdom*, should consider its obligations under the *disclosure rules* and *transparency rules*.

...

14.3.15 R ...

(2) An *overseas company* must appoint a registrar in the *United Kingdom* if:

(a) ...

(b) 10% of more of the ~~equity securities~~ shares are held by *persons* resident in the *United Kingdom*.

...

14.3.17 R A company must notify a *RIS* as soon as possible (unless otherwise indicated in this *rule*) of the following information relating to its capital:

...

(3) any redemption of *listed* ~~equity securities~~ shares including details of the number of ~~equity securities~~ shares redeemed and the number of ~~equity securities~~ shares of that *class* outstanding following the redemption;

...

14.3.18 R Where the ~~equity securities~~ shares are subject to an underwriting agreement a *company* may, at its discretion and subject to *DTR 2* (Disclosure and control of inside information by issuers), delay notifying a *RIS* as required by *LR 14.3.17R(7)* for up to two *business days* until the obligation by the underwriter to take or procure others to take ~~equity securities~~ shares is finally determined or lapses. In the case of an issue or offer of ~~equity securities~~ shares which is not underwritten, notification of the result must be made as soon as it is known.

...

15.2.1 R To be *listed*, an *applicant* must comply with:

(1) *LR 2* (Requirements for listing);

(2) ~~only~~ the following provisions of *LR 6* (Additional requirements for

premium listing (commercial company) for equity securities);

- (a) *LR 6.1.3R(1)(d) and (e)*, if the *applicant* is a *new applicant* for the admission of equity shares ~~or securities convertible into its own shares~~ and it has published or filed audited accounts;

...

...

Shares of a non-EEA company

- 15.2.1A R The *FSA* will not admit *shares* of a *company* incorporated in a *non-EEA State* that are not listed either in its country of incorporation or in the country in which a majority of its *shares* are held, unless the *FSA* is satisfied that the absence of the listing is not due to the need to protect investors.

[Note: Article 51 CARD]

...

- 15.3.2 G An *applicant* that is seeking admission of its *equity securities shares* is required to retain a *sponsor* in accordance with *LR 8* (Sponsors).
- 15.3.3 R In addition to the circumstances set out in *LR 8.2.1R* when a *sponsor* must be appointed, an *applicant* must appoint a *sponsor* on each occasion that it makes an application for admission of *equity securities shares* which requires the production of *listing particulars*.

...

Conversion of an existing listed class of equity securities shares

- 15.4.10 R An existing *listed class* of *equity securities shares* may not be converted into a new *class* or an unlisted *class* unless prior approval has been given by the shareholders of that existing *class*.

Cancellation of premium listing

- 15.4.11A G A closed-ended investment fund must comply with LR 5.2.7AR.

...

- 16.2.1 R To be *listed*, an *applicant* must comply with:
- (1) *LR 2* (Requirements for listing); and
 - (2) only *LR 6.1.22R* to *LR 6.1.24G* of *LR 6* (Additional requirements for premium listing commercial company for equity securities).

...

16.3.3 G An *applicant* that is seeking *admission* of its *equity securities shares* must retain a *sponsor* in accordance with LR 8 (Sponsors).

16.3.4 R In addition to the circumstances set out in LR 8.2.1R when a *sponsor* must be appointed, an *applicant* must appoint a *sponsor* when it makes an application for *admission of equity securities shares* which requires the production of *listing particulars*.

...

Cancellation of premium listing

16.4.5 R An open-ended investment company must comply with LR 5.2.7AR.

...

17 Debt and specialist debt-like securities: Standard listing

...

17.1.1 R This chapter applies to:

(1) an *issuer* of any of the following types of *securities*:

...

(c) *certificates representing debt securities*; ~~and~~

(d) *specialist securities* of the following types:

...

(ii) *convertible securities* which convert to *equity securities*; ~~and~~

(iii) *convertible securities* which are exchangeable for *securities* of another *company*; ~~and~~

(iv) *preference shares*.

...

After LR 19 add the following new section. The text is not underlined.

20 Miscellaneous Securities: Standard listing

20.1 Application

20.1.1 R This chapter applies to an *issuer* of *miscellaneous securities*.

- 20.1.2 G *Miscellaneous securities* include *warrants* and *options* and other similar *securities*.

20.2 Requirements for listing

- 20.2.1 R An *applicant* for the *admission* of *miscellaneous securities* must comply with *LR 2* (Requirements for listing: All securities).

20.3 Listing applications

Listing application procedures

- 20.3.1 R An *applicant* for admission of *miscellaneous securities* must comply with:
- (1) *LR 3.2* (Application for admission to listing); and
 - (2) *LR 3.4.4R* to *LR 3.4.8R*.

20.4 Continuing obligations

Application

- 20.4.1 R An *issuer* that has only *miscellaneous securities listed* is subject to the continuing obligations set out in this chapter.
- 20.4.2 R An *issuer* that has both *miscellaneous securities* and other *securities listed* is subject to the continuing obligations set out in this chapter and the continuing obligations that are applicable to the other *securities so listed*.

Admission to trading

- 20.4.3 R
- (1) An *issuer's listed miscellaneous securities* must be admitted to trading on a *RIE's* market for *listed securities* at all times.
 - (2) An *issuer* must inform the *FSA* in writing as soon as possible if it has:
 - (a) requested a *RIE* to admit or re-admit any of its *listed miscellaneous securities* to trading; or
 - (b) requested a *RIE* to cancel or suspend trading of any of its *listed miscellaneous securities*; or
 - (c) been informed by a *RIE* that the trading of any of its *listed miscellaneous securities* will be cancelled or suspended.

- 20.4.4 R An *issuer* with *listed miscellaneous securities* must comply with *LR 2.2.12R* at all times.

Disclosure rules and transparency rules

- 20.4.5 R An *issuer* must comply with *DTR 2.1* to *DTR 2.7* as if it were an *issuer* for the purposes of the *disclosure rules* and *transparency rules*.
- 20.4.6 G An *issuer*, whose *miscellaneous securities* are admitted to trading on a *regulated market*, should consider its obligations under *DTR 4* (Periodic financial reporting), *DTR 5* (Vote holder and issuer notification rules), *DTR 6* (Access to information) and *DTR 7* (Corporate governance).
- 20.4.7 R An *issuer* that is not already required to comply with the *transparency rules* must comply with *DTR 6.3* as if it were an issuer for the purposes of the *transparency rules*.

Documents of title

- 20.4.8 R An *issuer* must comply with the requirements in *LR 9.5.15R* (Temporary documents of title (including renounceable documents)) and *LR 9.5.16R* (Definitive documents of title) so far as relevant to *miscellaneous securities*.

20.5 Disclosures

- 20.5.1 R An *issuer* must submit to the *FSA* two copies of any document required by *LR 20.5.2R* to *LR 20.5.3R* at the same time as the document is issued.
- 20.5.2 R An *issuer* must notify a *RIS* of all notices to holders of *listed miscellaneous securities* no later than the date of despatch or publication.

Underlying securities

- 20.5.3 R An *issuer* must notify a *RIS* of any adjustment or modification it makes to a *miscellaneous security* as a result of any change to a *security* over which the *listed miscellaneous security* carries a right to buy or subscribe.

Suspension of listing

- 20.5.4 R An *issuer* must inform the *FSA* immediately if it becomes aware that any *security* over which the *listed miscellaneous security* carries a right to buy or subscribe that is listed or traded outside the *United Kingdom* has been suspended.
- 20.5.5 G *LR 5.1.2G(7)* and (8) and *LR 5.4.6G* may be of relevance to an *issuer* of *miscellaneous securities*.

Amend LR Appendix 1 by inserting new definitions in the appropriate alphabetical position and amending the other definitions as shown.

Appendix 1

1.1 Relevant Definitions

<u>equity share</u>	<u>shares comprised in a company's equity share capital.</u>
<u>miscellaneous securities</u>	<p><u>securities which are not:</u></p> <p><u>(a) shares; or</u></p> <p><u>(b) debt securities; or</u></p> <p><u>(c) asset backed securities; or</u></p> <p><u>(d) certificates representing debt securities; or</u></p> <p><u>(e) convertible securities which convert to debt securities; or</u></p> <p><u>(f) convertible securities which convert to equity securities; or</u></p> <p><u>(g) convertible securities which are exchangeable for securities of another company; or</u></p> <p><u>(h) certificates representing certain securities; or</u></p> <p><u>(i) securitised derivatives.</u></p>
<u>preference share</u>	a share conferring preference as to income or return of capital which is not convertible into an equity share and does not form part of the <i>equity share capital</i> of a company.
<u>premium listing</u>	<p>(a) in relation to equity securities <u>shares</u> (other than those of a <i>closed-ended investment fund</i> or of an <i>open-ended investment company</i>), means a <i>listing</i> where the <i>issuer</i> is required to comply with those requirements in <i>LR 6</i> (Additional requirements for premium listing (<u>commercial company</u>)) and <u>the other requirements in the listing rules that are expressed to apply to such securities with a premium listing;</u></p> <p>(b) in relation to equity securities <u>shares</u> of a <i>closed-ended investment fund</i>, means a <i>listing</i> where the <i>issuer</i> is required to comply with the requirements in <i>LR 15</i> (Closed-Ended Investment Funds: Premium listing) and other requirements in the <i>listing rules</i> that are expressed to apply to such <i>securities</i> with a <i>premium listing</i>;</p> <p>(c) in relation to equity securities <u>shares</u> of an <i>open-ended investment company</i>, means a <i>listing</i> where the <i>issuer</i> is required to comply with <i>LR 16</i> (Open-ended investment companies: Premium listing) and other requirements in the</p>

listing rules that are expressed to apply to such *securities* with a *premium listing*.

standard listing
(*commercial company*)

~~a *standard listing of equity securities*.~~

standard listing (shares)

a *standard listing of shares other than preference shares that are specialist securities*.

tender offer

an offer by a *company* to purchase all or some of a *class* of its *listed equity securities* ~~or *preference shares*~~ at a maximum or fixed price (that may be established by means of a formula) that is:

...

...

LR TR 3 Transitional Provisions for Investment Entities already listed under LR 14

(1)	(2) Material to which the transitional provisions applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision coming into force
1.	<u>LR 5.2.7AR, LR 14, LR 15 and LR 16</u>	...	...	6 March 2008 <u>6 April 2010</u> Indefinite	6 March 2008 <u>6 April 2010</u>
2.	<u>LR 5.2.7AR, LR 14, LR 15 and LR 16</u>	...	...	6 March 2008 <u>6 April 2010</u> Indefinite	6 March 2008 <u>6 April 2010</u>
3.	<u>LR 5.2.7AR, LR 14, LR 15 and LR 16</u>	...	...	6 March 2008 <u>6 April 2010</u> Indefinite	6 March 2008 <u>6 April 2010</u>
4.	<u>LR 5.2.7AR, LR 14, LR 15 and LR 16</u>	...	...	6 March 2008 <u>6 April 2010</u> Indefinite	6 March 2008 <u>6 April 2010</u>
...					

After LR TR 4 insert the following new transitional provisions. The text is not underlined.

TR 5 Transitional Provision for companies incorporated in the United Kingdom

(1)	(2) Material to which the transitional provisions applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
1.	LR 9.3.12R(3)	R	Where a <i>listed company</i> has an authority to disapply statutory pre-emption rights under section 95 of the Companies Act 1985 and that authority remains in force on or after 6 April 2010, the <i>company</i> can continue to rely on it until it expires and will not need to seek a new authority under section 571 of the Companies Act 2006.	From 6 April 2010	6 April 2010

TR 6 Transitional Provision for overseas companies

(1)	(2) Material to which the transitional provisions applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
1.	LR 9.3.11R	R	An <i>overseas company</i> with <i>securities</i> that have a <i>premium listing</i> on 6 April 2010 is only required to comply with LR 9.3.11R after 5 April 2011.	From 6 April 2010	6 April 2010
2.	LR 9.8.7AR	R	An <i>overseas company</i> with <i>securities</i> that have a <i>premium listing</i> on 6 April 2010 is only required to comply with LR 9.8.7AR in financial years beginning after 31 December 2009.	From 6 April 2010	6 April 2010
3.	LR 14.3.24R	R	An <i>overseas company</i> with <i>securities</i> that have a <i>standard listing</i> on 6 April 2010 is only required to comply with LR	From 6 April 2010	6 April 2010

			14.3.24R in financial years beginning after 31 December 2009.		
--	--	--	---	--	--

TR 7 Transitional Provision for issuers with shares that do not confer full voting rights

(1)	(2) Material to which the transitional provisions applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
1.	LR 10, 11, 12	R	<p>(1) This <i>rule</i> applies to an <i>issuer</i> with a <i>premium listing</i> of <i>equity shares</i> that do not confer full voting rights on 6 April 2010.</p> <p>(2) An <i>issuer</i> to which this <i>rule</i> applies may retain a <i>premium listing</i> of <i>equity shares</i> that do not confer full voting rights until 31 May 2012.</p>	From 6 April 2010 to 31 May 2012	6 April 2010

HANDBOOK ADMINISTRATION (NO 17) INSTRUMENT 2010**Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force as follows:
- (1) Part 2 of Annex C (FEES) and Part 2 of Annex H (COMP) come into force on 31 December 2010;
 - (2) the remainder of this instrument comes into force on 6 April 2010.

Amendments to the Handbook

- D. The modules of the FSA's Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Threshold Conditions (COND)	Annex B
Fees manual (FEES)	Annex C
General Prudential sourcebook (GENPRU)	Annex D
Client Assets sourcebook (CASS)	Annex E
Supervision manual (SUP)	Annex F
Disputes Resolution: Complaints sourcebook (DISP)	Annex G
Compensation sourcebook (COMP)	Annex H
Collective Investment Schemes sourcebook (COLL)	Annex I
Listing Rules sourcebook (LR)	Annex J

Citation

- E. This instrument may be cited as the Handbook Administration (No 17) Instrument 2010.

By order of the Board
25 March 2010

Annex A

Amendments to the Glossary of definitions

In this Annex, striking through indicates deleted text.

clearing house a clearing house through which transactions ~~on an exchange~~ may be cleared.

Annex B**Amendments to the Threshold Conditions (COND)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

1.2.3 G ...

- (2) If, when exercising its *own-initiative power* under section 45(1) of the *Act*, the *FSA* varies a *firm's permission*, or imposes or varies a *requirement*, then, under section ~~41(1)~~ 41(2) of the *Act*, the *FSA* must ensure that the *firm* concerned will satisfy, and continue to satisfy, the *threshold conditions* in relation to all of the *regulated activities* for which it has or will have *permission*. However, section ~~41(2)~~ 41(3) of the *Act* states that the duty imposed by section ~~41(1)~~ 41(2) of the *Act* does not prevent the *FSA* taking such steps as it considers necessary in relation to a particular *firm* in order to secure its *regulatory objective of consumer protection*.

...

Annex C

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Part 1: Comes into force on 6 April 2010

Schedule 4 Powers exercised

...

Sch 4.2	G	The following additional powers have been exercised by the <i>FSA</i> to make the <i>rules</i> in <i>FEES</i> :
		...
		Regulation 92 (Costs of compliance supervision) of the <i>Payment Services Regulations</i>
		...

Part 2: Comes into force on 31 December 2010

- 6.5.15 R ~~[deleted]~~ Where a *participant firm* can identify that a *protected deposit* or a *protected dormant account* was made by or belonged to a *person* who is not an *eligible claimant*, it may exclude the amount of that deposit or that account from the tariff base, provided that it notifies the *FSCS* of the amount of the deposit or the account so excluded and provides the *FSCS* with such information about the deposit or account as the *FSCS* may reasonably require.

Annex D**Amendments to the General Prudential sourcebook (GENPRU)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

Group risk

- 1.2.87 G *GENPRU* 1.2.88G to *GENPRU* 1.2.91G contain additional *guidance* on the assessment required by *GENPRU* ~~1.2.30R(2)(i)~~ 1.2.30R(2)(l) (Group risk).

Annex E

Amendments to the Client Assets sourcebook (CASS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

3.2.4 G When appropriate, *firms* that enter into the arrangements with *retail clients* covered in this chapter ~~with *retail clients*~~ will be expected to identify in the statement of *custody assets* sent to the *client* in accordance with ~~CASS 2.3.12R (Production and despatch of client statements)~~ COBS 16.4 (Statements of client designated investments or client money) details of the assets which form the basis of the arrangements. Where the *firm* utilises global netting arrangements, a statement of the assets held on this basis will suffice.

...

5.1.1 R ...

(2) CASS 5.1 to CASS 5.6 do not, subject to (3), apply:

(a) to a *firm* to the extent that it acts in accordance with the ~~*non-directive client money chapter*~~ or the *MiFID client money chapter*; or

...

...

5.2.3 R (1) A *firm* must not agree to:

...

unless:

...

(f) (i) ...

(ii) (in the case of (b)) the agreement required by (d) expressly provides for the *firm* to act as agent of the *insurance undertaking* for the purpose of receiving and holding claims *money* (or, as the case may be, *premium refunds*) prior to transmission to the ~~client~~ *client* making the *claim* (or, as the case may be, entitled to the *premium refund*) in question.

...

...

- 5.4.1 G (1) ... The *client money* trust required by CASS 5.4 extends to such debt obligations which will arise if the *firm*, as trustee, makes credit advances, to enable a ~~client's~~ *client's premium* obligations to be met before the *premium* is remitted to the *firm* and similarly if it allows claims and *premium* refunds to be paid to the *client* before receiving remittance of those *monies* from the *insurance undertaking*.
- ...
- ...
- 5.5.18 R ...
- (4) Paragraphs (1) to (3) do not apply in relation to an *appointed representative, field representative* or other agent to which (if it were a *firm*) CASS 5.1.4AR(1) or CASS 5.1.4AR(2) would apply, but subject to the *representative* or agent maintaining an account which satisfies the requirements of CASS 5.5.49R to the extent that the *representative* or agent will hold *client money* on trust or otherwise on behalf of its ~~clients~~ *clients*.
- ...
- 5.8.1 R ...
- (2) CASS 5.8 does not apply to a *firm* when:
- ...
- (b) acting in accordance with CASS ~~2~~ 6 (Custody rules).
- ...
- 6.1.1A G The *regulated activity* of *safeguarding and administering investments* covers both the *safeguarding and administration of assets (without arranging)* and ~~arranging the~~ *arranging safeguarding and administration of assets*, when those assets are either *safe custody investments* or *custody assets*. A *safe custody investment* is, in summary, a *designated investment* which a *firm* receives or holds on behalf of a *client*. *Custody assets* include *designated investments*, and any other assets that the *firm* holds or may hold in the same portfolio as a *designated investment* held for or on behalf of ~~the~~ a *client*.
- ...
- 6.2.3 R ...
- (2) ...
- (d) a third party with whom *financial instruments* are deposited under CASS 6.3 (Depositing assets and arranging for assets to be deposited with third parties);

- ...
- ...
- 6.4.1 R ...
- (4) ~~A firm which does not undertake MiFID business does not need to comply with (1), (2) and (3) until 1 May 2009. [deleted]~~
- ...
- 6.5.4 G (1) Carrying out internal reconciliations of the *safe custody assets* held for each *client* with the *safe custody assets* held by the *firm* and third parties is an important step in the discharge of the *firm's* obligations under CASS 6.5.2R (Records and accounts), and, where relevant, SYSC 4.1.1R (General requirements) and SYSC 6.1.1R (Compliance).
- ...
- ...
- 6.5.14 G *Firms* are reminded that the auditor of the *firm* has to confirm in the report submitted to the *FSA* under SUP 3.10 (Duties of auditors: notification and report on client assets) that the *firm* has maintained systems adequate to enable it to comply with the custody rules ~~in this chapter~~.
- ...
- ~~Professional client opt-out~~ Money that is not client money: 'opt outs' for any business other than insurance mediation activity
- 7.1.7B R ...
- ~~Money that is not client money: 'opt outs' for any business other than insurance mediation activity~~ Professional client opt-out
- 7.1.7C G ...
- ...
- 7.1.9 G If a *credit institution* that holds *money* as a deposit with itself is subject to the ~~requirement to disclose information before providing services~~ requirement to disclose information before providing services, it should, in compliance with that obligation, notify the *client* that:
- ...
- 7.1.16 G ...
- (2) The *client money rules* also, where relevant, implement the provisions of *MiFID* which regulate the obligations of a *firm* when it holds *client money* in the course of its *MiFID business*.

...

- 7.4.6 G If a *firm* that intends to place *client money* in a *qualifying money market fund* is subject to the ~~*requirement to disclose information before providing services*~~ requirement to disclose information before providing services, it should, in compliance with that obligation, notify the *client* that:

...

...

- 7.4.12 G A *firm* may open one or more *client bank accounts* in the form of a *general client bank account*, a *designated client bank account* or a *designated client fund account* (see CASS 7.9.3G 7A.2.1G (Failure of the authorised firm: primary pooling event)).

...

- 7.4.18 G Under the alternative approach, a *firm* that receives *client money* should:
- (1) (a) ...
 - (b) perform a reconciliation of records and accounts required under CASS 7.6.2R (Records and accounts), and where relevant SYSC 4.1.1R (General requirements) and SYSC 6.1.1R (Compliance), adjust the balance held in its *client bank accounts* and then segregate the *money* in the *client bank account* until the calculation is re-performed on the next *business day*; or

...

...

- 7.4.32 G United States (US) legislation restricts the ability of non-US firms to trade on behalf of US customers on non-US futures and options exchanges. The relevant US regulator (the *CFTC*) operates an exemption system for *firms* authorised by the *FSA*. The *FSA* sponsors the application from a *firm* for exemption from Part 30 of the General Regulations under the US Commodity Exchange Act in line with this system. ~~The application forms and associated information can be found on the *FSA* website in the “Forms” section.~~

...

- 7.6.3 G Pursuant to CASS 7.6.2R (Records and accounts), and where relevant SYSC 4.1.1R (General requirements) and SYSC 6.1.1R (Compliance), a *firm* should take reasonable steps to ensure that it is notified promptly of any receipt of *client money* in the form of a *client* entitlement.

...

- 7.6.7 R (1) ...
- (2) A *firm* must make these records on the date it starts using a method of internal reconciliation of *client money* balances and must keep it ~~made~~ for a period of five years after ceasing to use it.
- ...
- 7A.3.9 G The term “which should have been held” is a reference to the *failed bank*’s ~~failure~~ failure to hold the *client money* at the time of the pooling event.
- ...
- 8.1.3 G *Firms* are reminded that the *mandate rules* do not apply to an *incoming EEA firm*, other than an *insurer*, with respect to its *passported activities*. The application of the *mandate rules* is also dependent on the location from which the activity is undertaken (see ~~CASS 4.4.3~~ 1.3).
- ...
- 8.1.5 R A *firm* that holds authorities of the sort referred to in this chapter, must establish and maintain adequate records and *internal controls* in respect of its use of the mandates, which must include:
- ...
- (4) where the *firm* holds a passbook or similar documents belonging to the ~~client~~ client, *internal controls*; for the safeguarding (including against loss, unauthorised destruction, theft, fraud or misuse) of any passbook or similar document belonging to the *client* held by the *firm*.

Annex F

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

3.1.2 R Applicable sections (see SUP 3.1.1R)

	(1) Category of firm	(2) Sections applicable to the firm	(3) Sections applicable to its auditor
...			
(2)	<p><i>Authorised professional firm not within (1) to which the non-directive custody chapter, non-directive client money chapter, MiFID custody chapter or MiFID client money chapter <u>custody chapter or client money chapter</u> apply applies, unless the firm is regulated by The Law Society (England and Wales), The Law Society of Scotland or The Law Society of Northern Ireland (Note 2)</i></p>	...	...
...			
(7A)	<p><i>Investment management firm (other than an exempt CAD firm), personal investment firm (other than a small personal investment firm or exempt CAD firm), or securities and futures firm (other than an exempt CAD firm or an exempt BIPRU commodities firm) not within (7) to which the non-directive custody chapter, non-directive client money chapter, MiFID custody chapter or MiFID client money chapter <u>custody chapter or client money chapter</u> apply applies</i></p>	...	...
...			
...			

Note 3C = A sole trader or a partnership that is a UK MiFID investment firm to which the MiFID custody chapter or MiFID client money chapter apply applies must have its annual accounts audited.
...

...

...

...

- 3.10.2 R An auditor of an authorised professional firm need not report under this section in relation to that firm’s compliance with the client money rules in the ~~non-directive~~ client money chapter, if that firm is regulated by:

...

- 3.10.5 R Client assets report

Whether in the auditor’s opinion:	
...	
(4)	if there has been a secondary pooling event during the period, the firm has complied with the rules in CASS 4.4 , CASS 5.6 and CASS 7.9 7A (Client money distribution) in relation to that pooling event.

...

- 16.12.13 R The applicable due dates for submission referred to in SUP 16.12.4R are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period set out in SUP 16.12.12R, unless indicated otherwise.

Data item	Daily	Weekly	Monthly submission	Quarterly submission	Half yearly submission	Annual submission
...						

...

- 16.12.17 R The applicable due dates for submission referred to in SUP 16.12.4R are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period set out in SUP 16.12.16R, unless indicated otherwise.

Data item	Daily	Weekly	Monthly submission	Quarterly submission	Half yearly submission	Annual submission
<u>Data item</u>						

...						
-----	--	--	--	--	--	--

...

- 16.12.21 R The applicable due dates for submission referred to in SUP 16.12.4R are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period set out in SUP 16.12.20R.

<i>Data item</i>	Quarterly submission	Half yearly submission	Annual submission
...			

...

- 16.12.24 R The applicable due dates for submission referred to in SUP 16.12.4R are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period set out in SUP 16.12.23R, unless indicated otherwise.

<i>Data item</i>	Daily	Weekly	Monthly submission	Quarterly submission	Half yearly submission	Annual submission
...						

...

- 16.12.27 R The applicable due dates for submission referred to in SUP 16.12.4R are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period set out in SUP 16.12.26R, unless indicated otherwise.

Data item <i>Data item</i>	Daily	Weekly	Monthly submission	Quarterly submission	Half yearly submission	Annual submission
...						

...

16 Annex 18AR Retail Mediation Activities Return ('RMAR')

...

SECTION J: data required for calculation of fees

	FSA	FOS	FEES FSCS
Mortgage Home Finance Mediation	{see FEES 4 Annex 1R Part 2 fee block A18}	{FEES 5 Annex 1R industry block 16}	FEES 6.5.10R FEES 6 Annex 3R sub-class E2

Non-investment insurance mediation	{see FEES 4 Annex 1R Part 2 fee block A19}	{FEES 5 Annex 1R industry block 17}	FEES 6.5.11R <u>FEES 6 Annex 3R sub-class B2</u>
<u>Life and pension intermediation</u>	n/a	n/a	<u>FEES 6 Annex 3R sub-class C2</u>
Investment mediation intermediation	{see FEES 4 Annex 1R Part 2 fee blocks A12/13} n/a	{ FEES 5 Annex 1R industry block 8/9 } n/a	FEES 6.5.9R contribution groups A12/13 <u>FEES 6 Annex 3R sub-class D2</u>
<u>Number of relevant CF30s</u>	n/a	<u>FEES 5 Annex 1R industry block 8/9</u>	n/a

...

16 Annex 18BG Notes for Completion of the Retail Mediation Activities Return ('RMAR')

...

Section E: guide for completion of individual fields

...

Part 2

...

Section J: data required for calculation of fees

Note: *Home purchase* and *reversion activity* should be included under the ~~existing mortgage~~ home finance headings in this section of the RMAR.

This information is required so that we can calculate the fees payable by *firms* in respect of the *FSA*, *FOS* and the *FSCS*

...

Data for fees calculations	<i>Firms</i> will need to report data for the purpose of calculating <i>FSA</i> , <i>FOS</i> <u>and</u> <i>FSCS</i> levies.
FSA	The relevant information required is the tariff data set out in <i>FEES</i> 4 Annex 1R Part 2 under fee blocks A 12/13 , 18 and 19. Note that <i>firms</i> are required to report tariff data information relating to all business falling within fee blocks A18/19 and not simply that relating to retail investments.
FOS	The relevant information required is the tariff data set out in <i>FEES</i> 4 <u><i>FEES</i> 5 Annex 1R</u> industry blocks 8/9, 16 and 17. Note that <i>firms</i> are required to report tariff data information relating to all business falling within investments.

FSCS	The relevant information required is the tariff data set out in COMP 13.6.9R contribution groups A12/13 sub-classes B2, C2, D2, and E2, FEES 6 Annex 3R FEES 6.5.10R and FEES 6.5.11R . Note that firms are required to report tariff data information relating to all business falling within FEES 6.5.11R <u>6 Annex 3R</u> and not simply that relating to retail investments.
------	---

...

...

16 Annex 25G Guidance notes for data items in SUP 16 Annex 24R

...

FSA041 – Asset Managers that use Hedge Fund Techniques Report

Description	Data element	Guidance
...		
For the auditor(s) you use to audit your funds please provide the following: Name(s) of auditing firm(s) that signed the most recent audit opinion.	5A	A list of the most frequently occurring auditor firms will be provided in drop-down list format. There will also be the option to add, in free text, other auditor firms not included in the list provided. <u>Please provide the name(s) of the auditing firm(s) in the blank box provided.</u>
Name(s) of prime broker(s)	7A	A list of the most frequently occurring prime broker firms will be provided in drop-down list format. There is also the option to add, in free text, other prime brokers not included in the list provided. <u>Please provide the name(s) of the auditing firm(s) in the blank box provided.</u>
Name(s) of the third party administrator(s)	11A	A list of the most frequently occurring third party administrator firms will be provided in drop-down list format. There is also the option to add, in free text, other third party administrators not included in the list provided. <u>Please provide the name(s) of the auditing firm(s) in the blank text box provided.</u>

...

FSA044 – Maturity analysis of assets and deposits

...

Maturity (columns B - D)

Firms should include in column B any commitments, contingent liabilities or undrawn credit lines inward that are ~~either~~ unconditionally cancellable.

...

16 Annex 26G Guidance on designated liquidity groups in SUP 16.12

...		
2	G	<i>Defined liquidity groups</i> are relevant to liquidity reporting by <i>ILAS BIPRU firms</i> . Liquidity reporting under <i>SUP 16.12</i> relates to a <i>firm</i> on a solo or <i>branch</i> basis and in addition by reference to a <i>firm's designated defined liquidity group</i> .
...		

Annex G

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

In this Annex, underlining indicates new text.

1 Annex 1R Illustration of the reporting requirements, referred to in *DISP* 1.10.1R

Complaints Return (DISP 1 Ann 1R)

...

3 ...

Complaints closed and total redress paid during the reporting period

	A	B	C	D	E
...

Annex H

Amendments to the Compensation sourcebook (COMP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Part 1: Comes into force on 6 April 2010

Incoming EEA firms that accept deposits through UK branches and have not obtained top-up cover

- 16.3.3 R An *incoming EEA firm* that accepts *deposits* through a *UK branch* and has not obtained *top-up cover* must disclose the following information to any ~~*protected*~~ *deposit* holder with that *branch* who is or is likely to be eligible to claim for compensation from the *firm's Home State* compensation scheme.

“Important information about compensation arrangements

We are part of [insert name of *firm*] which is based in [insert name of *Home State*]. Most depositors are covered by [insert name of *Home State* compensation scheme] which is also based in [insert name of *Home State*].

This means that if our bank is unable to meet its financial obligations, our eligible UK depositors would be entitled to claim up to £ [insert *Home State* compensation scheme maximum payment for ~~*protected*~~ *deposits*] from the [insert name of *Home State* compensation scheme]. [State any significant conditions that compensation is subject to e.g. if paid on a per account or per depositor basis, and if set-off applies].

For further information about the [insert name of *Home State* compensation scheme] (including the amounts covered and eligibility to claim) please contact your branch or refer to [insert contact details of the *Home State* compensation scheme].”

Incoming EEA firms that accept deposits through UK branches and have obtained top-up cover

- 16.3.4 R An *incoming EEA firm* that *accepts deposits* through a *UK branch* and has obtained *top-up cover* must disclose the following information to any *protected deposit* holder with that *firm* who is or is likely to be an *eligible claimant*.

“Important information about compensation arrangements

We are part of [insert name of *firm*] which is based in [insert name of *Home State*]. Most depositors are covered by [insert name of *Home State* compensation scheme] compensation scheme which is also based in [insert name of *Home State*]. In addition, for depositors with our UK branch we have joined the UK compensation scheme, the Financial Services Compensation Scheme (FSCS).

This means that if our bank is unable to meet its financial obligations, eligible depositors with our UK branch could claim up to £ [insert *Home State* compensation scheme maximum payment for *protected deposits*] from the [insert name of *Home State* compensation scheme] and if they have more saved with us, they could also claim for the remainder up to [insert *FSCS* maximum payment for *protected deposits*] from the *FSCS*.

This is because the [insert name of *Home State* compensation scheme] is only responsible for paying the first part of the compensation up to £ [insert *Home State* compensation scheme maximum payment for *protected deposits*] and the *FSCS* is only responsible for paying the second part of compensation - being above £ [insert *Home State* compensation scheme maximum payment for *protected deposits*] and up to [insert *FSCS* maximum payment for *protected deposits*].

The *FSCS* will also try to help depositors with our UK branch, for example, to get in touch with the [insert name of *Home State* compensation scheme] compensation scheme and to understand the process involved.

For further information on how compensation would apply to you please contact:

- [insert name of *firm*] by dropping into one of our branches, at [insert website link] or by calling [insert phone number].
- General information is also available from:
- the *FSCS* by calling [insert *FSCS* phone number] or at www.fscs.org.uk/.
 - [insert name of *Home State* compensation scheme] compensation scheme by contacting [insert relevant phone number and website link].

Incoming EEA firms: conversion of home state compensation scheme limit to sterling

- 16.3.5 G When an ~~incoming~~ *incoming EEA firm* inserts the *Home State* compensation scheme maximum payment for *protected deposits* in the disclosure required by this section, that amount should be converted into pounds sterling and the exchange rate noted in a footnote. The exchange rate used should be updated regularly.

Frequency of communication

- 16.3.6 R (1) ...
- (2) If a *firm* normally communicates with a *protected deposit holder* or a *deposit holder protected by the incoming EEA firm's Home State compensation scheme* less frequently than every 6 months (1) does not apply and the *firm* must provide the information required to be disclosed by this section on at least an annual basis.

... Trading name disclosure

- 16.3.10 R Where a *firm* operates under more than one trading name, the *firm* must, in any communication required by this section to a *protected deposit* holder who is or is likely to be eligible to claim for compensation from the *compensation scheme* or other *Home State* compensation scheme and generally in its *UK branches* and on its website, prominently disclose the trading names under which it operates and explain the impact this has on any *protected deposit* holder's entitlement to compensation from the *compensation scheme* and any relevant *Home State* or *Host State* compensation scheme.

Further disclosure

- 16.3.11 G A *firm* should ensure that all communications to consumers about compensation for *protected deposits* and *deposits protected by an incoming EEA firm's Home State compensation scheme* are clear, fair and not misleading.

Part 2: Comes into force on 31 December 2010

Table – Minimum information firms must include in each single customer view

- 17.2.8 R This table belongs to *COMP 17.2.4R*

Field identifier	Field descriptor
Customer details	
Single customer view record number	Unique customer identifier
Title	Title <u>[if applicable and where held by the <i>firm</i>]</u>
Customer 1st Forename	1st Forename <u>[if applicable]</u>
Customer 2nd Forename	2nd Forename <u>[if applicable and where held by the <i>firm</i>]</u>
Customer 3rd Forename	3rd Forename <u>[if applicable and where held by the <i>firm</i>]</u>
Customer Surname <u>[or company name or name of account holder]</u>	Surname <u>[or company name or name of account holder]</u>
Previous Name	Any former name of account holder <u>[where held by the <i>firm</i>]</u>
National Insurance number	National Insurance number, where held by the <i>firm</i>
Contact details	

<u>EITHER Format A</u>	
Single customer view record number	Unique customer identifier
House number	House number/Premise name
Street	Street
Locality	Locality [<u>where held by the firm</u>]
County	County [<u>where held by the firm</u>]
Postcode	Postcode [<u>where used by a country</u>]
Country	Country [<u>for countries outside the UK</u>]
<u>OR Format B</u>	
<u>Single customer view record number</u>	<u>Unique customer identifier</u>
<u>ADDRESS LINE 1</u>	<u>As required</u>
<u>ADDRESS LINE 2</u>	<u>As required</u>
<u>ADDRESS LINE 3</u>	<u>As required</u>
<u>ADDRESS LINE 4</u>	<u>As required</u>
<u>ADDRESS LINE 5</u>	<u>As required</u>
<u>ADDRESS LINE 6</u>	<u>As required</u>
<u>Postcode</u>	<u>Postcode [where used by a country]</u>
<u>Country</u>	<u>Country [for countries outside the UK]</u>
Details of account(s)	
Single customer view record number	Unique customer identifier
Account title	Surname or company name , first name, any other account initials or middle name identifier <u>or company name or name of account holder</u>
Account number	Unique number for this account
...	

Annex I**Amendments to the Collective Investment Schemes sourcebook (COLL)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

Spread: general

5.6.7 R ...

(10) In applying this rule, all *derivatives* transactions are deemed to be free of counterparty risk if they are performed on an exchange where the ~~clearing house~~ clearing house meets each of the following conditions:

- (a) it is backed by an appropriate performance guarantee; and
- (b) it is characterised by a daily mark-to-market valuation of the *derivative* positions and an at least daily margining.

...

Annex J

Amendments to the Listing Rules sourcebook (LR)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Approval procedures

13.2.4 R The following documents (to the extent applicable) must be lodged with the FSA in final form before it will approve a *circular*:

...

(3) the *sponsor's* ~~Confirmation of Independence~~ Conflicts Declaration; and

...

...

13.2.6 R The *sponsor's* ~~Confirmation of Independence~~ Conflicts Declaration in final form must be submitted at least 10 clear *business days* before the date on which it is intended to publish the *circular*.

...

Authority to allot shares

13.8.1 R A *circular* relating to a resolution proposing to grant the *directors'* authority to allot ~~relevant securities~~ shares or other securities pursuant to section 551 (Power of directors to allot shares etc: authorisation by company) of the Companies Act 2006 must include:

(1) a statement of the maximum amount of ~~relevant securities~~ shares or other securities which the *directors* will have authority to allot and the percentage which that amount represents of the total ordinary share capital in issue (excluding *treasury shares*) as at the latest practicable date before publication of the *circular*;

...

...

Appendix 3 List of Regulatory Information Services

3.1.1 R The following are approved *Regulatory Information Services*:

Business Wire Regulatory Disclosure provided by Business Wire

FirstSight provided by ~~Romeike~~ Cision

Announce provided by Hugin ASA

News Release Express provided by ~~CCNMatthews UK Limited~~ Marketwire

PR Newswire Disclose provided by PRNewswire

RNS provided by the London Stock Exchange

marCo - Market Communication Office provided by Tensid Ltd of Switzerland

DGAP IR.COCKPIT provided by EquityStory AG

FEE PROVISIONS (2010/2011) INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 99 (Fees);
 - (2) section 101 (Part 6 rules: general provisions);
 - (3) section 156 (General supplementary powers);
 - (4) section 157(1) (Guidance);
 - (5) section 213 (The compensation scheme);
 - (6) section 223 (Management expenses);
 - (7) paragraph 17(1) (Fees) of Schedule 1 (The Financial Services Authority); and
 - (8) paragraphs 1 (General), 4 (Rules), and 7 (Fees) of Schedule 7 (The Authority as Competent Authority for Part VI).
- B. The rule-making powers listed above are specified for the purposes of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 April 2010.

Amendments to the Handbook

- D. The Fees manual (FEES) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Fee Provisions (2010/2011) Instrument 2010.

By order of the Board
25 March 2010

Annex

Amendments to the Fees manual (FEES)

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

3 Annex 5 R Document vetting and approval fees in relation to listing and prospectus rules

...

Part 2

These fees relate to approval or vetting of the documents referred to in the second column of this table arising in relation to specific events or transactions that an *issuer*, *offeror* or *person* requesting admission might be involved in during the year.

...		
Category 2	Equity <i>registration document</i>	£4,400 £3,520
...		

...

4 Annex 5 R Periodic fees for designated professional bodies payable in relation to the period 1 April ~~2009~~ 2010 to 31 March ~~2010~~ 2011

Table: ~~of Fees~~ fees payable by Designated Professional Bodies

Name of Designated Professional Body	Amount payable	Due date
The Law Society of England & Wales	£50,985 £34,545	30 April 2009 <u>2010</u>
...
...		

4 Annex 6 R Periodic fees for recognised investment exchanges and recognised clearing houses payable in relation to the period 1 April ~~2009~~ 2010 to 31 March ~~2010~~ 2011

...

Part 1 – Periodic fees for UK recognised bodies

Name of UK recognised body	Amount payable	Due date
Euroclear UK & Ireland Limited	£244,500 <u>£277,500</u>	30 April 2009 <u>2010</u>

ICE Futures Europe Ltd	£192,500 <u>£230,000</u>	30 April 2009 <u>2010</u>

LIFFE Administration and Management	£300,000 <u>£325,000</u>	30 April 2009 <u>2010</u>

LCH Clearnet Limited	£281,000 <u>£298,000</u>	30 April 2009 <u>2010</u>

The London Metal Exchange Limited	<u>£198,000</u>	30 April 2009 <u>2010</u>

London Stock Exchange plc	£269,500 <u>£261,000</u>	30 April 2009 <u>2010</u>

SWX Europe Ltd	<u>£77,000</u>	30 April 2009
	<u>£88,000</u>	1 September 2009
EDX London Ltd	£48,000 <u>£42,500</u>	30 April 2009 <u>2010</u>

PLUS Markets Plc	£ 77,000 <u>£97,500</u>	30 April 2009 <u>2010</u>

European Central Counterparty Limited	£ 125,000 <u>£163,500</u>	30 April 2009 <u>2010</u>

ICE Clear Europe Limited	£ 125,000 <u>£184,000</u>	30 April 2009 <u>2010</u>

...		

Part 2 – Periodic fees for overseas recognised bodies

Name of overseas recognised body	Amount payable	Due date
Cantor Financial Futures Exchange	£30,000	1 July 2009
...		
Any other <i>overseas investment exchange</i> recognised as such by a <i>recognition order</i> made in the period	£ 30,000 <u>£40,000</u>	30 days after the date on which the <i>recognition order</i> is made
Any other <i>overseas clearing house</i> recognised as such by a <i>recognition order</i> made in the period	£ 60,000 <u>£70,000</u>	30 days after the date on which the <i>recognition order</i> is made

...

6 Annex 1 R Financial Services Compensation Scheme – Management Expenses Levy Limit

This table belongs to FEES 6.4.2R	
Period	Limit on total of all management expenses levies attributable to that period (£)
...	
1 April 2009 to 31 March 2010	£1,000,000,000

<u>1 April 2010 to 31 March 2011</u>	<u>£1,000,000,000</u>
--------------------------------------	-----------------------

FEES PROVISIONS (AMENDMENT NO 2) INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 99(1) and (2) (Fees);
 - (2) section 101 (Part 6 rules: general provisions);
 - (3) section 156 (General supplementary powers);
 - (4) section 157(1) (Guidance);
 - (5) paragraph 17(1) (Fees) of Schedule 1 (The Financial Services Authority); and
 - (6) paragraphs 1 (General), 4 (Rules) and 7 (Fees) of Schedule 7 (The Authority as Competent Authority for Part VI).
- B. The rule-making powers listed above are specified for the purposes of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 April 2010.

Amendments to the Handbook

- D. The Fees manual (FEES) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Fees Provisions (Amendment No 2) Instrument 2010.

By order of the Board
25 March 2010

Annex

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

...

4.1.3 G Most of the detail of the periodic fees that are payable by *firms* is set out in *FEES 4 Annexes 1 to 11*. *FEES 4 Annex 12G* provides guidance on the calculation of certain tariffs. Most of the provisions of the Annexes will vary from one financial year to another. Accordingly fresh *FEES 4 Annexes* will come into force, following consultation, for each financial year.

...

4.3.2 G (1) The amount payable by each *firm* will depend upon the category (or categories) of *regulated activities* or *payment services* it is engaged in (fee-blocks), and on the amount of business it conducts in each category (tariff base). The fee-blocks and tariffs are identified in *FEES 4 Annex 1R* (and guidance on calculating certain of the tariffs is at *FEES 4 Annex 12G*), while *FEES 4 Annex 2R* sets out the tariff rates for the relevant financial year. In the case of *firms* that provide *payment services*, the relevant fee blocks, tariffs and rates are set out in *FEES 4 Annex 11R*.

...

...

4 Annex 1 R Activity groups, tariff bases and valuation dates applicable

...

Part 2

...

...	
A.4	ADJUSTED GROSS PREMIUM INCOME AND MATHEMATICAL RESERVES <u>(see <i>FEES 4 Annex 12G</i>)</u>
	...

...

4 Annex 7 R Periodic fees in relation to the Listing Rules for the period 1 April 2010 to 31 March 2011

Fee type	Fee amount
...	
...	<p>(1) For all <i>issuers of securitised derivatives</i>....</p> <p>(2) For all other <i>issuers</i>, fees to be determined according to market capitalisation, <u>as at the last <i>business day</i> of the November prior to the <i>FSA</i> financial year in which the fee is payable</u>, are as set out in Table 2. The fee is calculated as follows:</p> <p>...</p>

...

Table 2

Tiered annual fees for all other issuers

Fee payable	
...	
<p>£ million of Market Capitalisation <u>as at the last <i>business day</i> of the November prior to the <i>FSA</i> financial year in which the fee is payable</u></p>	<p>Fee (£/£m or part £m of Market Capitalisation <u>as at the last <i>business day</i> of the November prior to the <i>FSA</i> financial year in which the fee is payable</u>)</p>
...	

...

After FEES 4 Annex 11R, insert the following new Annex. The text is not underlined.

**4 Annex 12 G Guidance on the calculation of tariffs set out in FEES 4 Annex 1R
Part 2**

The following table sets out guidance on how a *firm* should calculate relevant tariffs.

Fee block A.4

Adjusted Gross Premium Income and Mathematical reserves – calculation of new regular premium business

(1) In calculating the new regular *premium* business element of its Adjusted Gross Premium Income, a *firm* (A) should not include business transferred from another *firm* (B) under the procedure set out at Part VII of the *Act*, during the relevant financial year, provided that that transfer did not involve the creation of new contracts between the policyholders subject to the transfer and A. This is because that business is existing business even though it is new from the point of view of A. This means that if new contracts are created as part of the transfer, that business should be included in the calculation of A's new regular *premium* income business.

(2) If any business is transferred to a *firm* (A) from another *firm* (B) under the procedure set out at Part VII of the *Act* and that business would have been included in B's tariff base as new regular *premium* business in the absence of such a transfer, this business should be included in either A's or B's tariff base, depending on the date of transfer. *FEES* 4.3.15R explains in whose tariff base it should be included.

(3) Mathematical reserves should take account of all of A's business, including all new business transferred from B.

BUILDING SOCIETIES SOURCEBOOK INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 156 (General supplementary powers); and
 - (3) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force as follows:
- (1) Annex B comes into force on 1 June 2010;
 - (2) the remainder of this instrument comes into force on 1 April 2010.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Interim Prudential sourcebook for Building Societies (IPRU(BSOC)) is amended in accordance with Annex B to this instrument.

Making the Building Societies sourcebook (BSOCS)

- F. The Financial Services Authority makes the rules and gives the guidance in Annex C to this instrument.

Revocation of Interim Prudential sourcebook for Building Societies (IPRU(BSOC))

- G. The provisions of the Interim Prudential sourcebook for Building Societies (IPRU(BSOC)) are revoked with effect from 1 October 2010.

Amendments to material outside the Handbook

- H. The Building Societies Regulatory Guide (BSOG) is amended in accordance with Annex D to this instrument.

Citation

- I. This instrument may be cited as the Building Societies Sourcebook Instrument 2010.

- J. The sourcebook in Annex C to this instrument may be cited as the Building Societies sourcebook (or BSOCS).

By order of the Board
25 March 2010

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>BSOCS</i>	the Building Societies sourcebook.
<i>SDL</i>	(in <i>BSOCS</i>) the total of share and deposit liabilities, excluding amounts that qualify as <i>own funds</i> but including accrued interest not yet payable.
<i>society</i>	(in <i>BSOCS</i>) a <i>building society</i> .
<i>1986 Act</i>	(in <i>BSOCS</i>) the Building Societies Act 1986.

Amend the following definitions as shown.

<i>contingency funding plan</i>	(1) ...
	(2) (in <i>BIPRU 12</i> <u>and <i>BSOCS</i></u>) a plan for dealing with liquidity crises as required by <i>BIPRU 12.4.10R</i> .
<i>designated money market fund</i>	(in <i>BIPRU 12</i> <u>and <i>BSOCS</i></u>) a <i>collective investment scheme</i> authorised under the <i>UCITS Directive</i> or which is subject to supervision and, if applicable, authorised by an authority under the national law of an <i>EEA State</i> , and which satisfies the following conditions:
	...
<i>early repayment charge</i>	(in <i>MCOB</i> <u>and <i>BSOCS</i></u>) a charge levied by the <i>mortgage lender</i> on the <i>customer</i> in the event that the amount of the loan is repaid in full or in part before a date specified in the contract.
<i>PD</i>	(1) ...
	(2) (in <i>GENPRU</i> , and <i>BIPRU</i> <u>and <i>BSOCS</i></u>) <i>probability of default</i> .
<i>qualifying money market fund</i>	(1) (in <i>COLL</i> , and <i>CASS 7</i> <u>and <i>BSOCS</i></u>) a <i>collective investment scheme</i> authorised under the <i>UCITS Directive</i> or which is subject to supervision and, if applicable, authorised by an

authority under the national law of an *EEA State*, and which satisfies the following conditions:

...

...

Society (1) (except in *BSOCS*) the society incorporated by Lloyd's Act 1871 by the name of Lloyd's.

(2) (in *BSOCS*) a *building society*.

subsidiary undertaking ...

(3) (in *LR* and *BSOCS*) as defined in section 1162 of the Companies Act 2006.

trading book (1) ...

(2) (in *BIPRU*, ~~and~~ *GENPRU* and *BSOCS* and in relation to a *BIPRU firm*) has the meaning in *BIPRU* 1.2 (Definition of the trading book) which is in summary, all that *firm's positions* in *CRD financial instruments* and *commodities* held either with trading intent or in order to hedge other elements of the *trading book*, and which are either free of any restrictive covenants on their tradability or able to be hedged.

...

Annex B**Amendments to the Interim Prudential sourcebook for Building Societies (IPRU(BSOC))**

In this Annex, the following sections and provisions of IPRU(BSOC) are deleted. The text of the deleted sections and provisions is not shown.

Comes into force: 1 June 2010

IPRU(BSOC) ref**X.2 Application**X.2.1 R [deleted]

...

4.1 Introduction4.1.1 G [deleted]4.1.1A G [deleted]4.1.2 G [deleted]4.1.3 G [deleted]4.1.4 G [deleted]**4.2 General**4.2.1 G [deleted]4.2.2 G [deleted]4.2.3 G [deleted]

...

4.2.5 G [deleted]

...

4.2.8 G [deleted]4.2.9 G [deleted]**4.3 Financial risks****Funding risks**4.3.1 G [deleted]

4.3.2 G [deleted]

4.3.3 G [deleted]

4.3.4 G [deleted]

Structural risks

4.3.5 G [deleted]

Operational risks

4.3.6 G [deleted]

Key risk categories

4.3.7 G [deleted]

4.3.8 (1) G [deleted]

4.3.8 (2) G [deleted]

...

4.3.8(4) G [deleted]

4.4 Statutory restrictions

Funding limit

4.4.1 G [deleted]

Structural risk management restrictions

4.4.2-7 G [deleted]

4.5 Supervisory approach

Funding limits

4.5.1 G [deleted]

4.5.2 G [deleted]

Supervisory standards for treasury activities

4.5.3 G [deleted]

4.5.4 G [deleted]

4.5.5 G [deleted]

Supervisory discussions on change of approach

4.5.6 G [deleted]

4.5.7 G [deleted]

4.5.8 G [deleted]

...

4.7 Risk management systems

4.7.1 G [deleted]

4.7.2 G [deleted]

Control limits

4.7.3 G [deleted]

4.7.4 G [deleted]

4.7.5 G [deleted]

4.7.6 G [deleted]

Stress testing

4.7.7 G [deleted]

Board information reporting

4.7.8 G [deleted]

4.8 Counterparty risk

4.8.1 G [deleted]

4.8.2 G [deleted]

4.8.3 G [deleted]

4.8.4 G [deleted]

4.8.5 G [deleted]

4.8.5A G [deleted]

Large shareholdings and deposits

4.8.6 G [deleted]

4.8.7 G [deleted]

Committed facilities

4.8.8 G [deleted]

4.9 Operational risk

...

IT security

4.9.7 G [deleted]

4.10 Independent review and controls

Internal audit

4.10.1 G [deleted]

4.10.2 G [deleted]

...

4A.1 Supervisory approach categories

4A1.1 G [deleted]

4A.2 “Administered” approach

4A2.1 G [deleted]

4A2.2 G [deleted]

4A2.3 G [deleted]

4A.3 “Matched” approach

4A 3.1 G [deleted]

4A 3.2 G [deleted]

4A 3.3 G [deleted]

4A 3.4 G [deleted]

4A 3.5 G [deleted]

4A.4 “Extended” approach

4A 4.1 G [deleted]

4A 4.2 G [deleted]

4A 4.3 G [deleted]

4A 4.4 G [deleted]

4A 4.5 G [deleted]

4A 4.6 G [deleted]

4A 4.7 G [deleted]

4A 4.8 G [deleted]

4A.5 “Comprehensive” approach

4A 5.1 G [deleted]

4A 5.2 G [deleted]

4A 5.3 G [deleted]

4A 5.4 G [deleted]

4A 5.5 G [deleted]

4A.6 “Trading” approach

4A 6.1 G [deleted]

4A 6.2 G [deleted]

...

4A7 G Summary of the five approaches [deleted]

...

5.3 The Prudential Regime for Liquidity

5.3.1 G [deleted]

5.3.2 G [deleted]

...

5.3.5 G [deleted]

...

5.6 Board and Management Responsibilities

5.6.1 G [deleted]

5.6.2 G [deleted]

5.6.3 G [deleted]

5.6.4 G [deleted]

5.6.5 G [deleted]

...

5.8 Brokers' Advice

...

5.8.2 G [deleted]

...

Annex 5A

Prudential Liquidity

5A.1 G [deleted]

Annex 5B

Policy Statement on Liquidity

5B.1 Overview

5B1.1 G [deleted]

5B.2 Policy Statement Contents

5B2.1 G [deleted]

5B2.2 G [deleted]

5B2.3 G [deleted]

5B2.4 G [deleted]

5B2.5 G [deleted]

5B2.6 G [deleted]

5B2.7 G [deleted]

5B2.8 G [deleted]

5B2.9 G [deleted]

Annex C

Building Societies sourcebook (BSOCS)

Insert the following new sourcebook before the Collective Investment Schemes sourcebook (COLL) in the block of the Handbook titled “Specialist Sourcebooks”. The text is all new and is not underlined.

1 Introduction

1.1 Application and overview

Application

- 1.1.1 R The Building Societies sourcebook (*BSOCS*) applies to all *building societies*.

Purpose

- 1.1.2 G This chapter describes the key financial and lending risks to which *societies* are exposed and sets out the framework within which the *FSA* will supervise the treasury activities of *societies*. It includes details of the five treasury “approach” categories (“Administered”, “Matched”, “Extended”, “Comprehensive” and “Trading”) applied, as well as details of the three approaches to lending activities (“Traditional”, “Limited” and “Mitigated”). The chapter emphasises the respective responsibilities of boards and management for monitoring and controlling financial risks and lending.

Other applicable provisions

- 1.1.3 G *Societies* should note that they must also comply with the applicable prudential rules in *GENPRU* and *BIPRU*. *Societies* should refer to *GENPRU* and *BIPRU* for full details of these rules.
- 1.1.4 G Unless otherwise stated, references in this sourcebook to “*society*” (except those that relate to *BIPRU* 12) are to “*society*” groups, consolidated to include all *subsidiary undertakings*. For the avoidance of doubt, any *undertakings* in the *society’s* group that are subject to the requirements of *BIPRU* 12 must comply with those requirements on a solo basis.

1.2 Supervisory standards for treasury activities

Setting risk limits

- 1.2.1 G Under section 5 of the *1986 Act*, a *society’s* principal purpose is that of making loans which are secured on residential property and are funded substantially by its members, not undertaking, and trading in, financial risk for profit. *Societies* should therefore adopt a risk-averse approach to maturity mismatch and to structural risk management. A degree of maturity mismatch and structural risk is inherent in normal *society* operations, but boards of

societies (“boards”) should set risk limits which either:

- (1) ensure that, as far as possible, exposures to changes in interest rates are minimised; or
- (2) where interest rate positions are to be taken, restrict potential reductions in income or economic value, estimated under robust stress testing scenarios, to levels which would not compromise the current or future viability of their *societies*.

1.2.2 G *Societies* should aim to eliminate, as far as is practicable, all exposures to risk arising from movements in currency exchange rates.

1.2.3 G (1) As explained in *BSOCS* 5.2.1G, a *society’s* system for financial risk management should be adequate. The policy statement envisaged in *BSOCS* 5.2.4G should be appropriate for the *society’s* business needs and the complexity of its existing and proposed treasury activities.

- (2) The *FSA* has devised five models for financial risk management and treasury operations, described as supervisory treasury approaches, of increasing sophistication, to assist *societies*. The approaches are described as “Administered”, “Matched”, “Extended”, “Comprehensive” and “Trading”. A *society* that conducts its treasury activities in accordance with the most suitable (for it) of these five models, can readily demonstrate that it complies with the requirements of *SYSC* 4.1.1R, *SYSC* 7.1.2R and *SYSC* 7.1.4R in the context of financial risk management. But these models are neither mandatory nor exhaustive. Guidance on the characteristics of each approach is set out in *BSOCS* 1.5.

1.3 Supervisory standards for managing risks in the lending book

1.3.1 G Under section 6 of the *1986 Act*, *societies* are required to ensure that a minimum of 75% of their commercial assets is fully secured on residential property. Since residential lending will always be such a significant part of a *society’s* business, it is essential that the risks arising from further concentrations within the total lending book are properly managed and mitigated to align with the board’s risk appetite.

1.3.2 G Accordingly, *societies* should adopt formal, board-approved lending policy statements that include limits on the type of lending that will be undertaken (both as a proportion of periodic flows and of stocks), as well as setting out the key underwriting policies and controls. As with financial risk limits, boards should aim to:

- (1) ensure that, as far as possible, credit risks arising from lending are aligned with management risk appetite through careful underwriting; and

- (2) ensure that any additional risk taken is appropriately priced and managed so that loss levels under stressed conditions would not compromise the current or future viability of their *societies*.

- 1.3.3 G The policy statement envisaged in *BSOCS* 1.3.2G should be appropriate for the *society's* business needs and the complexity of its existing and proposed lending activities. The *FSA* has devised three models for lending book management, described as supervisory lending approaches, of increasing sophistication, to assist *societies*. The approaches are described as “Traditional”, “Limited” and “Mitigated”. A *society* that conducts its lending activities in accordance with the most suitable (for it) of these three models can readily demonstrate that it complies with the requirements of *SYSC* 4.1.1R and *SYSC* 7.1.2R, in the context of loan book management. But these models are neither mandatory nor exhaustive. Guidance on the characteristics of each approach is set out in *BSOCS* 2.

1.4 Supervisory discussions on change of “approach”

- 1.4.1 G With regard to any of the five approaches to treasury risk and financial risk management, or the three approaches to managing the lending book, the *FSA* anticipates that *societies* will wish to develop further their expertise, and that a change of “approach” may be necessary. In this respect, the “approach” categories should be seen, not as discrete compartments, but rather as stages in the continuous evolution of risk management and systems, with a change of “approach” marking a milestone in that progress. *Societies* should develop their risk management and systems to the level appropriate to support the scale and nature of their business and the *FSA* will be encouraging *societies* to enhance these capabilities where this is considered to be necessary.
- 1.4.2 G Whilst the “approach” benchmarks are not binding and are guidance only, the process of moving between approaches provides a useful opportunity for the *FSA* to review a *society's* progress, and to satisfy itself that policies, limits and systems are appropriate for the activities planned.
- 1.4.3 G Any *society* which wishes to move between the five approaches to treasury risk and financial risk management, or the three approaches to managing the lending book, should contact the *FSA* at an early stage. The *FSA* will wish to be satisfied that the *society* has the requisite expertise, management information systems, accounting systems and controls before any significant change in the *society's* treasury activities or lending policy is implemented.

1.5 Supervisory approaches to treasury management

- 1.5.1 G *BSOCS* 1.5 to 1.10 provide *guidance* on the five models, or supervisory approaches, to treasury management described in *BSOCS* 1.2.3G. Where *societies* have treasury operations in *subsidiary undertakings*, these should adopt the same approach category as that of the parent *society*. An outline

description of each approach is set out in *BSOCS* 1.6 to 1.10, and tables at the end of each of Chapters 3 to 5 summarise the key features.

1.6 “Administered” approach

- 1.6.1 G *Societies* in the “Administered” approach category should have balance sheets where loan assets and funding liabilities are entirely in Sterling and predominantly (>95%) subject to administered rates. In general, it is anticipated that the “Administered” approach will tend to suit small or very small *societies* where balance sheet management is typically undertaken by the Chief Executive in conjunction with the board.
- 1.6.2 G *Societies* in this category should not hold any treasury investments, or issue any funding instruments, which contain complex structured optionality, whether this optionality relates to interest payable or receivable, instrument term or any other variable.
- 1.6.3 G It is likely to be appropriate for a *society* that falls into this category to apply for a *simplified ILAS waiver*.

1.7 “Matched” approach

- 1.7.1 G (1) *Societies* adopting the “Matched” approach should have balance sheets where assets and liabilities are entirely in Sterling and use hedging contracts (or internal matching of assets and liabilities with similar interest rate and maturity features) to neutralise the risk arising from loans or funding other than at administered rates, on a tranche by tranche, product by product basis.
- (2) This approach is characteristic of small to medium sized *societies*, with limited treasury skills or resources. Typically the Chief Executive of such *societies* will be supported by a Finance Director or Finance Manager, and report direct to the board on treasury matters (or through an appropriate committee).
- 1.7.2 G The policies of such *societies* can allow use of standard hedging products for transactions permitted by section 9A of the *1986 Act*, for example:
- (1) interest rate *swaps*; and
- (2) plain vanilla *over the counter* (“OTC”) options such as swaptions, caps, collars and floors (options purchased only);

for the purpose only of matching individual products and within the exemptions permitted by section 9A. Structural hedging of the whole balance sheet should not be permitted.

- 1.7.3 G Risk management for such *societies* should be achieved internally through:
- (1) matching reports (detailing individual products and the hedging instruments associated with them); and
 - (2) gap analysis; for gapping purposes, reserves will need to be treated as having no fixed repricing date, and gap limits should be set at the minimum level required to give flexibility in timing the hedges for individual mortgage and investment products, with some allowance for residual risks (those too small to be economic to hedge) and for holdings of fixed rate liquid assets. *Basis risk* should be minimised by setting cautious limits for fixed rate, bank base rate and any other market rate assets and liabilities.
- 1.7.4 G Gap monitoring reports should be updated and considered by the board at least monthly. By implication, *societies* adopting this approach should not be taking an interest rate view for the purposes of determining a hedging strategy.
- 1.7.5 G *Societies* in this category should not hold any treasury investments, or issue any funding instruments, which contain complex structured optionality, whether this optionality relates to interest payable or receivable, instrument term or any other variable.
- 1.7.6 G It is likely to be appropriate for a *society* that falls into this category to apply for a *simplified ILAS waiver*.

1.8 “Extended” approach

- 1.8.1 G The principal difference between the “Matched” and the “Extended” approaches lies in the capability to measure and hedge structural risk across the whole balance sheet, including reserves, rather than just hedging individual transactions. The approach will thus allow a *society* to allocate reserves to specific repricing bands representing a considered view of the characteristics of those reserves, and/or the assets deemed to “represent” them, or to manage interest rate gaps as part of a strategy for hedging the endowment effect of interest free reserves against adverse interest rate movements. Risk analysis should also enable it to position its balance sheet to take advantage of a particular interest view.
- 1.8.2 G The *FSA* expects that some *societies* on the extended approach will, subject to being able to satisfy the relevant conditions, elect to apply for a *simplified ILAS waiver* whilst others may choose to remain as *standard ILAS BIPRU firms*. For a *society* that is a *standard ILAS BIPRU firm*, the *FSA* will discuss with the *society* the maximum level of wholesale funding that the *society* should hold. A *society* that wishes to operate the *simplified ILAS* approach will need to satisfy the relevant conditions in *BIPRU 12.6*, including those relating to the minimum percentage of total liabilities accounted for by retail

deposits.

- 1.8.3 G A *society* on the extended approach can potentially fund and hold assets denominated in Sterling, Euros or US dollars, whether it is a *simplified ILAS BIPRU firm* or a *standard ILAS BIPRU firm*.
- 1.8.4 G A *society* adopting the extended approach should:
- (1) adopt policies and systems to enable it to undertake the hedging of individual transactions within the context of an overall strategy for structural hedging, based on detailed analysis of its balance sheet; and
 - (2) use the output of that analysis to enable it to position its balance sheet to take advantage of a particular interest view.
- 1.8.5 G Management of interest risk for such *societies* will typically be controlled by the board acting through an Assets and Liabilities Committee (“ALCO”) or equivalent sub-committee, which will normally be responsible for agreeing any interest rate view. Reporting to the ALCO, there will typically be a Treasurer running a small treasury department with appropriate segregation between dealing and settlement activities.
- 1.8.6 G Hedging instruments available to be authorised by the board will be the same as for the “Matched” approach, with the addition of (as far as permitted by section 9A):
- (1) *FRAs/futures*; and
 - (2) foreign exchange *swaps/forward contracts/options* (purchase only).
- 1.8.7 G Risk management systems should be based on full balance sheet gap analysis, possibly supplemented by static simulation.
- 1.8.8 G Gap limits could allow leeway for risk positions, to be controlled by sensitivity limits covering potential changes in both earnings and economic value.

1.9 “Comprehensive” approach

- 1.9.1 G The principal differences between the “Extended” and the “Comprehensive” approaches lie in:
- (1) the depth and quality of the risk management systems put in place to monitor and control structural risk;
 - (2) the frequency of analysis undertaken; and
 - (3) the currencies in which treasury operations would be undertaken.
- 1.9.2 G Like the extended approach *societies*, comprehensive approach *societies* will

manage risk using a board/ALCO/Treasurer reporting structure, but the latter will typically subdivide the treasury department further with a separate “middle office” risk management function, segregated from “front office” (dealing) and “back office” (settlement/accounting).

- 1.9.3 G Hedging instruments available for use under agreed board policy will include those for the extended approach plus (as far as permitted by section 9A):
- (1) complex interest rate *swaps*;
 - (2) complex interest rate caps/collars/floors (purchase only);
 - (3) House Price Index *derivatives*; and
 - (4) credit *derivatives*.
- 1.9.4 G Risk analysis should extend beyond static gap/static sensitivity analysis to (for example):
- (1) dynamic simulation (such as projecting forward balance sheet elements and simulating the impact of different interest rate scenarios);
 - (2) duration for individual portfolio elements, or present value of a basis point move calculations, to highlight sensitivity to non-parallel shifts in the yield curve; and
 - (3) *value at risk*, using correlation/historic simulation and/or Monte Carlo simulation;
- the impact on both earnings and economic value being assessed internally on a very regular basis.
- 1.9.5 G Risk positions could reflect an interest view, subject to sensitivity limits set by the board/ALCO and incorporating *basis risk* assessment/control. Foreign exchange mismatch (i.e. exchange rate exposure) should be subject to appropriate risk management over foreign exchange movements.
- 1.9.6 G It is likely to be appropriate for a *society* on the comprehensive approach to be a *standard ILAS BIPRU firm*.

1.10 “Trading” approach

- 1.10.1 G The “Trading” approach is a category for those *societies* which wish to take advantage of the ability to trade in securities. Essentially, those *societies* will adopt the comprehensive approach for the purpose of managing interest risk arising in their banking book, but with additional policies, financial instruments, systems and expertise for managing the *market risks* inherent in running a separate *trading book*.

- 1.10.2 G Such a *society* should control the additional *market risks* through a Market Risk Committee of the board and risk management systems should include complex portfolio management, option pricing and *value at risk* models.
- 1.10.3 G It is likely to be appropriate for a *society* on the trading approach to be a *standard ILAS BIPRU firm*.

1.11 Supervisory approach to managing the lending book

- 1.11.1 G *BSOCS* 1.12 to 1.14 provides *guidance* on the three models, or supervisory approaches, to managing the lending book described in *BSOCS* 1.3.3G. An outline description of each approach is set out at *BSOCS* 1.12 to 1.14 and the Tables at the end of *BSOCS* 2 summarise the key features.

1.12 “Traditional” lending approach

- 1.12.1 G *Societies* in the “Traditional” lending approach category should restrict their lending activities mainly to prime quality residential mortgages for owner-occupiers. The traditional approach should suit small or very small *societies* where lending decisions are fully underwritten on an individual basis, typically by the Chief Executive or a direct report, under clearly delegated mandates.
- 1.12.2 G *Societies* adopting this approach should have board-approved lending policies that:
- (1) set a minimum limit of at least 85% of loan book for prime owner-occupied mortgages (subject to a mortgage indemnity guarantee or other recognised collateral for loan to values (LTV) in excess of 80%);
 - (2) limit other types of lending within the maximum 15% balance to prime owner-occupied >80% to <90% LTV without external insurance, prime buy to let, shared ownership, social landlords and secured commercial lending (including fully secured on land) only;
 - (3) require the use of approved independent valuers (in this context, independent valuer has the same meaning as in *BIPRU* 3.4.66R(2));
 - (4) require stress tests to be undertaken at least annually to identify potential shortfalls in the value of security and allow it to review the appropriateness of its lending limits; and
 - (5) limit exposure to connected counterparties to <10% *capital resources*.

1.13 “Limited” lending approach

1.13.1 G The “Limited” lending approach is suitable for *societies* that have a slightly higher appetite for credit risk than those on the traditional approach. *Societies* adopting this approach should control the amount of risk assumed through a comprehensive system of policy limits. These limits will prevent the *society* from becoming over-exposed to non-traditional lending, and will take account of the differing risks associated with the type of lending and the type of security held. In general it is anticipated that the limited approach will tend to suit medium-sized and larger *societies* where:

- (1) there is operational segregation between underwriting and the review/audit/compliance functions which check compliance with policy and legislation and which review lending/underwriting quality;
- (2) there is operational segregation between underwriting and the mortgage sales function;
- (3) lending decisions are fully underwritten on an individual or systematically credit-scored basis, under clearly delegated mandates; and
- (4) relevant specialist expertise is employed for non-traditional lending, with access to appropriate sources of external and internal information on how risks are developing.

1.13.2 G *Societies* adopting this approach should have board-approved lending policies that:

- (1) set a minimum limit of at least 65% of total loan book for prime owner-occupied mortgages;
- (2) set sub-limits, both in terms of total loan book and lending in a twelve-month period, for other types of lending within the maximum 35% balance; and
- (3) require stress-testing and scenario analysis of outcomes to be undertaken at least semi-annually.

1.14 “Mitigated” lending approach

1.14.1 G The “Mitigated” lending approach is suitable for *societies* that undertake a diverse range of lending. *Societies* adopting this approach should mitigate their risk through sophisticated credit risk management systems that control the amount of risk assumed, both through a comprehensive system of policy limits and through the operation of stochastic risk models. In general it is anticipated that the mitigated approach will tend to suit only the largest *societies* where:

- (1) there is a segregated and independent risk function reporting directly to the board (or a board-level committee);
- (2) there is full segregation between credit underwriting and the review/audit/compliance functions which check compliance with policy and legislation, and which review lending/underwriting quality;
- (3) underwriting is independent of mortgage sales function;
- (4) lending decisions are underwritten on an individual or systematically credit-scored basis (but subject to manual override), under clearly delegated mandates; and
- (5) relevant specialist expert teams are employed for non-traditional lending, with access to appropriate sources of external and internal information on how risks are developing.

1.14.2 G *Societies* adopting this approach:

- (1) should have board-approved lending policies that set appropriate limits, both in terms of total loan book and lending in a twelve-month period, for each type of lending; and
- (2) should undertake full econometric risk analysis, stress-testing and scenario analysis of outcomes at least quarterly.

1.15 Review of financial risk management approach and assessment of lending approach

- 1.15.1 G *Societies* should perform an initial review of their current financial risk management approach in the light of the guidance in *BSOCS* and undertake a self-assessment of controls over their lending book in the light of the *BSOCS* lending criteria. Having done so, the *society* should inform its supervisor at the *FSA* in writing of the approaches that it considers are the ones most suited to its systems and controls for managing financial and lending risks, provide details of any features of its systems, controls or activities that fall outside the parameters of those approaches, and discuss with its supervisor what, if any, actions are needed on the part of the *society* to address these. This should be completed by 1 October 2010.
- 1.15.2 G The *FSA* recognises that, where the need to make changes to funding profile, treasury investments or lending profile to achieve compliance with *SYSC* is identified, it is likely that the move to achieve this will be gradual. The *FSA* will discuss with each *society* an appropriate period of time over which any realignment should be undertaken.
- 1.15.3 G Subsequent to this initial review, *societies* should continue to review the suitability of their allocated approaches as appropriate and speak to their supervisor at the earliest opportunity if they anticipate that their systems,

controls or activities will fall outside the parameters of those approaches.

1.16 Interpretation

- 1.16.1 G In this sourcebook “administered rate” is defined as a rate of interest (which may be applied to lending or funding) which is, to the extent compatible with regulatory requirements and the general law, set from time to time at the discretion of the *society* and is not geared automatically to changes in an external reference rate, subject to the following:
- (1) a *society* operating under the administered or matched approaches to financial risk management that chooses to set a contractual floor or cap should set nothing other than a floor (minimum rate receivable) on a rate charged on mortgages and/or a cap (maximum rate payable) on a rate payable to retail savers; these are the only limitations that may be applied to administered rate products allocated against the minimum policy limit; and
 - (2) a *society* not operating on either of the approaches in (1) may choose to include any guarantee in combination with an administered rate; it would however be expected to set appropriate sub-limits to control the level of basis and re-pricing risk taken, and to be able to evidence that it has assessed the cumulative impact of all such guarantees on its ability to vary rates generally as part of its regular stress and scenario testing programme.
- 1.16.2 G In this sourcebook “total loan book” is defined as total outstanding lending whether secured on property or unsecured.
- 1.16.3 G For the purposes of *BSOCS* 2.6.3G, loans to companies or partnerships secured on buy-to-let property should always be considered commercial.
- 1.16.4 G In this sourcebook reference to the term of any funding or treasury investment (including those held to comply with *BIPRU* 12) should in all cases be taken to mean the residual date to maturity.
- 1.16.5 G The status of the provisions in *BSOCS* is indicated by icons containing the letters R or G. Please refer to chapter six of the Reader’s Guide for further explanation about the significance of these icons. The Reader’s Guide can be found at

<http://fsahandbook.info/FSA/pdf/rguide.pdf>

2 Lending

2.1 Introduction

- 2.1.1 G (1) This chapter sets out *FSA guidance* on the management by *societies* of their lending, using the three approaches to lending set out in *BSOCS* 1, in order to enable them to comply with the requirements in *SYSC* 4 to *SYSC* 7. The chapter outlines factors the *FSA* will consider when assessing whether a *society* meets these requirements in relation to lending risk management.
- (2) A list of the types of lending suitable for *societies* managing risk according to each of the three levels of lending risk management, together with appropriate controls, is set out in the tables at *BSOCS* 2.5.2G and 2.6.3G.

2.2 Risks of mortgage lending

Affordability

- 2.2.1 G The primary risk associated with mortgage lending is that the borrower will be unable or unwilling to service the loan. In this respect, some types of mortgage will present greater risks than others. In particular, risks are likely to be increased for lenders (and in some cases also for consumers):
- (1) where repayment commitments represent an unusually high percentage of disposable income; or
- (2) where an unusually large proportion of the borrower's income is variable; or
- (3) where the borrower has an impaired credit history.
- 2.2.2 G *Societies* should ensure that they consider the risk profile of the different types of lending that they undertake, put sub-limits and other mitigating controls in place where they consider it appropriate and price their lending to reflect the perceived residual risks.
- 2.2.3 G (1) *Societies* should also consider when product features such as fixed mortgage rates expire and whether to set a maturity profile. If large numbers of mortgage loans revert to, for example, another base rate or a standard variable rate (SVR) simultaneously the *society* may experience operational strain dealing with the associated administration and customer queries.
- (2) Also, if interest rates have changed significantly, *societies* may need to respond to a significant number of customers experiencing payment shock at the same time. In such a situation a *society* may experience a

profitability strain resulting from abnormally high redemption levels.

- 2.2.4 G Whilst non-sterling mortgages expose a *society* to foreign exchange risks (covered further within *BSOCS* 3 to 5) as well as all other risks which normally attach to mortgage lending, it may also expose the borrower to exchange rate risk which, if it crystallises, impacts on their ability to afford the loan. *Societies* (other than those with the most sophisticated lending risk management controls) should therefore set very conservative limits for such business, and confine such loans to borrowers with income denominated in the relevant currency.
- 2.2.5 G *Societies* must also comply with the general law and other regulatory requirements, including those in *MCOB* and the *Principles* for Businesses, relating to affordability and other aspects of granting a mortgage.

Valuation of security

- 2.2.6 G If a mortgage fails to perform, a *society* ultimately relies upon the value of its security to safeguard its interests, so the reliability of the value is important. The integrity, competence and expertise of the valuer are important, particularly where experience in more complex valuation areas (for example, related to commercial lending) is needed.
- 2.2.7 G In addition to general property price movements, significant local price variations can occur. Therefore lending outside a *society's* home area (or for larger *societies* lending on overseas property) can have an increased risk if local price drivers are not fully appreciated. *Societies* should consider this in setting their lending policy, balancing the potential risks against the advantages of lowering the concentration risk to which they might be exposed.

Automatic valuation models (AVMs)

- 2.2.8 G If a *society* proposes to use an automatic valuation model (AVM), either as part of its loan origination process or subsequent revaluation for credit decision purposes, it should do so within the terms of clear and well-considered policies. In doing so it should note that, in the calculation of the *credit risk capital component*, in relation to risk weights assigned to exposures secured by mortgages on residential property, *BIPRU* 3.4.77R requires that the “property shall be valued by an independent valuer at or less than market value” and that an independent valuer is defined in *BIPRU* 3.4.66R as a “person who possesses the necessary qualifications, ability and experience to execute a valuation and who is independent from the credit decision process.” This means that, for those purposes, the use of AVM output must always fall within a process leading to a valuation that can be ascribed to an independent valuer.
- 2.2.9 G The *society* should also consider the limitations of AVMs before making a decision regarding whether an AVM is appropriate, particularly when the valuation plays an important role in the calculation of capital requirements. In determining a reasonable approach to AVMs a *society* should consider that:

- (1) all AVMs have estimation errors;
 - (2) there are strengths and weaknesses of various AVMs. For example, many AVMs could be well suited to urban areas with many similar properties, but most will find it difficult accurately to value a property with little in common to those close by, for example in rural areas;
 - (3) AVMs should not be used to value non-domestic properties.
- 2.2.10 G The higher the LTV, the greater the risk that an over-valuation of the property could result in the *CRD* risk weighting being mis-stated. *Societies* should be particularly careful in those situations.
- 2.2.11 G If a *society* chooses to use AVMs, its lending policy should set out clearly when it intends to do so. For example, it may set a maximum LTV or loan amount. A *society* should also have procedures for reviewing its use of AVMs based on experience and market developments.
- 2.2.12 G Statistical methods, such as house price indices or AVMs, can also be used to monitor the value of a property, identify property that needs revaluation and amend valuations assigned to a property. The detailed rules concerning monitoring of property values for the purposes of calculating the *credit risk capital component* are contained in *BIPRU* 3.4.66R to *BIPRU* 3.4.71G. If AVMs are used in this way, the principles of AVM use are the same as for loan origination and *societies* should consider the appropriateness of AVMs to obtain a prudent value.

Non-traditional lending

- 2.2.13 G (1) Non-traditional lending can present additional risks, when compared with the more conventional prime owner-occupied lending model. *Societies* should recognise this within their risk assessment and management processes, procedures and lending policy.
- (2) *BSOCS* 2.2.14G to 2.2.21G describe factors that *societies* should take into account in managing the risks associated with non-traditional lending; these are not exhaustive and not all points will be relevant to all *societies*.

Sub-prime lending

- 2.2.14 G Whilst the risk of default on sub-prime owner-occupied lending is initially greater than that for prime (all other things being equal) the *FSA* recognises that sub-prime borrowers may demonstrate affordability over time. In these circumstances, the *FSA* is content for *societies* to reclassify seasoned sub-prime lending as prime after five years (at the LTV at origination), if they wish to do so.

Buy-to-let

- 2.2.15 G (1) Whilst buy-to-let (BTL) lending is secured on residential property and

therefore falls within the Building Societies Act nature limit (the statutory requirement that 75% of lending should be secured on residential property), it presents different risks to those of conventional residential mortgages to owner-occupiers.

- (2) The *FSA* expects Boards and Management to recognise that existing experience and skills in residential mortgage lending do not simply transfer to buy-to-let and that the potentially significant differences in risk profile mean that different post-completion administration arrangements will be appropriate.

2.2.16 G A *society* undertaking BTL lending should, when determining its risk appetite, have regard to the underlying commercial nature of this type of business. Relevant factors which *societies* should consider and address within their lending policy include:

- (1) the degree to which the investor borrower is dependent on the cashflow performance of the investment property to service the loan;
- (2) the basis on which the security is valued and rental income is assessed for underwriting purposes (including how rental voids are treated);
- (3) what tenancy basis and kinds of BTL are acceptable;
- (4) information required to assess the extent of the investor-borrower's broader exposure to the BTL sector (e.g. total number of properties in portfolio and whether encumbered or unencumbered);
- (5) the maximum permitted exposure to an investor-borrower or connected investor-borrowers (which may be based on value and/or number of investment properties held); and
- (6) what post-completion loan administration is required (and the extent to which this is appropriate and proportionate to the underlying commercial nature of BTL lending) including:
 - (a) monitoring of exposures on a scheduled basis (e.g. annual review);
 - (b) requirements for the investor-borrower to provide financial information on a periodic basis which enables the lender to have an appropriate understanding of their overall exposure.

Equity release: Lifetime Mortgages and Home Reversion Plans

2.2.17 G (1) *Lifetime mortgages* create a residential mortgage exposure (and fall within the nature limit) and also carry a morbidity risk associated with the potential deterioration of health of the borrower. In addition, those with interest roll-up features carry a mortality risk associated with the longevity of the loan, so their risks differ from conventional lending risks. Because of these risk characteristics the *FSA* would not expect limited approach *societies* to offer such products where any applicant

is under 65, nor to extend loans greater than 25% LTV for borrowers of 65. If they wish to offer larger LTV advances to older borrowers they should ensure that they have appropriate actuarial expertise to enable them to assess the associated risks.

- (2) *Home reversion plans* are likely to carry even more complex risks, since they not only have an actuarial risk but also expose lenders directly to variations in the market value of the property with which the individual plan is associated. As such, *societies* should enter those markets only if they have more sophisticated lending management control structures. In these circumstances, *societies* should set very conservative limits on the amount of such business that can be done.

Commercial lending

- 2.2.18 G
- (1) Commercial property may require different valuation skills to domestic property, and historically has a higher default rate than conventional owner-occupied lending. It may or may not fall within the nature limits, depending on whether the business of the commercial enterprise is to provide residential property.
 - (2) Commercial lending can be divided into three broad types, owner occupied, commercial developments and investments. Each of these broad types typically has different associated risk profiles and is likely to require different risk management capabilities.
 - (3) *Societies* on different lending approaches are likely to have different risk management capabilities with respect to the three types. *Societies* on the traditional approach should restrict themselves to owner-occupied commercial lending. The *FSA* would expect that *societies* on the limited approach might have the risk management capabilities to undertake small scale residential development (ten properties or less) or small scale commercial investments.
 - (4) Commercial lending may be “lumpy” in character, particularly that falling into the commercial investments category. When considering the risks associated with any commercial lending, *societies* should be mindful of the absolute size of individual loans, their absolute total exposure to commercial lending and the extent to which they are exposed to concentration risk, whether geographic concentration, concentration to particular counterparties or particular sectors of the economy.
 - (5) *Societies* should also be mindful of the additional complexity that may attach where commercial property is owned by a special purpose vehicle or where it is financed by a syndicated loan. *Societies* on either the traditional or limited approach should not undertake any syndicated lending.
 - (6) *Societies* should also ensure that when undertaking commercial lending they establish that a realistic alternative use exists for the

property, in case they later have to enforce the security.

Social landlords (including Registered Social Landlords)

- 2.2.19 G (1) Lending to housing associations can be difficult to evaluate and for smaller *societies* these can represent significant sized loans. Whilst loans may be low LTV, the saleability of underlying properties varies and would usually not be with vacant possession. As such, *societies* considering such lending should consider not only the portfolio valuation but also the financial management record of the landlord, including arrears management and losses through voids. The skills necessary to undertake such assessments are those of underwriting commercial lending rather than residential lending, combined with a good understanding of the sector and its risk profile.
- (2) As such, *societies* should ensure that they have appropriate underwriting skills for this type of lending and that they set a maximum proportion of their lending book for these loans, to ensure that they retain a balanced portfolio.

Shared ownership lending

- 2.2.20 G Shared ownership lending can be more complex than mainstream mortgage lending. *Societies* will need to assess the borrower's ability to afford the loan, which may be more complicated than for traditional lending. In addition, the value of collateral may be affected by conditions imposed by the social landlord on resale, for example to market the property only to those groups identified as a priority by the local authority. Also, administering such lending is likely to be more resource-intensive than conventional lending, since the mortgage agreement is three-way and relationships with both the borrower and social landlord need to be maintained. Particular matters that *societies* should consider include (but are not necessarily restricted to) the following.
- (1) In the event of default, if monies raised by repossession and sale of the share purchase are insufficient to cover the debt the *society* has protections allowing it to recoup certain losses from the social landlord's share of the property so long as they have complied with required procedures at the time of extending the original and any subsequent amounts, and before taking action for arrears. *Societies* should ensure that they understand what protection is available and have procedures to ensure compliance with procedural requirements.
- (2) Security is held over the leasehold on the owned portion of the property, not the freehold. If the borrower fails to pay rent to the social landlord, the lease may be terminated by the landlord; if terminated then security for the loan would be lost. Whilst a social landlord must inform a *society* and give it time to remedy the breach to retain the security (costs recoverable under the mortgage protection scheme) *societies* should consider how they will manage such risk situations and decide as a matter of policy which if any costs they will consider paying.

- 2.2.21 G Given the added complexity and costs of administering such lending, *societies* should set a maximum proportion of their lending book for such loans, to ensure that they retain a balanced portfolio.

2.3 Board and management responsibilities

- 2.3.1 G To comply with SYSC 4.1.1R and SYSC 7.1.2R, *societies* should have a lending policy. This should be agreed and formally approved by the board and be consistent with the *society's* strategic plan and its financial risk management policy statement.
- 2.3.2 G The board and management should take steps to ensure that staff involved in all aspects of lending are aware of the lending policy, both on an ongoing basis and particularly where the lending policy has been changed. What steps would be most appropriate to achieve this will depend on the number of staff concerned and the complexity of the lending policy.
- 2.3.3 G To comply with SYSC 4.1.10R (Regular monitoring), *societies* should check, on a regular basis, that staff are complying with this lending policy.

2.4 Lending policy

- 2.4.1 G This section provides guidance on the issues which should be addressed in the lending policy. The list of issues is not exhaustive, not all points will be relevant to all *societies* and *societies* may wish to combine some of the subjects within sections of their policy.

Contents of policy

- 2.4.2 G The introduction section should include:
- (1) background to the *society's* approach to the management of credit risk, including its high-level lending strategy and its risk appetite expressed in a clear and numeric way that can be easily understood by all staff;
 - (2) ratification process for obtaining board approval, including amendments to the policy statement as well as complete revisions; and
 - (3) arrangements for, and frequency of, review (which should be conducted at least on an annual basis).
- 2.4.3 G The objectives of the policy should cross-refer to the *society's* general statement of risk appetite (as set out in its *ICAAP* for Pillar 2 capital adequacy purposes), and should set out the *society's* general philosophical approach to lending.

- 2.4.4 G The policy should set out the *society's* business and operational characteristics, including:
- (1) board controls and organisational structure/reporting lines;
 - (2) high level framework for ensuring compliance with *MCOB* and other regulatory requirements;
 - (3) delegation process and authorities;
 - (4) new product development process and approved sources of new lending business;
 - (5) marketing and administration controls; and
 - (6) processes for ensuring compliance with policy (including arrangements for internal audit review etc).
- 2.4.5 G The risk management section should include a description of:
- (1) the risk management structure and reporting lines;
 - (2) controls over underwriting quality and adherence to delegated limits;
 - (3) how risks associated with untypical cash flow characteristics (including interest roll-up and *payment holidays*) are to be managed;
 - (4) training and competence requirements for underwriters and mortgage sales staff;
 - (5) the process for developing internal risk scoring systems and procedures for risk categorisation including monitoring of manual overrides;
 - (6) large exposure limits for connected counterparties, by loan and borrower type;
 - (7) exposure limits for individual portfolios, including BTL portfolios;
 - (8) concentration risk exposure limits by product type, borrower type, security type, introducer and geographical area (expressed both in terms of the overall lending book and as a proportion of new lending in a given period);
 - (9) limits on the acquisition of individual loans or portfolios of loans, either by way of sub-participation or syndication;
 - (10) the processes for ensuring how the success of risk management is to be assessed and potential lessons captured and used to amend underwriting policy as necessary; and
 - (11) the management information to be reported to the board.

- 2.4.6 G The lending permitted section should include details of the lending which the *society* intends to undertake by borrower and property/security type and origination source, including (as applicable):
- (1) prime residential mortgage lending to individuals;
 - (2) near/sub-prime residential mortgage lending to individuals;
 - (3) buy-to-let mortgage lending to individuals and corporate bodies;
 - (4) shared-ownership residential lending to individuals;
 - (5) second-charge residential lending to individuals;
 - (6) *lifetime mortgage* lending to individuals;
 - (7) *home reversion plans* for individuals;
 - (8) commercial mortgages for owner-occupiers;
 - (9) commercial mortgages for investors (both individuals and corporate bodies);
 - (10) commercial property development loans, both on residential and commercial real estate;
 - (11) lending to registered social landlords; and
 - (12) *unsecured lending* to individuals (by way of personal loan, overdraft, credit card or otherwise).
- 2.4.7 G The policy should also set out the acceptable types of security, including:
- (1) which types of security are acceptable (title, tenure, construction, location etc);
 - (2) the maximum original loan to value ratio permitted for each lending type;
 - (3) requirements for additional security such as guarantees, charges over other assets, life cover, accident/sickness/unemployment cover or for additional credit insurance (mortgage indemnity guarantee or similar) (including procedures for checking that such cover can be relied upon and is effective and checking the credit worthiness of the provider);
 - (4) requirements for buildings insurance cover; and
 - (5) arrangements for obtaining a reliable security valuation (including procedures for appointing valuers, use of automated valuation models).
- 2.4.8 G The underwriting requirements for each type of loan should be specified in

the policy, including:

- (1) minimum required levels of income (or rent) to confirm affordability of the loan for the borrower (including at higher rates of interest);
- (2) information requirements for verifying stated income/outgoings levels (for both individuals and corporate borrowers);
- (3) credit checks, credit scoring requirements, manual override flexibility arrangements;
- (4) requirements for face-to-face interviews, site visits, use of specialist advisers;
- (5) evidential requirements to establish the previous track record of the borrower; and
- (6) any requirements for third party references.

2.4.9 G The policy should set out the basis for pricing new lending, including:

- (1) the required hurdle rate of return for new lending products;
- (2) requirements for adjusting pricing to reflect risk;
- (3) the approach to setting fees, routine charges and *early repayment charges*, etc; and
- (4) the methodology for setting and collecting *early repayment charges*.

2.4.10 G The policy should be consistent with the provisions relating to conduct of business that apply to the *society* under the *Handbook* and the general law, including those in *MCOB* and the *Unfair Terms Regulations*.

Lending approach

2.4.11 G Having developed its lending policy statement, each *society* will be able to classify itself against one of the approaches set out in the table in *BSOCS* 2.5.1G and assess its lending types and lending limits against the guidance in *BSOCS* 2.6.1G.

2.5 Lending risk management structures

2.5.1 G The table in *BSOCS* 2.5.2G describes the type of controls that the management of *societies* should put in place (and where appropriate clearly document within their lending policy documentation) in each of the three lending models to manage lending risk.

2.5.2 G This table belongs to *BSOCS* 2.5.1G. It sets out guidance on credit risk management processes and procedures in accordance with the three lending

approaches referred to in *BSOCS* 1.1.2G and dealt with in detail at *BSOCS* 1.11 to 1.14. It shows the criteria which *societies* should use in assessing the controls over their lending book, as detailed in *BSOCS* 1.15. It is designed to draw management and supervisory attention to areas of a *society's* credit risk management which are different from the *FSA's* general expectation for *societies* on their respective lending approach. *Societies* should expect their supervisors to focus in greater detail on those areas of difference, to identify whether business risks and controls are aligned and if not to develop plans to address the mis-alignment. As such, these expectations should not be interpreted as hard limits but as input into establishing appropriate policies and the basis for supervisory dialogue

	Traditional	Limited	Mitigated
Asset characteristics – high level	<p>Mainly restricted to high quality lending to individuals, secured on residential property for owner-occupation purposes:</p> <ul style="list-style-type: none"> LTV \leq 80% or with external insurance cover on higher LTV exposures or other recognised collateral Fully underwritten Restricted affordability criteria 	<p>A minimum of 50% of total loan assets to comprise high quality lending to individuals, secured on residential property for owner-occupation purposes:</p> <ul style="list-style-type: none"> LTV \leq 80% or with external insurance cover on higher LTV exposures or other recognised collateral Fully underwritten Restricted affordability criteria <p>Other lending controlled through structure of board-approved limits set at levels comfortably within statutory maxima.</p>	<p>Exposures to non-traditional lending allowed up to statutory maxima but controlled through:</p> <ul style="list-style-type: none"> Structure of board-approved limits (subject to <i>FSA</i> agreement) Credit risk mitigation
Lending policy statement	Approved by board and reviewed at least annually		
Pricing model	<p>Board to set clear hurdle return on new lending and articulate this through key operational plans</p> <p>Clear delegated responsibility for monitoring actual return achieved v hurdle on regular periodic basis</p>		<p>Board or appropriate committee to set clear hurdle return required on loan book as minimum approach – use of economic capital and risk-based return modelling encouraged</p>
Risk appetite statement	<p>Approved by board at least annually</p> <p>Reviewed to consider continued applicability at least semi-annually</p>	<p>Approved by board at least annually</p> <p>Reviewed to consider continued applicability quarterly</p>	<p>Approved by board or credit risk committee (or similar) at least annually</p> <p>Reviewed to consider continued applicability at least quarterly</p>
Risk management structure	<p>If no dedicated risk management function, CEO/FD will fulfil this role</p>	<p>Risk management function (fully independent of lending and sales functions) reporting direct to CEO</p>	<p>Head of Risk function (senior executive) supported by risk management team, reporting to credit risk committee (or similar)</p>
Loan exposure restrictions	<p>Lending policy restricts exposure to connected counterparties to \leq 10% of <i>capital resources</i></p>	<p>Lending policy restricts exposure to connected counterparties absolutely to \leq 15% of <i>capital resources</i></p>	<p>Lending policy does not restrict exposures within statutory or regulatory limits</p>
Underwriting	<p>Cases fully underwritten on an individual basis</p>	<p>Independent underwriting function</p>	<p>Independent underwriting function</p>

	<p>Limited delegation under mandates</p> <p>Board to approve all loans where aggregate exposure to borrower and/or connected clients => 2.5% of <i>capital resources</i></p>	<p>Cases underwritten individually or systematically credit scored</p> <p>Hierarchy of fully delegated mandates (with exception reporting to senior management)</p> <p>Appropriate specialist expertise for all categories of non-residential lending</p> <p>May use specialist anti-fraud systems</p>	<p>Cases systematically credit scored (with manual over-ride where appropriate)</p> <p>Hierarchy of fully delegated mandates</p> <p><i>PD/LGD</i> modelling</p> <p>Portfolio underwriting</p> <p>Appropriate specialist expertise for all categories of non-residential lending</p> <p>Use specialist anti-fraud systems</p>
Risk mitigation	<p>Risks mitigated by combination of:</p> <ul style="list-style-type: none"> • conservative LTV or external insurance on exposures > 80% LTV • other recognised collateral • restricted affordability criteria 	<p>Risks mitigated by combination of:</p> <ul style="list-style-type: none"> • conservative LTV or external insurance on exposures > 80% LTV • other recognised collateral • stop-loss/excess of loss insurance 	<p>Risks mitigated by combination of:</p> <ul style="list-style-type: none"> • external insurance (where used) • other recognised collateral • stop-loss/excess of loss insurance (or similar) at pool or portfolio level • credit default swaps • loan book sales
Valuations	<p>Undertaken by independent valuer</p> <p>AVMs within parameters recorded in policy statement</p>	<p>Undertaken by external or staff valuer</p> <p>AVMs within parameters recorded in policy statement</p>	<p>Undertaken by external or staff valuer</p> <p>AVMs within parameters recorded in policy statement</p>
Segregation of duty between:			
Underwriting function and mortgage sales function (providing “four-eyes” check over lending)	Segregation at executive manager level	Segregation at an operational level	Full segregation
<p>Underwriting function and the lending review/audit/compliance functions which check</p> <p>(1) compliance with underwriting and fraud policy and legislation; and</p> <p>(2) lending/underwriting quality (by review of MI, live fraud cases, bad debt cases)</p>	Segregation at executive manager level	Segregation at an operational level	Full segregation

etc).			
Stress testing	Simple stress testing (changes in security values based on appropriate HPI movements) undertaken on annual basis, or more frequently if market conditions warrant	Stress testing and scenario analysis (at level of individual asset pools) on semi-annual basis	Econometric analysis and full stress testing/scenario analysis on at least quarterly basis
<p>In this table:</p> <p>AVMs = automated valuation models HPI = house price index LTV = loan to value</p> <p style="text-align: right;">Other recognised collateral = charge over acceptable assets, 3rd party guarantees etc</p>			

2.6 Lending types and lending limits

- 2.6.1 G Given the lending risk management controls and processes set out in the table at *BSOCS 2.5.2G*, the lending limits which *societies* following one of the three lending models have in their lending policy should resemble the table in *BSOCS 2.6.3G*.
- 2.6.2 G If a *society* plans to become exposed to mortgages of sub-types not covered in the table in *BSOCS 2.6.3G*, they should speak to their supervisor before entering the market, and again if their exposure reaches an agreed threshold to be set by the supervisor based on the perceived risk characteristics of the sub-type.
- 2.6.3 G This table belongs to *BSOCS 2.6.1G*. It sets out the criteria which *societies* should use in assessing the controls over their lending book, as detailed in *BSOCS 1.15*. It is designed to draw management and supervisory attention to areas of a *society's* business model which are different from the *FSA's* general expectation for societies on their lending approach. *Societies* should expect their supervisors to focus in greater detail on those areas of difference, to identify whether business risks and controls are aligned and if not to develop plans to address the mis-alignment. As such, these expectations should not be interpreted as hard limits but as input into establishing appropriate policies and the basis for supervisory dialogue.

	Lending types	Normal loan to value at origination and other limits applying	Asset limits	
			as % total loan book	as lending in rolling 12 month period
Traditional	Prime owner-occupier	<= 80% LTV, or >80% to 95% LTV with external insurance	Min 85%	Min 80%
		> 80% to <= 90% LTV without external insurance	Max 7.5%	Max 10%
	Prime Buy to Let	<= 70% LTV (min rental cover 130%, calculated assuming no void periods)	Max 15%	Max 20%
	Shared ownership	<= 90% of share purchased by borrower	Max 10%	Max 15%
	Social Landlords	<=80%	Max 7.5%	Max 7.5%
	Commercial/FSOL	<= 50%	Max 5%	Max 10%
Limited	Prime owner-occupier	In total	Min 65%	Min 55%

		of which:		
		<= 80% LTV, or >80% to 100% LTV with external insurance	Min 55%	Min 40%
		> 80% to <= 95% LTV without external insurance	Max 10%	Max 15%
	Prime Buy-to-Let	In total (min rental cover 125%, calculated assuming no void periods) Of which no lending > 80% LTV and	Max 25%	
		LTV between 60% and 80%	Max 20%	Max 20%
	Impaired credit history (all types)	<= 70%	Max 10%	Max 10%
	<i>Lifetime mortgages</i>	<= 25% (min age of youngest applicant => 65)	Max 10%	Max 15%
	Shared ownership	<= 95% of share purchased by borrower	Max 15%	Max 20%
	Social Landlords	<= 80%	Max 15%	Max 15%
	Commercial/FSOL	<= 60%	Max 10%	Max 15%
	Non-sterling mortgages	Only permitted where borrower also has income in relevant currency	Max 5%	Max 5%
Mitigated	Any lending permitted subject to statutory constraints and to lending policy set by management.			
<p>In this table:</p> <p>FSOL = fully secured on land</p> <p>Shared ownership = part-owned by the occupier and part by a social housing provider. This does not include shared equity arrangements where the <i>society</i> takes part of the equity interest.</p> <p>LTV is based at loan to value at origination and should be calculated after taking into account any alternative recognised collateral.</p>				

3 Treasury investments and liquidity risk management

3.1 Introduction

- 3.1.1 G (1) This chapter sets out the *FSA*'s guidance specific to *societies* on management of their treasury investments, using the five approaches to financial risk management set out in *BSOCS* 1, in order to enable them to comply with *BIPRU* 12, *GENPRU* 1.2 and *SYSC* 4 to *SYSC* 7.
- (2) The chapter outlines factors the *FSA* will consider when assessing the adequacy of a *society's* treasury investment risk management. A list of the types of asset suitable for inclusion as treasury investments for *societies* on each of the five levels of financial risk management capability is set out in the table at *BSOCS* 3.3.12G.
- 3.1.2 G Treasury investments may be held for a variety of purposes which broadly fall into three categories:
- (1) assets held for inclusion in a *society's* liquid assets buffer as required by *BIPRU* 12.7;

- (2) other assets held operationally for matching and cash flow management purposes; and
- (3) assets which management have decided to hold in order to generate income.

3.1.3 G The *guidance* in this sourcebook relating to treasury investments applies to all treasury investments, regardless of the reason for which they are held.

3.2 Board and management responsibilities over treasury activities

Degree of risk

3.2.1 G *BSOCS 5* (Financial risk management) refers to the potential risks to *societies* of treasury activities. In particular, the size and complexity of some transactions can make them vulnerable to losses, and the impact of losses on individual transactions in the treasury area can be significant and immediate. Boards have ultimate responsibility for deciding the degree of risk taken by their *societies*, including all categories of treasury assets and risks arising from the management of treasury activities.

3.2.2 G A *society* specialises in long-term mortgage lending which is financed mainly by liabilities which are contractually short-term. This feature of *societies'* business creates maturity mismatches which can give rise to cash flow imbalances. To ensure that it can meet its obligations as they fall due, a *society* is required to hold an adequate liquid assets buffer of the kind described in *BIPRU 12.7*.

3.2.3 G In addition to cash flow mismatches which occur over time, *societies* can face intra-day mismatches, as outflows may precede inflows. *Societies* should ensure that they manage this risk in full compliance with the intra-day liquidity management provisions of *BIPRU 12.3.17R* to *12.3.21E*.

Liquidity policy statements

3.2.4 G (1) *Societies* should have a liquidity policy statement, which, among other things, includes the strategies, policies, processes and systems to manage *liquidity risk*, and the *liquidity risk* tolerance, required by *BIPRU*. *Rules* and *guidance* in relation to the responsibilities placed on a *society's governing body* to approve these strategies, policies, processes and systems and to establish and document a *liquidity risk* tolerance are set out in *BIPRU 12.3.8R* to *12.3.13G*. The liquidity policy should be approved by the *society's* board and be consistent with the *society's* strategic plan and its financial risk management policy statement. *Societies* should also have regard to the *rules* and *guidance* in *GENPRU 1.2*, and *SYSC 4* to *SYSC 7*.

- (2) Where a *society* chooses to hold treasury investments other than for the purposes of its *BIPRU 12* liquid assets buffer, then the *society's*

liquidity policy statement should include all such investments.

- 3.2.5 G Liquidity policy statements should set out the board's objectives for *liquidity risk* management, the limits within which liquidity should be maintained, the range of treasury investments in which the *society* can invest and conditions under which authority is exercised. The document should establish the framework for operating limits and high level controls, and should set out the board's policy on credit assessment, ratings and exposure limits. Further *guidance* on the content of liquidity policy statements is set out in *BSOCS* 3.3.
- 3.2.6 G A liquidity policy statement should be a working document and personnel in the treasury and settlement areas should be familiar with its contents, as should members of ALCO and/or the Finance Committee. When aspects of the policy or limits change, the policy document should be amended as frequently as necessary. The board should agree all substantive changes.
- 3.2.7 G Boards should establish the objectives for *liquidity risk* management, including meeting obligations as they fall due (including any unexpected adverse cash flow), smoothing out the effect of maturity mismatches and the maintenance of public confidence. The need to earn a return on treasury investments may also be recognised as an objective, although this should be secondary to the security of the assets. *Societies* should also have regard to the *rules* and *guidance* in *BIPRU* 12.
- 3.2.8 G If a *society* enters into a formal arrangement with a broker where securities are delivered to and from the broker and a customer agreement between the broker and the *society* is completed, the *society* should differentiate between advice and discretionary fund management. If the *society* has entered into an agreement involving the provision of advice, it should ensure that no transaction is undertaken without its prior consent. As with discretionary fund management, *societies* should make certain that all transactions are within the terms of its liquidity policy statement.
- 3.2.9 G *Guidance* on the content of a liquidity policy statement is set out in *BSOCS* 3.3. *Societies* may, for convenience, wish to combine their liquidity policy statement with documentation required to satisfy the provisions of *BIPRU* 12.4 relating to *contingency funding plans*. If they do so, *societies* need to be clear how any combined document meets the separate requirements.

3.3 Liquidity policy statement

- 3.3.1 G This section provides *guidance* on the issues which should be addressed in a liquidity policy statement. The list of issues is not exhaustive and not all points will be relevant to all *societies*.
- 3.3.2 G The introduction section should include:
- (1) background to the *society's* approach to *liquidity risk* management;

- (2) the ratification process for obtaining board approval, including amendments to the policy statement as well as complete revisions; and
- (3) arrangements for, and frequency of, review (which should be conducted at least on an annual basis).
- 3.3.3 G The objectives section should set out whether the *FSA* has granted the society a *simplified ILAS waiver* of the kind described in *BIPRU* 12.6. A *simplified ILAS BIPRU firm* should still have a full liquidity policy statement.
- 3.3.4 G The operational characteristics section should set out the *society's* business and operational characteristics, which impact on the amount and composition of liquidity and treasury investments, and the intended range for liquidity and liquidity net of mortgage commitments as a percentage of *SDL*.
- 3.3.5 G The risk management section should include:
- (1) exposure policies, including controls and limits as appropriate, for countries, sectors and counterparties, including exposure to brokers;
- (2) the policy adopted for the use of credit ratings, stating the minimum quality acceptable and procedures for ensuring credit ratings are up to date, together with other information such as market intelligence which should also be reviewed when considering how to make treasury investments;
- (3) the policy of assessment to be adopted towards sectors that are non-rated;
- (4) operational and settlement risk, including: framework of board authorisation, delegations and operating limits (including, inter alia, dealer limits, transaction and day limits); deal authorisation, confirmation checking, segregation of duties;
- (5) the policy in regard to use of *repo* and reverse *repo* facilities and the potential encumbrance of treasury investments held;
- (6) procedures and criteria for exceptional overrides in relation to dealing, operational rules, limits and authorisation; and
- (7) the policy for *liquidity risk* management information and reporting to the board.
- 3.3.6 G The maturity structure section should include the policy for maturity mismatch and a “maturity ladder” of treasury investments. This should give a clear view of the maturity pattern of treasury investments to be followed, showing the maximum proportions to mature within each time band. In relation to a *society* which is a *simplified ILAS BIPRU firm*, there should be a clear policy with regard to managing the peak cumulative wholesale net cash outflow over the next 3 months in order that an adequate liquid assets buffer is maintained.

- 3.3.7 G The categories of assets and activities section should set out the *society's* policy for the following:
- (1) assets held in the liquid assets buffer;
 - (2) inter-*society* and local authority deposits;
 - (3) *repo*/reverse *repo* (both gilt-edged stock and non-gilt-edged securities);
 - (4) *stock lending*;
 - (5) mortgage backed securities (including, where applicable, US) mortgage backed securities and *covered bonds*;
 - (6) foreign currency securities and the handling of foreign currency exposures (for those on the extended, comprehensive or trading approaches);
 - (7) commercial paper;
 - (8) bank deposits, certificates of deposit and other bank securities; and
 - (9) collateral eligible for use in the Bank of England's open market operations and discount window facility.
- 3.3.8 G The *society's* policy for membership and use of any clearing system or depository should be set out clearly, including a section dealing with authorisation and operational controls.
- 3.3.9 G Liquidity implications and the role of standby facilities should be included in the policy statement.
- 3.3.10 G The role of external professional advisers should be clearly stated, where applicable.
- 3.3.11 G *Custody* arrangements should be clearly set out. If the arrangement is to use services provided by a broker then a *society* should ensure that it retains legal ownership of the investments.
- 3.3.12 G This table belongs to *BSOCS* 3.1.1G and sets out the criteria which *societies* should use in developing the review of financial risk management, as detailed in *BSOCS* 1.15. It is designed to draw management and supervisory attention to areas of a *society's* business model which are different from the *FSA's* general expectation for *societies* on their respective treasury management approach. *Societies* should expect their supervisors to focus in greater detail on those areas of difference, to identify whether business risks and controls are aligned and if not to develop plans to address the mis-alignment. As such, these expectations should not be interpreted as hard limits but as input into establishing appropriate policies and the basis for supervisory dialogue.

TREASURY INVESTMENTS

ADMINISTERED APPROACH		
TREASURY INVESTMENTS	Bank of England reserve account	No max
	Call deposits: bank	No max
	Term deposits: bank (includes CDs)	Max 15% <i>SDL</i>
	Term deposits: <i>societies</i>	Max 10% <i>SDL</i>
	Term deposits: Local Authorities/Regional Gvt	Max 10% <i>SDL</i>
	Gilts <3 years	No max
	Treasury bills	No max
	<i>Designated money market funds</i>	No max
	<i>Qualifying money market funds</i>	No max
Bank of England CAPACITY	Reserve account Standing deposit facility (if eligible)	
MINIMUM LIQUIDITY LIMITS	<i>Simplified buffer requirement</i>	
CURRENCY	Sterling only	

MATCHED APPROACH		
TREASURY INVESTMENTS	Bank of England Reserve account	No max
	Call deposits: bank	No max
	Term deposits: bank (includes CDs)	Max 15% <i>SDL</i>
	Term deposits: <i>societies</i>	Max 10% <i>SDL</i>
	Term deposits: Local Authorities/Regional Gvt	Max 10% <i>SDL</i>
	Gilts <5 years	No max
	Treasury bills	No max
	<i>Designated money market funds</i>	No max
	<i>Qualifying money market funds</i>	No max
	Reverse <i>repo</i> (Gilts only, after agreement with supervisor)	Up to limits above
Bank of England CAPACITY	Reserve account Standing deposit facility (if eligible)	
MINIMUM LIQUIDITY LIMITS	<i>Simplified buffer requirement</i>	
CURRENCY	Sterling only	

EXTENDED APPROACH		
TREASURY INVESTMENTS	Bank of England Reserve account	No max
	Call deposits: banks	No max
	Term deposits: banks (includes CDs)	Max 15% <i>SDL</i>
	Term deposits: <i>societies</i>	Max 10% <i>SDL</i>
	Term deposits: Local Authorities/Regional Gvt	Max 10% <i>SDL</i>
	Gilts <5 years	No max
	Gilts >5 years	Max 5% <i>SDL</i>
	Supranational Bonds <5 years	Max 5% <i>SDL</i>
	Treasury bills	No max
	FRNs, MTNs or fixed rate bonds <5 years	Max 5% <i>SDL</i>
	UK RMBS (senior securitised position only)	Max 5% <i>SDL</i>
	UK covered bonds (CRD compliant only)	Max 5% <i>SDL</i>
	<i>Designated money market funds</i>	No max
	<i>Qualifying money market funds</i>	No max
		Reverse <i>repo</i>	Up to limits above
Bank of England CAPACITY	Reserve account Standing deposit facility OMO counterparty (optional, subject to BoE acceptance)	

MINIMUM LIQUIDITY LIMITS	<i>Simplified buffer requirement or individual liquidity guidance if a standard ILAS BIPRU firm</i>
CURRENCY	No less than 99.5% of total balance sheet assets and liabilities denominated in Sterling, US\$ or € (whether on <i>simplified buffer requirement</i> or <i>individual liquidity guidance if a standard ILAS BIPRU firm</i>)

COMPREHENSIVE and TRADING APPROACHES		
TREASURY INVESTMENTS	Self-defined list based on market depth and marketability (subject to satisfying the requirements of <i>BIPRU 12</i>)	Own defined limits
Bank of England CAPACITY	Reserve account Standing deposit facility OMO counterparty (subject to BoE acceptance)	
MINIMUM LIQUIDITY LIMITS	<i>individual liquidity guidance</i>	
CURRENCY	Any traded currency	

In this table:

CDs = certificates of deposit

FRN = floating rate note issued by bank or *building society*

ILAS = individual liquidity adequacy standards

MTNs = medium term notes

OMO = open market operations

RMBS = residential mortgage backed securities

Treasury Investments – all treasury investments including those held within the liquid assets buffer as required by *BIPRU 12.7*

In relation to minimum liquidity limits, a *society* that is a *simplified ILAS BIPRU firm* should note that the *simplified ILAS* approach does not relieve a *simplified ILAS BIPRU firm* from the obligation to hold liquidity resources which are adequate for the purpose of meeting the *overall liquidity adequacy rule* or from the obligation in *BIPRU 12.3.4R* to assess and maintain on an ongoing basis the adequacy of its liquidity resources.

4 Funding

4.1 Funding risks

- 4.1.1 G *Societies'* core business, financing long-term residential mortgages with short-term personal savings, necessarily involves a high degree of maturity transformation, and this constitutes a major financial risk that all *societies* need to manage.
- 4.1.2 G Wholesale markets may provide funding at a more definitive maturity than deposit funding, but may concentrate the refinancing risks *societies* face. Exposure to re-financing risk needs careful management, and an awareness of the risk of over-reliance on an assumption of continued access to the wholesale market.
- 4.1.3 G The particular constitution of *societies* means that the scale of deposit funding

has a significant impact on the position of investor members. The public perceives *society* share accounts to be as secure as (or even more secure than) bank deposits although they hold a subordinated creditor rank. A *society* which gears itself up significantly with wholesale funds thereby dilutes the security of its members, whilst at the same time increasing its refinancing and *liquidity risks*.

- 4.1.4 G To access the wholesale markets some *societies* have been credit-rated by external agencies. Obtaining such a rating exposes the *society* to the danger of a change in market view of the sector or the *society*, and the process of obtaining and continuing management of the rating needs careful consideration and monitoring. The *FSA* would not expect *societies* on the Administered or Matched approaches to have external ratings, and would expect *societies* on the extended approach, if they have external ratings at all, to confine them to *covered bond* issues only.

4.2 Wholesale maturity structure for a society which is a simplified ILAS BIPRU firm

- 4.2.1 G For *simplified ILAS BIPRU firms* BIPRU 12.6.10R sets out how they should calculate the wholesale net cash outflow component of their *simplified buffer requirement*.
- 4.2.2 G Whilst a *society* which is a *simplified ILAS BIPRU firm* may choose to fund lending activities with wholesale funding of duration greater than three months, such funding will still influence the peak cumulative wholesale cash outflow position (and thus the *simplified buffer requirement*) when it is within three months from maturity. *Societies* using wholesale funding should therefore manage their wholesale maturity profile so that it does not cause excessive volatility to their liquid assets buffer.
- 4.2.3 G To achieve this, a *society* which is a *simplified ILAS BIPRU firm* should ensure that its maturity profile of wholesale funding, net of any maturing treasury assets held to redeem the funding, resembles the respective profiles in *BSOCS* 4.5.1G.

4.3 Funding limits

- 4.3.1 G (1) Whilst the section 7 funding limit is expressed as a minimum of 50% share account funding, *societies* should, for prudential monitoring purposes, draw up a funding policy which incorporates an internal policy limit based on a maximum level of funds raised by means other than the issue of shares (i.e. an inversion of the “nature limit”). In order to avoid any possibility of an inadvertent breach of the *1986 Act*, these internal policy limits should be set at levels below the 50% statutory maximum.

- (2) Similarly, one of the conditions in *BIPRU* 12.6 to be satisfied by a *firm* for it to be eligible for a *simplified ILAS waiver* is that a minimum percentage of the *firm's* total liabilities are accounted for by retail *deposits*. The funding policy drawn up by a *simplified ILAS BIPRU firm* should include an internal policy limit referring to a maximum percentage of the *firm's* total liabilities accounted for by liabilities other than retail *deposits* (i.e. an inversion of the condition in *BIPRU* 12.6). This maximum percentage should be set at a level below that necessary to satisfy the conditions in *BIPRU* 12.6.

- 4.3.2 G (1) In setting funding limits, the board should consider all funding requirements over the period of their *society's* current corporate plan, and avoid setting limits at levels where usage is either unplanned or highly unlikely.
- (2) Wholesale funding can be divided into three broad types originating from different sources: offshore/overseas retail deposits up-streamed to the *society*, deposits from non-financial / non-individuals and wholesale funding from the financial markets.
- (3) Boards should set policy sub-limits for each of these sources as well as an overall limit (e.g. a *society* might set an overall deposit liabilities limit of 30%, with sub-limits of 25% for wholesale deposit funding and 10% for offshore/overseas funding, the total of the sub-limits exceeding the overall limit only on the basis that both could not be used to their full extent simultaneously or to the extent that some of the funding is both wholesale and offshore/overseas).

4.4 Repurchase (repo) transactions (including reverse repo)

- 4.4.1 G The *FSA* would expect that *societies* adopting the extended, comprehensive or trading approaches to treasury management are likely to have the systems and capabilities to transact *repo* business. The *FSA* would expect that their boards would obtain full legal advice before agreeing counterparty documentation.
- 4.4.2 G Whilst *societies* on the matched treasury risk management approach may have appropriate treasury risk management controls and procedures to undertake *repo* transactions, they should discuss any such plans with their supervisor before undertaking those transactions.

4.5 Funding risk management table

- 4.5.1 G This table sets out guidance for wholesale funding in accordance with the five approaches (see *BSOCS* 1.1.2G). It shows the criteria which *societies* should use in developing the review of financial risk management, as detailed in *BSOCS* 1.15. It is designed to draw management and supervisory attention to areas of a *society's* business model which are different from the *FSA's*

general expectation for *societies* on their respective treasury management approach. *Societies* should expect their supervisors to focus in greater detail on those areas of difference, to identify whether business risks and controls are aligned and if not to develop plans to address the mis-alignment. As such, these expectations should not be interpreted as hard limits but as input into establishing appropriate policies and the basis for supervisory dialogue.

WHOLESALE FUNDING FROM FINANCIAL MARKETS

ADMINISTERED APPROACH		
WHOLESALE FUNDING FROM FINANCIAL MARKETS - OVERALL & SECTORAL LIMITS	Total Wholesale	Max 10% <i>SDL</i>
	Any single sector source	Max 5% <i>SDL</i>
MATURITY STRUCTURE OF WHOLESALE NET CASH OUTFLOW FROM FINANCIAL MARKETS	< 3 mths	Max 5% <i>SDL</i>
	< 12 mths	Max 10% <i>SDL</i>
FUNDING INSTRUMENTS	Term deposits and facilities	
EXTERNAL RATINGS	No	
Bank of England CAPACITY	Standing lending facility (if eligible) Discount window (if eligible)	
CURRENCY	Sterling only	

MATCHED APPROACH		
WHOLESALE FUNDING FROM FINANCIAL MARKETS – OVERALL & SECTORAL LIMITS	Total Wholesale	Max 15% <i>SDL</i>
	Any single sector source	Max 7.5% <i>SDL</i>
MATURITY STRUCTURE OF WHOLESALE NET CASH OUTFLOW FROM FINANCIAL MARKETS	< 3 mths	Max 5% <i>SDL</i>
	< 12 mths	Max 10% <i>SDL</i>
FUNDING INSTRUMENTS	Term deposits and facilities <i>Repo</i> (after agreement with supervisor)	
EXTERNAL RATINGS	No	
Bank of England CAPACITY	Standing lending facility (if eligible) Discount window facility (if eligible) OMO counterparty (optional, subject to BoE acceptance)	
CURRENCY	Sterling only	

EXTENDED APPROACH		
WHOLESALE FUNDING FROM FINANCIAL MARKETS - OVERALL & SECTORAL LIMITS		
For <i>societies</i> wishing to operate the <i>simplified ILAS</i> approach	Total Wholesale	See conditions in <i>BIPRU</i> 12.6
	Any single sector source	Max 7.5% <i>SDL</i>
For <i>standard ILAS BIPRU firms</i>	Total wholesale and sector limits as agreed individually	
MATURITY STRUCTURE OF WHOLESALE NET CASH OUTFLOW FROM FINANCIAL MARKETS		
For <i>societies</i> wishing to operate the <i>simplified ILAS</i> approach	< 3 mths	Max 5% <i>SDL</i>
	< 12 mths	Max 15% <i>SDL</i>

	< 2 years	Max 20% <i>SDL</i>
For <i>standard ILAS BIPRU firms</i>	As agreed individually	
FUNDING INSTRUMENTS	Term deposits and facilities CDs FRNs Fixed rate bonds <i>Covered bonds</i> Securitisations CP <i>Repo</i>	
EXTERNAL RATINGS	<i>Covered bonds</i> only	
Bank of England CAPACITY	Standing lending facility Discount window facility OMO counterparty (optional, subject to BoE acceptance)	
CURRENCY	No less than 99.5% of total balance sheet assets and liabilities denominated in Sterling, US\$ or €	

COMPREHENSIVE APPROACH

W/SALE FUNDING FROM FINANCIAL MARKETS - OVERALL & SECTORAL LIMITS	Total wholesale and sector limits as agreed individually	
MATURITY STRUCTURE OF WHOLESALE NET CASH OUTFLOW FROM FINANCIAL MARKETS	As agreed individually	
FUNDING INSTRUMENTS	Term deposits and facilities CDs FRNs Fixed rate bonds <i>Covered bonds</i> Securitisations CP <i>Repo</i>	
EXTERNAL RATINGS	Yes	
Bank of England CAPACITY	Standing lending facility Discount window facility OMO counterparty (subject to BoE acceptance)	
CURRENCY	Any traded currency	

TRADING APPROACH

WHOLESALE FUNDING FROM FINANCIAL MARKETS - OVERALL & SECTORAL LIMITS	Total wholesale and sector limits as agreed individually	
MATURITY STRUCTURE OF WHOLESALE NET CASH OUTFLOW FROM FINANCIAL MARKETS	As agreed individually	
FUNDING INSTRUMENTS	Bank loans B Soc loans LA loans CDs FRNs Fixed rate bonds <i>Covered bonds</i> Securitisations CP <i>Repo</i>	
EXTERNAL RATINGS	Yes	

Bank of England CAPACITY	Standing lending facility Discount window facility OMO counterparty (subject to BoE acceptance)
CURRENCY	Any traded currency

In this and subsequent tables:
CDs = certificates of deposit
CPs = commercial paper
FRNs = floating rate notes
ILAS = individual liquidity adequacy standards
LA loans = local authority loans

5 Financial risk management

5.1 Introduction

- 5.1.1 G This chapter contains guidance for *societies* on financial risk management which supplements the high level requirement in *SYSC*.
- 5.1.2 G As part of the implementation of the *Capital Adequacy Directive (CAD)*, the *Banking Consolidation Directive (BCD)* and the *Markets in Financial Instruments Directive (MiFID)*, provisions relating to a *society's* organisational and risk systems and controls have been introduced in *SYSC 4* to *SYSC 7*. The guidance in this chapter generally explains the application of the high level requirements in *SYSC 4* to *SYSC 7* (even if there may not be a specific cross reference) in the context of financial risk management.
- 5.1.3 G *Rules and guidance* on interest rate risk in the banking book are contained in *BIPRU 2.3*. Under these requirements a *society* should evaluate the effect of a standard interest rate shock specified by the *FSA* in that chapter. The result should be taken account of in the *ICAAP*.
- 5.1.4 G *Societies* with a *trading book* will also be subject to a market risk capital requirement calculated in accordance with *BIPRU 7*. This is unlikely to be applicable to any *societies* apart from those on the “Trading” approach: see *BSOCS 1.10*. A *society* with foreign currency exposures will however be subject to the foreign exchange capital requirements in *BIPRU 7* whether or not it has a *trading book*.

5.2 General

Systems for controlling and managing financial risks

- 5.2.1 G In meeting the requirements of *SYSC 4.1.1R* and *SYSC 7.1.2R* in the context of financial risk management, a *society* should have an adequate system for managing and containing financial risks to the net worth of its business, and risks to its net income, whether arising from fluctuations in interest or exchange rates or from other factors.

Systems for controlling index-related risks

- 5.2.2 G The arrangements, processes, and mechanisms required in SYSC 7.1.3R should include systems and procedures for identifying, monitoring and controlling all material maturity mismatch, interest rate, base rate, foreign exchange and similar (e.g. index-related) risks, and for reporting exposures to senior management and the board of the *society* on a regular, and timely, basis. *Societies* should also have interest margin management systems in place to estimate the expected profitability of new mortgage and savings products, and to project forward the cumulative effect of mortgage incentives and loyalty schemes.

Credit limits for counterparties

- 5.2.3 G *Societies* should have credit limits in place for all counterparties both for making treasury investments and for transacting *derivative* contracts (further guidance also in GENPRU 1.2 and BIPRU 12.4: stress testing and scenario analysis, and *contingency funding plans*).

Policy statement on financial risk management

- 5.2.4 G In meeting the requirements in SYSC 7.1.4R in the context of financial risk management, the board of a *society* should approve and periodically review a policy statement on financial risk management.
- 5.2.5 G The policy statement establishes guidelines for the *society's* senior managers on the control of financial risks, including: *operational risk*; structural risk; funding risk; and *counterparty credit risk* (including settlement). These documents should be consistent with the type of business undertaken by the *society* and compliant with sections 7 and 9A of the 1986 Act.

Policy statements on strategic framework for treasury operations

- 5.2.6 G Policy statements should set out the strategic framework for treasury operations, recording the rationale for that framework, i.e. why and how treasury activities are expected to support the *society's* core business, and the "approach" category being followed, derived, where possible, from the results of a financial risk review (either by the *society's* internal audit function or using external resources). They should clearly state the conditions under which authority is delegated to a board sub-committee, or to management, and should establish the operating limits and high level controls that will maintain exposures within levels consistent with the policy, and the procedures/controls on the introduction of new products or activities. Copies of the policy statements should be made available to, and read by, all personnel involved in treasury operations.

5.3 Structural risks

- 5.3.1 G Most *societies* are susceptible to interest rate exposure arising not only as a

result of changes (or potential changes) in the general level of interest rates or the relationship between short term and long term rates, but also from divergence of rates for different balance sheet elements (*basis risk*), for example, the risk that it may not be possible to decrease administered savings rates in line with decreases in money market (LIBOR) rates, resulting in a margin squeeze where lending is LIBOR-based. In this chapter, risks which arise from the different interest rate or currency characteristics of assets and liabilities, and from transactions based on other financial reference rates or indices, are referred to as “structural” risks.

5.4 Operational risks

- 5.4.1 G The extension of *society* activities into more complex forms of funding, liquidity and off balance sheet instruments has dramatically increased the *operational risks* involved. The documentation, accounting treatment and settlement procedures for such instruments can be highly complex, with significant costs and penalties arising from operational mistakes. *Societies* involved in these areas of activity need rigorous management procedures and control systems to ensure that robust legal documentation is used, that compliance with market practice is achieved, and that deal recording and settlement systems are effective (with appropriate contingency arrangements in place).

Key risk categories

- 5.4.2 G The key financial risks which, as envisaged in *BSOCS* 5.2.1G, *societies* should manage and control, are:
- (1) maturity mismatch, including the risks:
 - (a) that the *society* may be unable to refinance term wholesale borrowings on a rollover date due to general market conditions (which may or may not be related to the position of the *society* itself);
 - (b) associated with the bunching of roll-over dates for wholesale funding or maturities of term retail funding;
 - (c) from concentration on a limited number of funding providers, giving rise to increased dependence particularly on roll-over days; and
 - (d) arising from the prepayment (early repayment) profile of mortgages, and those inherent in the early withdrawal characteristics of retail savings products (i.e. behavioural as opposed to contractual maturity risks);
 - (2) interest rate risk to a *society's* earnings (most significantly, to its interest margin) and to its economic value (the present value of future

cashflows) arising from:

- (a) repricing mismatches, e.g. where, in a rising interest rate environment, liabilities reprice earlier than the assets which they are funding, or, in a falling rate environment, assets reprice earlier than the liabilities funding them (in both cases leaving the *society* with a reduction in future income); repricing risk is inherent in fixed rate instruments, the market value of which will change with interest rate movements (e.g. gilts), and unhedged fixed rate retail products (e.g. unhedged fixed rate mortgages funded by variable rate liabilities would yield less margin should the cost of the liabilities increase due to changes in market rates);
- (b) yield curve risk, where unanticipated changes to the shape or slope of the yield curve will cause assets and liabilities to reprice relative to each other - possibly exposing positions which were hedged against a parallel shift in rates only;
- (c) interest basis mismatches, arising from the imperfect correlation of rates on instruments with similar repricing characteristics, e.g. between LIBOR rates and mortgage rates (both of which are variable but are subject to different market forces), or between LIBOR and reference gilt rates, or between 3 and 12 month LIBOR rates etc. Risk can also arise where the underlying market rate is the same for matching assets and liabilities, but the margin paid relative to the offer rate diverges from the margin received relative to the bid rate;
- (d) balance sheet composition, where an increase in the proportion of assets and liabilities repricing at fixed or variable wholesale market rates implies a reduced administered rate element in the balance sheet, which will nevertheless have to bear (at least in the short term) the full brunt of any rate changes required in order for a *society* to widen its margins, if necessary for business or profitability reasons (e.g. in the event of a significant credit deterioration leading to rising provision levels);
- (e) optionality (i.e. explicit/contracted option contracts, such as “caps”, “collars” and “floors”, which confer the right, but not the obligation, to fix an interest rate for an agreed amount and for an agreed period and embedded/implied options included within products, such as early withdrawal or redemption entitlements), magnifying the effect of other interest rate risks: in particular, *societies* may be subject to implied optionality in respect of retail savings rates (for which a minimum rate payable - a “floor” - above 0% may need to be assumed), and from prepayment of mortgages/pre-withdrawal of deposits (where the *customer* may effectively have an “option” which may not be adequately “hedged” by way of *early repayment charges*); and

- (f) product pricing, arising particularly where products are not immediately profitable and where longer term payback is dependent upon the achievement of specific cost and/or pricing assumptions;
- (3) currency risk, arising from the effects of changing exchange rates on unmatched assets and liabilities denominated in different currencies; and
- (4) index-related risk, arising from the effects of movements in an index of financial assets (e.g. the FTSE 100), or similar reference rate, on unmatched assets or liabilities paying or receiving a return based on that index/rate.

5.4.3 G *Societies'* financial risk management policies should also cover:

- (1) settlement risk: the risk of losses arising from failure to settle transactions accurately, or on a timely basis;
- (2) counterparty risk: associated with settlement risk, where a counterparty cannot or will not complete a transaction; and
- (3) *operational risk* in treasury and related activities: including failure of internal controls or procedures, and the risk arising from errors in legal documentation.

IT security

5.4.4 G Reliance on computerised dealing, information, treasury management and risk assessment systems renders *societies* particularly vulnerable to software or hardware failure. Boards of *societies* should:

- (1) ensure that treasury IT systems' access, both physical and logical, is subject to robust security;
- (2) exercise strong control over the development and modification of treasury IT systems; and
- (3) involve internal audit in reviewing the development or modification of treasury IT systems.

5.5 Risk management systems

5.5.1 G The *guidance* in this section amplifies SYSC 7.1.2R and SYSC 7.1.3R specifically in the context of treasury management. A *society* should have in place information systems that are capable of:

- (1) measuring the level of maturity mismatch and structural risk inherent in its balance sheet;

- (2) assessing the potential impact of interest rate (and, if applicable, currency exchange rate) changes on its earnings and its economic value (including the effect of any standard interest rate shock as specified by the *FSA* in *BIPRU* 2.3);
- (3) reporting accurately, and promptly, on risk positions (to management, to the board and, if requested, to the *FSA*) including generating the information necessary to carry out its *ICAAP* and reporting the results of stress testing for interest rate risk in the banking book;
- (4) recording accurately, and on a timely basis, all new transactions and/or cashflows which will affect calculations of structural risk exposures;
- (5) managing the settlement timetable and processes for individual treasury instruments; and
- (6) monitoring credit risk and settlement risk positions incurred with individual and groups of counterparties.

- 5.5.2 G The scale and scope of the risk measurement system employed should reflect the sophistication of a *society's* treasury operations, those *societies* wishing to adopt more sophisticated approaches requiring more complex techniques to capture different facets of risk.

Control limits

- 5.5.3 G Control limits confine structural risk positions within levels considered by board and management to be prudent, given the size, complexity and capital needs of the *society's* business. Where applicable, limits should also be applied to individual instrument types, asset/liability portfolios, and to separate business activities or *subsidiary undertakings*. Limits should also cover both the quantum and term/run-off of positions and should take due account of the extent to which margins are constrained, limiting business flexibility.
- 5.5.4 G The structure of limits should enable the board and management to monitor actual levels of sensitivity, under different pre-defined market index, interest rate and exchange rate scenarios, against the policy specified maxima, to ensure that corrective action can be taken if required.
- 5.5.5 G The number and type of limits which should be applied will depend upon the relative sophistication of a *society's* treasury operations, and further *guidance* on the *FSA's* expectations for each policy approach is set out in *BSOCS* 1.6 to 1.10.
- 5.5.6 G Where limits are set as part of the overall board policy, these should be treated as absolute. Therefore any limit exceptions should be reported immediately to executive managers, and the policy should make clear what action is expected of management in those circumstances (including arrangements for informing the board and the *FSA* of the breach). Limits set by management should similarly be subject to clear guidelines covering the

circumstances and periods for which breaches may be permitted (if at all) and the arrangements for notification of exceptions.

Stress testing

- 5.5.7 G (1) The risk measurement systems put in place should evaluate the impact, on income or economic value as appropriate, of abnormal market conditions. The amount and type of the stress testing required will depend upon the sophistication of treasury operations undertaken, and the level of risk taken, but where required should be regular and systematic. Within the range of scenarios tested, it is good practice for the scenario to reflect the events that would cause the *society's* business model to fail without any mitigating management action. Boards and management should, periodically, review the extent of that stress testing to ensure that any “worst case” scenarios remain valid. Contingency plans should be in place to deal with the consequences should those scenarios become reality.
- (2) *Rules and guidance* on stress testing and scenario analysis are in *GENPRU 1.2* and *BIPRU 2.2*. Material on this subject specifically relating to *liquidity risk*, including *liquidity contingency funding plans*, is in *BIPRU 12.4*. Requirements for stress testing for interest rate risk in the banking book are set out in *BIPRU 2.3*.

Board information reporting

- 5.5.8 G The *FSA* attaches considerable importance to the quality, timeliness, and frequency of the management information which the board uses to satisfy itself that treasury activities are being undertaken in accordance with its policies and guidelines. Information obtained by the board should include regular and systematic stress testing, as described above, which should be taken into account when policies and limits are established or reviewed.

5.6 Counterparty risk

- 5.6.1 G Counterparty limits should cover:
- (1) full risk exposures (e.g. deposits or marketable instruments);
 - (2) *market risk* exposures (e.g. mark to market positive value of *swaps*, plus appropriate addition for potential future exposure increases arising from changes in market rates); and
 - (3) settlement risk exposures (e.g. currency deals where amounts are paid out before funds are received).
- 5.6.2 G Boards should determine the extent to which authority to set counterparty limits is delegated to management, but delegation to a single individual should not be permitted. Personnel with dealing mandates should not be given authority to set new or increased counterparty limits. No dealings

should take place with counterparties which do not have a pre-approved limit.

- 5.6.3 G Limits should be established on the basis of a robust methodology, which should be fully documented and reviewed regularly. For *societies* with more active treasury operations, a separate credit risk committee with responsibility for preparing a credit policy statement and counterparty list may be appropriate; less active *societies* may incorporate a section on credit risk within their liquidity policy statements, with appropriate cross-references to other policy and procedures statements. In all cases, the counterparty list and individual limits should be subject to formal credit review at least annually, with interim arrangements in place to add, amend or remove limits as appropriate.
- 5.6.4 G (1) If reliance is placed on sources of information or opinion external to both the *society* and the counterparty (e.g. rating agencies), the nature of the source, and arrangements for ensuring that the information relied upon is kept up to date, should be made explicit in the credit risk policy document and in procedures manuals.
- (2) Where ratings are reduced (or put on “watch” with “negative implications”), or where a *society* becomes aware of information on a counterparty which might affect its perceived creditworthiness (whether or not this results in a rate change), it should have systems for reviewing individual counterparty limits and, possibly, suspending or removing individual names from authorised lists in an expeditious manner.
- (3) Arrangements for obtaining information on counterparties where this is in the public domain should also be included in procedures manuals.
- 5.6.5 G Exposures to counterparties should be monitored on a consolidated basis, aggregating exposures of the *society* and any *subsidiary undertakings* (where applicable), and setting total exposure limits for groups of connected counterparties. Similarly, country, sector and market concentrations should be monitored continuously against agreed limits.
- 5.6.6 G The guidance in this section complements the high level rules and guidance on credit and counterparty risk in SYSC 7.1.9R to SYSC 7.1.11R.

Large shareholdings and deposits

- 5.6.7 G Undue dependence on individual funding sources that account for a large proportion of a *society's* overall liabilities will involve risk of liquidity problems should those funds be withdrawn or not be available for roll-over. These potential problems apply whether the funds in question are raised from the retail or the wholesale markets.
- 5.6.8 G A small *society* is relatively more exposed to this type of risk, and should consider the implications of concentration on individual shareholders or depositors when assessing its liquidity levels and need for committed facilities. In the management of large retail investment accounts, a *society* should normally avoid:

- (1) obtaining funding from a single shareholder or depositor which exceeds 1% of shares, deposits and loans; and
- (2) allowing the aggregate total of funding, from those single shareholders or depositors which individually represent more than one-quarter of 1% of shares, deposits and loans, to exceed 5% of shares, deposits and loans.

Committed facilities

- 5.6.9 G A *society* with high levels of maturing funding, or vulnerability to withdrawal of individual deposits, may consider arranging committed facilities (or maintain higher than average levels of liquidity). In arranging committed facilities, a *society* should consider:
- (1) the credit standing and capacity of the provider of the facility;
 - (2) the documented basis of the commitment (i.e. is it an unconditional commitment or a “best endeavours” arrangement); and
 - (3) the cost/fee structure compared to alternatives.
- 5.6.10 G In extreme cases, there remains a risk that a provider may renege on a contractual commitment to provide funding, or purport to rely on widely drawn “events of default” or “material adverse change” clauses, and face the legal consequences (if any) rather than lend money to a *society* in difficulties. *Societies* should not, therefore, become over reliant on committed facilities to plug short term cashflow difficulties and should be cautious on how any such facilities should be treated in stress testing.

5.7 Independent review and controls

Internal audit

- 5.7.1 G The *guidance* in this section amplifies SYSC 6.2.1R in the context of treasury management. Each board should ensure that its *society's* internal audit department (if it has one) has the skills and resources available to undertake an audit of the treasury function. Internal audit should evaluate, on a continuing basis, the adequacy and integrity of the *society's* controls over maturity mismatch, over the level of structural risk taken and should assess the effectiveness of treasury management procedures.
- 5.7.2 G *Societies* with complex treasuries or lacking internal auditors with treasury expertise may outsource treasury audit to an audit firm with the appropriate expertise and experience. The work of outsourced internal audit should be fully integrated into the *society's* overall audit procedures and plans, with appropriate reporting lines into the audit committee. However, in order to avoid conflicts of interest, internal audit should not be contracted out to the *society's* own external auditors, even if the function were to be performed by

a completely different branch of the audit firm.

- 5.7.3 G This table sets out guidance on financial risk management processes and procedures in accordance with the five approaches (see *BSOCS* 1.1.2G). It shows the criteria which *societies* should use in developing the review of financial risk management, as detailed in *BSOCS* 1.15. It is designed to draw management and supervisory attention to areas of a *society's* treasury risk management which are different from the *FSA's* general expectation for *societies* on their respective treasury management approach. *Societies* should expect their supervisors to focus in greater detail on those areas of difference, to identify whether business risks and controls are aligned and if not to develop plans to address the mis-alignment. As such, these expectations should not be interpreted as hard limits but as input into establishing appropriate policies and the basis for supervisory dialogue.

FINANCIAL RISK MANAGEMENT

ADMINISTERED APPROACH	
RISK MANAGEMENT	CEO (+FD/FM) & Board Dealing / settlement segregation (4 eyes)
RISK ANALYSIS	None (but MTM fixed rate liquid assets at least monthly)
FIXED RATE LENDING/FUNDING	Commercial assets: Minimum 95% on administered rates Liabilities: Minimum 95% <i>SDL</i> on administered rates No fixed rate lending > 1 year
COUNTERPARTY LIMITS	Single name/connected group limits UK Counterparties only Instrument type and maturity limits
HEDGING INSTRUMENTS	None
TREASURY SYSTEMS/CONTROLS	Management accounting system Internal Audit

MATCHED APPROACH	
RISK MANAGEMENT	CEO + FD (or FM) & Board Dealing / settlement segregation (4 eyes)
RISK ANALYSIS	Matching Report + (min mthly) Gap Analysis Minimal gap/NPV limits (to cover residuals, prepayment and pipeline only) No structural hedging (incl reserves) No interest rate view <i>Basis risk</i> report
FIXED RATE LENDING/FUNDING	Commercial assets: A minimum of 65% either on administered rates or due to revert to administered rates in the next 12 months, and of that a minimum 50% already on administered rates. Liabilities: Minimum 65% <i>SDL</i> on administered rates Fixed rate lending/funding max 5 yrs to reprice date (subject to limits). Max stock fixed rate (> 1 yr) 20% commercial assets + 20% <i>SDL</i> Max fixed rate lending/funding 25% loans advanced/retail funding p.a.
COUNTERPARTY LIMITS	Single name/connected group limits Country limits Instrument type and maturity limits

HEDGING INSTRUMENTS	Match funding Vanilla interest rate <i>swaps</i> Vanilla interest rate caps/collars/floors (purchase only) FTSE <i>swaps</i> (receive only)
TREASURY SYSTEMS/CONTROLS	Management accounting system Simple treasury matching system Internal Audit

EXTENDED APPROACH	
RISK MANAGEMENT	(CEO)/FD + Treasurer ALCO Front Office + Back Office
RISK ANALYSIS	Monthly (min.) static gap (+ static simulation modelling) Gap limits Sensitivity limits (NPV & NII) Structural hedging Reserves hedging (strategic) Interest rate view No FX mismatch <i>Basis risk</i> modelling
FIXED RATE LENDING/FUNDING	Commercial assets: A minimum of 50% either on administered rates or due to revert to administered rates in the next 12 months, and of that a minimum 30% already on administered rates. Liabilities: Minimum 45% <i>SDL</i> on administered rates
COUNTERPARTY LIMITS	Single name/connected group limits Country limits Sector limits Instrument type limits Currency limits
HEDGING INSTRUMENTS	Match funding Vanilla interest rate <i>swaps</i> (purchase only) Vanilla interest rate caps/collars /floors (purchase only) Swaptions (purchase only) <i>FRA</i> s / <i>Futures</i> (purchase only) FTSE <i>swaps</i> (receive only) FX <i>swaps/forward</i> contracts (purchase only) FX <i>options</i> (purchase only)
TREASURY SYSTEMS/CONTROLS	Treasury IT system capable of modelling optionality in static balance sheet. Specialist IT and Treasury Internal Audit

COMPREHENSIVE APPROACH	
RISK MANAGEMENT	FD + Treasurer (+Risk Director) ALCO + Daily Treasury Committee Front + Middle + Back Office
RISK ANALYSIS	Very frequent dynamic balance sheet modelling (future flows) Multiple scenario & yield curve simulation modelling with sensitivity limits (NPV & NII) <i>Basis risk</i> modelling Internal transfer pricing systems Structural hedging Reserves hedging (strategic) Interest view FX mismatch < 2% <i>own funds</i>

FIXED RATE LENDING/FUNDING	Commercial assets: Minimum 30% on administered rates Liabilities: Minimum 30% <i>SDL</i> on administered rates
COUNTERPARTY LIMITS	Comprehensive limit structure
HEDGING INSTRUMENTS	Match funding Complex interest rate <i>swaps</i> Complex interest rate caps/collars/floors (purchase only) Swaptions (purchase only) HPI <i>derivatives</i> (purchase only) Credit <i>derivatives</i> (purchase only) <i>FRAs/Futures</i> (purchase only) FTSE <i>swaps</i> (receive only) FX <i>swaps/forward</i> contracts (purchase only) FX <i>options</i> (purchase only)
TREASURY SYSTEMS/CONTROLS	Treasury IT system capable of projecting forward balance sheet and simulating different interest rate environments, plus measuring embedded optionality, <i>basis risk</i> etc. Specialist IT and Treasury Audit

TRADING APPROACH	
RISK MANAGEMENT	FD + Treasurer (+Risk Director) ALCO + Daily Treasury Ctee Front + Middle + Back Office Banking + <i>Trading books</i>
RISK ANALYSIS	Banking book: daily (min) duration / simulation analysis. Multiple yield curves and interest rate basis. Structural & reserve hedging Interest rate view. <i>Trading book</i> : Valuation at risk and equivalent measures. Daily P&L (MTM). Product, currency, counterparty limits. Dealing position limits etc.
FIXED RATE LENDING/FUNDING	No limits
COUNTERPARTY LIMITS	Comprehensive limit structure, including cross banking and <i>trading book</i> limits
HEDGING INSTRUMENTS	Any available (subject to <i>the 1986 Act s9A</i> restrictions on use)
TREASURY SYSTEMS/CONTROLS	Treasury IT system capable of projecting forward balance sheet and simulating different interest rate environments, plus measuring embedded optionality, <i>basis risk</i> etc. <i>Trading book</i> systems Specialist IT and Treasury Audit

In this table:

ALCO = Assets and Liabilities Committee
HPIs = house price indices
MTM = mark to market
NII = net interest income
NPV = net present value

6 Business model diversification

6.1 Pre-notification of business model diversification

6.1.1 G Any *society* which proposes to embark on any diversification into an area (whether regulated or unregulated, associated with the retail housing market or otherwise):

- (1) which is not covered by the *BSOCS* tables; and
- (2) where the investment (of any form) to set it up exceeds 5% of *own funds* or the projected post implementation income within any of the 3 years following the diversification exceeds 10% of projected net interest margin plus other income net of commission paid for that year;

should pre-notify the *FSA* and provide a board-approved best/worst case analysis of the risks and potential exit costs, together with a revised *ICAAP* for supervisory review and evaluation before proceeding, whether the proposed diversification is by acquisition or by investment to enter an area or facilitate organic growth.

6.1.2 G *Societies* should also note the provisions of section 92A of the *1986 Act* in relation to acquisition or establishment of a business.

BSOCS TP - Transitional provisions

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision relates		Transitional provision	Transitional provisions: dates in force	Handbook provisions: coming into force
1.1	<i>BSOCS</i> (other than <i>BSOCS</i> 1.15.1G and <i>BSOCS</i> 2.4.1G to 2.4.11G)	R	In relation to a <i>society</i> which as at 30 November 2009 was subject to <i>IPRU(BSOC)</i> , the <i>rules</i> and <i>guidance</i> listed in column (2) do not apply until 1 June 2010.	1 April 2010 to 31 May 2010	1 April 2010
1.2	<i>BSOCS</i> (other than <i>BSOCS</i> 1.15.1G and	R	In relation to a <i>society</i> which as at 30 November 2009 was subject to <i>IPRU(BSOC)</i> and which as at 31 May 2010 is a <i>simplified ILAS</i>	1 June 2010 to 30 September	1 April 2010

	<i>BSOCS</i> 2.4.1G to 2.4.11G)		<i>BIPRU firm</i> , the <i>rules</i> and <i>guidance</i> listed in column (2) do not apply until 1 October 2010.	2010	
1.3	The changes to <i>IPRU(BSOC)</i> set out in Annex B to the Building Societies Sourcebook Instrument 2010	R	In relation to a <i>society</i> which as at 30 November 2009 was subject to <i>IPRU(BSOC)</i> and which as at 31 May 2010 is a <i>simplified ILAS</i> <i>BIPRU firm</i> , the changes effected by the Annex listed in column (2) do not apply.	1 June 2010 to 30 September 2010	1 June 2010

Schedule 1 Record keeping requirements

Sch 1.1 G There are no record-keeping requirements in *BSOCS*.

Schedule 2 Notification requirements

Sch 2.1 G There are no notification requirements in *BSOCS*.

Schedule 3 Fees and other required payments

Sch 3.1 G There are no requirements for fees in *BSOCS*.

Schedule 4 Powers Exercised

Sch 4.1 G The following powers and related provisions in or under the *Act* have been exercised by the *FSA* to make the *rules* in *BSOCS*:

	section 138 (General rule-making power)
	section 156 (General supplementary powers)

Sch 4.2 G The following powers in the *Act* have been exercised by the *FSA* to give the *guidance* in *BSOCS*:

	section 157(1) (Guidance)
--	---------------------------

Schedule 5 Rights of action for damages

Sch 5.1 G There are no rules in *BSOCS* which give rights of action for damages.

Schedule 6 Rules that can be waived

Sch 6.1 G There are no rules in *BSOCS* that can be waived.

Annex D

Amendments to the Building Societies Regulatory Guide (BSOG)

After BSOG 1.2.3G insert the following new text. The text is not underlined.

- 1.2.3A G Section 7 of the 1986 Act provides that at least 50% of the funds (excluding those qualifying as own funds) of a society (or, if appropriate, of the society's group) must be raised in the form of shares held by individual members of the society (excluding share accounts held by individuals as bare trustees for corporate bodies).

After BSOG 1.2.6G insert the following new text. The text is not underlined.

Structural risk management restrictions

- 1.2.7 G Section 9A prohibits a society or its subsidiary undertakings (subject to certain defined exemptions) from:
- (1) acting as a market maker in securities, commodities, or currencies;
 - (2) trading in commodities or currencies; or
 - (3) entering into any transactions involving derivative investments.
- 1.2.8 G Section 9A contains definitions of the above terms, and societies are directed particularly to section 9A(9) for the purposes of compliance monitoring.
- 1.2.9 G Section 9A also includes a “purpose” test for entering into derivatives contracts and a “safe harbour” clause for society counterparties stating that any transaction in contravention of the section 9A prohibitions is not, however, thereby invalid and may be enforced against the society.
- 1.2.10 G The exemptions in section 9A fall into two broad categories:
- (1) those which allow a society or subsidiary undertaking to provide certain retail services to its customers, including:
 - (a) acting as market maker in currency or securities transactions of less than £100,000;
 - (b) trading in currencies (but not commodities) up to a value of £100,000 per transaction;
 - (c) entering into “contracts for differences” in respect of customers who wish to hedge exposures arising from their

own loans or deposits with the society or a connected undertaking; or

(d) acting as market maker or entering into derivative investments in its capacity as manager of a collective investment scheme; and

(2) those which allow a society or subsidiary undertaking to use derivative investments in order to limit the extent to which it, or a connected undertaking, will be affected by changes in interest rates, exchange rates, any index of retail prices, any index of residential property prices, any index of the prices of securities, or the creditworthiness of any borrower(s).

1.2.11 G The Treasury may, by negative resolution order, amend the £100,000 transaction limit and may add factors to, or remove factors from, the list in *BSOG* 1.2.10G(2). The factor relating to credit worthiness was added to the original list in section 9A(4)(b) by the Building Societies (Restricted Transactions) Order 2001 (SI 2001/1826). The Treasury may, by affirmative resolution order, make more significant amendments to section 9A.

1.2.12 G Boards should have procedures and controls to ensure that use of section 9A exemptions by their society (and subsidiary undertakings, if any) is within the law. The exemptions permitting transactions of up to £100,000 (as market-maker in currency or securities transactions, or trading currencies) may not be abused by artificially breaking up larger transactions into a number of smaller amounts falling within the £100,000 ceiling (section 9A(8) is the relevant anti-avoidance provision). Compliance with the *1986 Act* may be assisted by specifying the purposes and circumstances in which hedging transactions may be undertaken, or derivatives used, both in the financial risk management policy documents and in the internal arrangements for delegation, identifying the specific authority in section 9A. Whatever the hedging policies adopted, and however the control and authorisation arrangements are organised, it is important that they should be accurately and fully documented.

RETAIL DISTRIBUTION REVIEW (ADVISER CHARGING) INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 145 (Financial promotion rules);
 - (c) section 149 (Evidential provisions);
 - (d) section 156 (General supplementary powers); and
 - (e) section 157(1) (Guidance); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 31 December 2012.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Conduct of Business sourcebook (COBS) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Retail Distribution Review (Adviser Charging) Instrument 2010.

By order of the Board
25 March 2010

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

adviser charge any form of charge payable by or on behalf of a *retail client* to a *firm* in relation to the provision of a *personal recommendation* by the *firm* in respect of a *retail investment product* (or any related service provided by the *firm*) which is agreed between that *firm* and the *retail client* in accordance with the *rules* on adviser charging and remuneration (*COBS* 6.1A).

independent advice a *personal recommendation* to a *retail client* in relation to a *retail investment product* where the *personal recommendation* provided meets the requirements of the *rule* on independent advice (*COBS* 6.2A.3R).

restricted advice (a) a *personal recommendation* to a *retail client* in relation to a *retail investment product* which is not *independent advice*; or
(b) *basic advice*.

retail investment product (a) a *life policy*; or
(b) a *unit*; or
(c) a *stakeholder pension scheme*; or
(d) a *personal pension scheme*; or
(e) an interest in an *investment trust savings scheme*; or
(f) a *security* in an *investment trust*; or
(g) any other *designated investment* which offers exposure to underlying financial assets, in a packaged form which modifies that exposure when compared with a direct holding in the financial asset; or
(h) a *structured capital-at-risk product*;

whether or not any of (a) to (h) are held within an *ISA* or a *CTF*.

Amend the following definitions as shown.

combined initial disclosure document information about the breadth of advice, *scope of advice* or *scope of basic advice* and the nature and costs of the services offered by a *firm* in relation to two or more of the following:

- (a) *packaged products* or, for *basic advice*, *stakeholder products*;
- (b) *non-investment insurance contracts*;
- (c) *regulated mortgage contracts* other than *lifetime mortgages*;
- (d) *home purchase plans*;
- (e) *equity release transactions*;

which contains the keyfacts logo, headings and text in the order shown in, and in accordance with the notes in, *COBS 6 Annex 2*.

services and costs disclosure document information about the ~~*scope of advice*~~ *breadth of advice* or *scope of basic advice* and the nature and costs of the services offered by a *firm* as described in *COBS 6.3.7G*, which contains the keyfacts logo, headings and text described in *COBS 6 Annex 1G*.

Annex B

Amendments to the Conduct of Business sourcebook (COBS)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

- 2.2.-1 R (1) ...
- (2) This section applies in relation to other *designated investment business* carried on for a *retail client*:
- (a) ...
- (b) in relation to a ~~packaged product~~ retail investment product, but as regards the matters in COBS 2.2.1R(1)(a) and (d) only.
- ...
- 2.3.1 R A *firm* must not pay or accept any fee or commission, or provide or receive any non-monetary benefit, in relation to *designated investment business* or, in the case of its *MiFID or equivalent third country business*, another *ancillary service*, carried on for a *client* other than:
- (1) ...
- (2) a fee, commission or non-monetary benefit paid or provided to or by a third party or a *person* acting on behalf of a third party, if:
- (a) ...
- (b) the existence, nature and amount of the fee, commission or benefit, or, where the amount cannot be ascertained, the method of calculating that amount, is clearly disclosed to the *client*, in a manner that is comprehensive, accurate and understandable, before the provision of the service;
- (i) this requirement only applies to business other than *MiFID or equivalent third country business* if it includes giving a *personal recommendation* in relation to a ~~packaged product~~ retail investment product;
- ...
- (c) in relation to *MiFID or equivalent third country business* or when carrying on a regulated activity in relation to a retail

investment product, the payment of the fee or commission, or the provision of the non-monetary benefit is designed to enhance the quality of the service to the *client*.

...

...

- 2.3.6A G COBS 6.1A (Adviser charging and remuneration) and COBS 6.1B (Retail investment product provider requirements relating to adviser charging and remuneration) set out specific requirements as to when it is acceptable for a *firm* to pay or receive commissions, fees or other benefits relating to the provision of a personal recommendation on retail investment products.

...

Packaged products evidential provisions and guidance on inducements Paying commission on non-advised sales of packaged products

- 2.3.9 G The following *guidance and evidential provisions* provide examples of arrangements the *FSA* believes will breach the *client's best interests rule* if ~~it~~ a firm sells, ~~personally recommends~~ or ~~arranges~~ arranges the sale of a *packaged product* for a *retail client*.

...

Providing credit and other benefits to firms that advise on retail investment products

- 2.3.11A G The following *guidance and evidential provisions* provide examples of arrangements the *FSA* believes will breach the *client's best interests rule* in relation to a *personal recommendation of a retail investment product to a retail client*.
- 2.3.12 E (1) This *evidential provision* applies in relation to a holding in, or the provision of *credit* to, a *firm* which holds itself out as making *personal recommendations* to *retail clients* on ~~packaged products~~ retail investment products, except where the relevant transaction is between *persons* who are in the same *immediate group*.
- (2) A ~~product provider~~ retail investment product provider should not take any step which would result in it:
- (a) ...
- (b) providing *credit* to a *firm* in (1) (other than ~~commission due from the firm to the product provider~~ in accordance with an indemnity ~~commission~~ clawback arrangement continuing to

facilitate the payment of an *adviser charge* where it is no longer payable by the *retail client*, as described in *COBS 6.1A.5G*);

unless all the conditions in (4) are satisfied. A ~~*product provider*~~ *retail investment product provider* should also take reasonable steps to ensure that its *associates* do not take any step which would result in it having a holding as in (a) or providing *credit* as in (b).

- (3) A *firm* in (1) should not take any step which would result in a ~~*product provider*~~ *retail investment product provider* having a holding as in (2)(a) or providing *credit* as in ~~paragraph~~ (2)(b), unless all the conditions in (4) are satisfied.
- (4) The conditions referred to in (2) and (3) are that:
- (a) the holding is acquired, or *credit* is provided, on commercial terms, that is terms objectively comparable to those on which an independent *person* unconnected to a ~~*product provider*~~ *retail investment product provider* would, taking into account all relevant circumstances, be willing to acquire the holding or provide *credit*;
 - (b) ...
 - (c) there are no arrangements, in connection with the holding or *credit*, relating to the channelling of business from the *firm* in (1) to the ~~*product provider*~~ *retail investment product provider*; and
 - (d) the ~~*product provider*~~ *retail investment product provider* is not able, and none of its *associates* is able, because of the holding or *credit*, to exercise any influence over the *personal recommendations* made in relation to ~~*packaged products*~~ *retail investment products* given by the *firm*.
- (5) In this *evidential provision*, in applying (2) and (3) any holding of, or *credit* provided by, a ~~*product provider's*~~ *retail investment product provider's* *associate* is to be regarded as held by, or provided by, that ~~*product provider*~~ *retail investment product provider*.
- (6) ~~In this *evidential provision*, in applying (3) references to a “*product provider*” are to be taken as including an unauthorised equivalent of a *product provider*; that is, an unauthorised *insurance undertaking* or an unauthorised *operator* of a *regulated collective investment scheme* or of an *investment trust savings scheme*; [deleted]~~

(7) ...

2.3.12A G Where a retail investment product provider, or its associate, provides credit to a retail client of a firm making personal recommendations in relation to retail investment products, this may create an indirect benefit for the firm and, to the extent that this is relevant, the provider of retail investment products may need to consider the examples in COBS 2.3.12E as if it had provided the credit to the firm.

...

2.3.14 G (1) In relation to the sale of ~~packaged products~~ retail investment products, the table on reasonable non-monetary benefits (COBS 2.3.15G) indicates the kind of benefits which are capable of enhancing the quality of the service provided to a client and, depending on the circumstances, are capable of being paid or received without breaching the client's best interests rule. However, in each case, it will be a question of fact whether these conditions are satisfied.

(2) The guidance in the table on reasonable non-monetary benefits is not relevant to non-monetary benefits which may be given by a ~~product provider~~ retail investment product provider or its associate to its own representatives. The guidance in this provision does not apply directly to non-monetary benefits provided by a firm to another firm that is in the same immediate group. In this situation, the rules on commission equivalent (COBS 6.4.3R) or the requirements on a retail investment product provider making a personal recommendation in respect of its own retail investment products (COBS 6.1A.9R) will apply.

Reasonable non-monetary benefits

2.3.15 G This table belongs to COBS 2.3.14G

Reasonable non-monetary benefits	
	Gifts, Hospitality and Promotional Competition Prizes
1	A product provider <u>retail investment product provider</u> giving and a firm receiving gifts, hospitality and promotional competition prizes of a reasonable value.
	Promotion
2	A product provider <u>retail investment product provider</u> assisting another firm to promote its packaged products <u>retail investment products</u> so that the quality of its service to clients is enhanced.

	Such assistance should not be of a kind or value that is likely to impair the recipient <i>firm's</i> ability to pay due regard to the interests of its <i>clients</i> , and to give advice on, and recommend, packaged products <u>retail investment products</u> available from the recipient <i>firm's</i> whole range or ranges.
	Joint marketing exercises
3	A product provider <u>retail investment product provider</u> providing generic product literature (that is, letter heading, leaflets, forms and envelopes) that is suitable for use and distribution by or on behalf of another <i>firm</i> if:
	(a) the literature enhances the quality of the service to the <i>client</i> and is not primarily of promotional benefit to the product provider <u>retail investment product provider</u> ; and
	(b) ...
4	A product provider <u>retail investment product provider</u> supplying another <i>firm</i> with 'freepost' envelopes, for forwarding such items as completed applications, medical reports or copy client agreements.
5	A product provider <u>retail investment product provider</u> supplying product specific literature (for example, <i>key features documents</i> , minimum information) to another <i>firm</i> if:
	...
6	A product provider <u>retail investment product provider</u> supplying draft articles, news items and <i>financial promotions</i> for publication in another <i>firm's</i> magazine, only if in each case any costs paid by the <i>product provider</i> for placing the articles and <i>financial promotions</i> are not more than market rate, and exclude distribution costs.
	Seminars and conferences
7	A product provider <u>retail investment product provider</u> taking part in a seminar organised by another <i>firm</i> or a third party and paying toward the cost of the seminar, if:
	...
	Technical services and information technology
8	A product provider <u>retail investment product provider</u> supplying a 'freephone' link to which it is connected.

9	A product provider <u>retail investment product provider</u> supplying another <i>firm</i> with any of the following:	
	(a)	quotations and <i>projections</i> relating to its packaged products <u>retail investment products</u> and, in relation to specific <i>investment</i> transactions (or for the purpose of any scheme for review of past business), advice on the completion of forms or other <i>documents</i> ;
	(b)	access to data processing facilities, or access to data, that is related to the product provider's <u>retail investment product provider's</u> business;
	(c)	access to third party electronic dealing or quotation systems that are related to the product provider's <u>retail investment product provider's</u> business; and
	(d)	software that gives information about the product provider's <u>retail investment product provider's</u> packaged products <u>retail investment products</u> or which is appropriate to its business (for example, for use in a scheme for review of past business or for producing <i>projections</i> or technical product information).
10	A product provider <u>retail investment product provider</u> paying cash amounts or giving other assistance to a <i>firm</i> not in the same <i>immediate group</i> for the development of software or other computer facilities necessary to operate software supplied by the product provider <u>retail investment product provider</u> , but only to the extent that by doing so it will generate equivalent cost savings to itself or <i>clients</i> .	
11	A product provider <u>retail investment product provider</u> supplying another <i>firm</i> with information about sources of mortgage finance.	
12	A product provider <u>retail investment product provider</u> supplying another <i>firm</i> with generic technical information in writing, not necessarily related to the <i>product provider's</i> business, when this information states clearly and prominently that it is produced by the <i>product provider</i> or (if different) supplying <i>firm</i> .	
	Training	
13	A product provider <u>retail investment product provider</u> providing another <i>firm</i> with training facilities of any kind (for example, lectures, venue, written material and software).	

	Travel and accommodation expenses	
14	A product provider <u>retail investment product provider</u> reimbursing another <i>firm's</i> reasonable travel and accommodation expenses when the other <i>firm</i> :	
	(a)	participates in market research conducted by or for the product provider <u>retail investment product provider</u> ;
	(b)	attends an annual national event of a <i>United Kingdom</i> trade association, hosted or co-hosted by the product provider <u>retail investment product provider</u> ;
	(c)	participates in the product provider's <u>retail investment product provider's</u> training facilities (see 13);
	(d)	visits the product provider's <u>retail investment product provider's</u> <i>United Kingdom</i> office in order to:
	(i)	receive information about the product provider's <u>retail investment product provider's</u> administrative systems; or
	(ii)	attend a meeting with the product provider <u>retail investment product provider</u> and an existing or prospective <i>client</i> of the receiving <i>firm</i> .

2.3.16 G In interpreting the table of reasonable non-monetary benefits, ~~product providers~~ retail investment product providers should be aware that where a benefit is made available to one *firm* and not another, this is more likely to impair compliance with the *client's best interests rule* and that, where any benefits of substantial size or value (such as adviser training programmes or significant software) are made available to firms that are subject to the rules on adviser charging and remuneration (COBS 6.1A), these benefits should be made available equally across those *firms* if they are provided at all.

2.3.16A G In interpreting the table of reasonable non-monetary benefits, a firm that provides a personal recommendation in relation to a retail investment product to a retail client should be aware that acceptance of benefits on which the firm will have to rely for a period of time is more likely to impair compliance with the client's best interests rule. For example, accepting services which provide access to another firm's systems or software on which the firm will need to rely to gain access to the firm's client data in the future, would be likely to conflict with the rule on inducements (COBS 2.3.1R).

After COBS 6.1 insert the following new sections. The text is not underlined.

6.1A Adviser charging and remuneration

Application – Who? What?

- 6.1A.1 R This section applies to a *firm* which makes a *personal recommendation* to a *retail client* in relation to a *retail investment product*.
- 6.1A.2 R This section does not apply to a *firm* when it gives *basic advice* in accordance with the *basic advice rules*.

Application – Where?

- 6.1A.3 R This section does not apply if the *retail client* is outside the *United Kingdom*.

Requirement to be paid through adviser charges

- 6.1A.4 R A *firm* must:
- (1) only be remunerated for the *personal recommendation* (and any other related services provided by the *firm*) by *adviser charges*; and
 - (2) not solicit or accept (and ensure that none of its *associates* solicits or accepts) any other commissions, remuneration or benefit of any kind in relation to the *personal recommendation* or any other related service, regardless of whether it intends to refund the payments or pass the benefits on to the *retail client*; and
 - (3) not solicit or accept (and ensure that none of its *associates* solicits or accepts) *adviser charges* in relation to the *retail client's retail investment product* which are paid out or advanced by another party over a materially different time period, or on a materially different basis, from that in or on which the *adviser charges* are recovered from the *retail client*.
- 6.1A.5 G A *firm* may receive an *adviser charge* that is no longer payable (for example, after the service it is received in payment for has been amended or terminated) provided the *firm* refunds any such payment to the *retail client*.
- 6.1A.6 G Services related to the *personal recommendation* may include, but are not limited to:
- (1) *arranging* or *executing* a transaction which has been recommended to a *retail client* by the *firm*, an *associate* or another *firm* in the same *group* or conducting administrative tasks associated with that

transaction; or

- (2) managing a relationship between a *retail client* (to whom the *firm* provides *personal recommendations on retail investment products*) and a *discretionary investment manager*.

6.1A.7 G The requirement to be paid through *adviser charges* does not prevent a *firm* from making use of any facility for the payment of *adviser charges* on behalf of the *retail client* offered by another *firm* or other third parties provided that the facility complies with the requirements of *COBS 6.1B.9R*.

6.1A.8 G Examples of payments and benefits that should not be accepted under the requirement to be paid through *adviser charges* include:

- (1) a share of the *retail investment product charges* or *retail investment product provider's revenues or profits* (except if the *firm* providing the *personal recommendation* is the *retail investment product provider*); and
- (2) a commission set and payable by a *retail investment product provider* in any jurisdiction.

Requirements on a retail investment product provider making a personal recommendation in respect of its own retail investment products

6.1A.9 R If the *firm* or its *associate* is the *retail investment product provider*, the *firm* must ensure that the level of its *adviser charges* is at least reasonably representative of the services associated with making the *personal recommendation* (and related services).

6.1A.10 G An *adviser charge* is likely to be reasonably representative of the services associated with making the *personal recommendation* if:

- (1) the expected long term costs associated with making a *personal recommendation* and distributing the *retail investment product* do not include the costs associated with manufacturing and administering the *retail investment product*;
- (2) the allocation of costs and profit to *adviser charges* and product charges is such that any cross-subsidisation is not significant in the long term; and
- (3) were the *personal recommendation* and any related services to be provided by an unconnected *firm*, the level of *adviser charges* would be appropriate in the context of the service being provided by the *firm*.

Requirement to use a charging structure

- 6.1A.11 R A *firm* must determine and use an appropriate charging structure for calculating its *adviser charge* for each *retail client*.
- 6.1A.12 G A *firm* can use a standard charging structure.
- 6.1A.13 G In determining its charging structure and *adviser charges* a *firm* should have regard to its duties under the *client's best interests rule*. Practices which may indicate that a *firm* is not in compliance with this duty include:
- (1) varying its *adviser charges* inappropriately according to provider or, for substitutable and competing *retail investment products*, the type of *retail investment product*; or
 - (2) allowing the availability or limitations of services offered by third parties to facilitate the payment of *adviser charges* to influence inappropriately its charging structure or *adviser charges*.
- 6.1A.14 R A *firm* must not use a charging structure which conceals the amount or purpose of any of its *adviser charges* from a *retail client*.
- 6.1A.15 G A *firm* is likely to be viewed as operating a charging structure that conceals the amount or purpose of its *adviser charges* if, for example:
- (1) it makes arrangements for amounts in excess of its *adviser charges* to be deducted from a *retail client's* investments from the outset, in order to be able to provide a cash refund to the *retail client* later; or
 - (2) it provides other services to a *retail client* (for example, *advising on a home finance transaction* or *advising on an equity release transaction*), and its *adviser charges* do not represent a reasonable proportion of the costs associated with the *personal recommendation* for the *retail investment product* and its related services.

Calculation of the cost of adviser services to a client

- 6.1A.16 G In order to meet its responsibilities under the *client's best interests rule* and *Principle 6* (Customers' interests), a *firm* should consider whether the *personal recommendation* is likely to be of value to the *retail client* when the total charges the *retail client* is likely to be required to pay are taken into account.

Initial information for clients on the cost of adviser services

- 6.1A.17 R A *firm* must disclose its charging structure to a *retail client* in writing, in good time before making the *personal recommendation* (or providing related services).

- 6.1A.18 G A *firm* may wish to consider disclosing as its charging structure a list of the advisory services it offers with the associated indicative charges which will be used for calculating the *adviser charge* for each service.
- 6.1A.19 G In order to meet the requirement in the *rule* on information disclosure before providing services (*COBS 2.2.1R*), a *firm* should ensure that the disclosure of its charging structure is in clear and plain language and, as far as is practicable, uses cash terms. If a *firm's* charging structure is in non-cash terms, examples in cash terms should be used to illustrate how the charging structure will be applied in practice.
- 6.1A.20 G A *firm* is unlikely to meet its obligations under the *fair, clear and not misleading rule* and the *client's best interests rule* unless it ensures that:
- (1) the charging structure it discloses reflects, as closely as is practicable, the total *adviser charge* to be paid; for example, the *firm* should avoid using a wide range; and
 - (2) if using hourly rates in its charging structure, it states whether the rates are indicative or actual hourly rates, provides the basis (if any) upon which the rates may vary and provides an approximate indication of the number of hours that the provision of each service is likely to require.
- 6.1A.21 G A *firm* may meet the disclosure requirements in this section by using a *services and costs disclosure document* or a *combined initial disclosure document* (*COBS 6.3* and *COBS 6 Annex 1G* or *COBS 6 Annex 2*).

Ongoing payment of adviser charges

- 6.1A.22 R A *firm* must not use an *adviser charge* which is structured to be payable by the *retail client* over a period of time unless (1) or (2) applies:
- (1) the *adviser charge* is in respect of an ongoing service for the provision of *personal recommendations* or related services and the *firm* has disclosed that service along with the *adviser charge*; or
 - (2) the *adviser charge* relates to a *retail investment product* to which the *retail client* has contracted to contribute to regularly over a period of time and the *firm* has disclosed that no ongoing *personal recommendations* or service will be provided.
- 6.1A.23 R If *COBS 6.1A.22R*(1) or (2) do not apply, a *firm* may not offer *credit* to a *retail client* for the purpose of paying *adviser charges* unless this would be in the best interests of the *retail client*.

Disclosure of total adviser charges payable

- 6.1A.24 R (1) A firm must agree with and disclose to a *retail client* the total *adviser charge* payable to it or any of its *associates* by a *retail client*.
- (2) A disclosure under (1) must:
- (a) be in cash terms (or convert non-cash terms into illustrative cash equivalents);
 - (b) be as early as practicable;
 - (c) be in a *durable medium* or through a website (if it does not constitute a *durable medium*) if the *website conditions* are satisfied; and
 - (d) if there are payments over a period of time, include the amount and frequency of each payment due, the period over which the *adviser charge* is payable and the implications for the *retail client* if the *retail investment product* is cancelled before the *adviser charge* is paid and, if there is no ongoing service, the sum total of all payments.
- 6.1A.25 G A *firm* may include the information required by the *rule* on disclosure of total *adviser charges* (COBS 6.1A.24R) in a *suitability report*.
- 6.1A.26 G To comply with the *rule* on disclosure of total *adviser charges* (COBS 6.1A.24R) and the *fair, clear and not misleading rule*, a *firm's* disclosure of the total *adviser charge* should:
- (1) provide information to the *retail client* as to which particular service an *adviser charge* applied to;
 - (2) include information as to when payment of the *adviser charge* is due;
 - (3) inform the *retail client* if the total *adviser charge* varies materially from the charge indicated for that service in the *firm's* charging structure;
 - (4) if an ongoing *adviser charge* is expressed as a percentage of funds under management, clearly reflect in the disclosure how that *adviser charge* may increase as the fund grows, for example by illustrating the *adviser charge* assuming a fund growth rate which is consistent with an *intermediate rate of return*; and
 - (5) if an ongoing *adviser charge* applies for an ongoing service, clearly confirm the details of the ongoing service, its associated charges, and how the *retail client* can cancel this service and cease payment of the

associated charges.

Record keeping

- 6.1A.27 R A *firm* must keep a record of:
- (1) its charging structure;
 - (2) the total *adviser charge* payable by each *retail client*; and
 - (3) if the total *adviser charge* paid by a *retail client* has varied materially from the charge indicated for that service in the *firm's* charging structure, the reasons for that difference.

6.1B Retail investment product provider requirements relating to adviser charging and remuneration

Application – Who? What?

- 6.1B.1 R This section applies to a *firm* which is a *retail investment product* provider in circumstances where a *retail client* receives a *personal recommendation* in relation to the *firm's retail investment product*.
- 6.1B.2 R This section does not apply to a *firm* when a *retail client* receives *basic advice* in accordance with the *basic advice rules*.
- 6.1B.3 G This section applies to a *firm* when it makes a *personal recommendation* on a *retail investment product* and where a *retail investment product* for which it is the *retail investment product* provider is the subject of a *personal recommendation* made by another *firm*.

Application – Where?

- 6.1B.4 R This section does not apply if the *retail client* is outside the *United Kingdom*.

Requirement not to offer commissions

- 6.1B.5 R A *firm* must not offer or pay (and must ensure that none of its *associates* offers or pays) any commissions, remuneration or benefit of any kind to another *firm*, or to any other third party for the benefit of that *firm*, in relation to a *personal recommendation* (or any related services), except those that facilitate the payment of *adviser charges* from a *retail client's* investments in accordance with this section.
- 6.1B.6 G The requirement not to offer or pay commission does not prevent a *firm* from making a payment to a third party in respect of administration or other

charges incurred, for example a payment to a fund supermarket or a third party administrator.

Distinguishing product charges from adviser charges

- 6.1B.7 R A *firm* must:
- (1) take reasonable steps to ensure that its *retail investment product* charges are not structured so that they could mislead or conceal from a *retail client* the distinction between those charges and any *adviser charges* payable in respect of its *retail investment products*; and
 - (2) not include in any marketing materials in respect of its *retail investment products* or facilities for collecting *adviser charges* any statements about the appropriateness of levels of *adviser charges* that a *firm* could charge in making *personal recommendations* or providing related services in relation to its *retail investment products*.
- 6.1B.8 G A *firm* should not offer to invest more than 100% of the *retail client's* investment.

Requirements on firms facilitating the payment of adviser charges

- 6.1B.9 R A *firm* that offers to facilitate, directly or through a third party, the payment of *adviser charges* from a *retail client's retail investment product* must:
- (1) obtain and validate instructions from a *retail client* in relation to an *adviser charge*;
 - (2) offer sufficient flexibility in terms of the *adviser charges* it facilitates; and
 - (3) not pay out or advance *adviser charges* to the *firm* to which the *adviser charge* is owed over a materially different time period, or on a materially different basis to that in which it recovers the *adviser charge* from the *retail client* (including paying any *adviser charges* to the *firm* that it cannot recover from the *retail client*).
- 6.1B.10 G A *firm* should consider whether the flexibility in levels of *adviser charges* it offers to facilitate is sufficient so as not to unduly influence or restrict the charging structure and *adviser charges* that the *firm* providing the *personal recommendation* or related services can use.
- 6.1B.11 G COBS 6.1B.9R(3) does not prevent a *firm*, if this is in the *retail client's* best interests, from entering into an agreement with another *firm* which is providing a *personal recommendation* to a *retail client*, or with a *retail client* of such a *firm*, to provide it with *credit* separately in accordance with

the *rules* on providing credit and other benefits to *firms* that advise on *retail investment products* (COBS 2.3.12E and 2.3.12AG).

Delete COBS 6.2 in its entirety. The deleted text of this section is not shown.

6.2 ~~Describing the breadth of a firm's personal recommendations~~

Insert the following new section. The text is not underlined.

6.2A Describing advice services

Application – Who? What?

- 6.2A.1 R This section applies to a *firm* that either:
- (1) makes a *personal recommendation* to a *retail client* in relation to a *retail investment product*; or
 - (2) provides *basic advice* to a *retail client*.

Application – Where?

- 6.2A.2 R This section does not apply if the *retail client* is outside the *United Kingdom*.

Firms holding themselves out as independent

- 6.2A.3 R (1) A *firm* must not hold itself out to a *retail client* as acting independently unless the only *personal recommendations* in relation to *retail investment products* it offers to that *retail client* are:
- (a) based on a comprehensive and fair analysis of the relevant market; and
 - (b) unbiased and unrestricted.
- (2) Paragraph (1) does not apply to *group personal pension schemes* if a *firm* discloses information to a *client* in accordance with the *rule* on *group personal pension schemes* (COBS 6.3.21R).
- 6.2A.4 G (1) A *firm* that provides both *independent advice* and *restricted advice* should not hold itself out as acting independently for its business as a whole. However, a *firm* may hold itself out as acting independently in respect of its services for which it provides *independent advice* or advice which meets other independence requirements for particular

investments. For example, a *firm* that provides *independent advice* on *regulated mortgage contracts* in accordance with *MCOB* but *restricted advice* on *retail investment products* will not be able to hold itself out as an independent financial adviser. However, it would be able to hold itself out as an adviser providing *independent advice* for *regulated mortgage contracts* provided it was made clear in accordance with the *fair, clear and not misleading rule* that it provided *restricted advice* for *retail investment products*.

- (2) A *firm* whose relevant market is relatively narrow should not hold itself out as acting independently in a broader sense. For example, a *firm* “Greenfield”, which specialises in ethical and socially responsible investments could not hold itself out as “Greenfield Independent Financial Advisers”. “Greenfield – providing independent advice on ethical products” may be acceptable.
- (3) A *firm* that provides *basic advice* on *stakeholder products* may still use the facilities and stationery it uses for other business in accordance with the *rule* on basic advice on stakeholder products: other issues (*COBS 9.6.17R(2)*).

Describing the breadth of a firm’s advice service

- 6.2A.5 R A *firm* must disclose in writing to a *retail client*, in good time before the provision of its services in respect of a *personal recommendation* or *basic advice* in relation a *retail investment product*, whether its advice will be:
- (1) *independent advice*; or
 - (2) *restricted advice*.

Content and wording of disclosure

- 6.2A.6 R
- (1) A *firm* must include the term “independent advice” or “restricted advice” or both, as relevant, in the disclosure.
 - (2) If a *firm* provides *independent advice* in respect of a relevant market that does not include all *retail investment products*, a *firm* must include in the disclosure an explanation of that market, including the types of *retail investment products* which constitute that market.
 - (3) If a *firm* provides *restricted advice*, a *firm* must include in its disclosure an explanation about whether the advice is limited to *retail investment products* from a single company, a single group of companies or a limited number of companies.
 - (4) If a *firm* provides both *independent advice* and *restricted advice*, the disclosure must clearly explain the different nature of the

independent advice and restricted advice services.

Medium of disclosure

- 6.2A.7 R A *firm* must provide the disclosure information required by the *rule* on describing the breadth of a *firm's* advice service (COBS 6.2A.5R) in a *durable medium* or through a website (if it does not constitute a *durable medium*) provided the *website conditions* are satisfied.
- 6.2A.8 G A *firm* may meet the disclosure requirements in the *rule* on describing the breadth of a *firm's* advice service (COBS 6.2A.5R) and the *rule* on content and wording of disclosure (COBS 6.2A.6R) by using a *services and costs disclosure document* or a *combined initial disclosure document* (COBS 6.3 and COBS 6 Annex 1G or COBS 6 Annex 2).

Additional oral disclosure for firms providing restricted advice

- 6.2A.9 R If a *firm* provides *restricted advice* and engages in spoken interaction with the *retail client*, a *firm* must disclose orally in good time before the provision of its services in respect of a *personal recommendation* that it provides *restricted advice* and the nature of that restriction.
- 6.2A.10 G Examples of statements which would comply with COBS 6.2A.9R include:
- (1) "I am a [Firm X] adviser offering restricted advice, which means that my advice is restricted to advice on [Firm X] [products/stakeholder products] only" or
 - (2) "I am a [Firm X] adviser offering restricted advice, which means that my advice is restricted to advice on [products/stakeholder products] from a limited number of companies that [Firm X] has selected".

Guidance on what constitutes a relevant market

- 6.2A.11 G A relevant market should comprise all *retail investment products* which are capable of meeting the investment needs and objectives of a *retail client*.
- 6.2A.12 G A relevant market can be limited by the investment needs and objectives of the *retail client*. For example, ethical and socially responsible investments or Islamic financial products could both be relevant markets. However, a *firm* would be expected to consider all *retail investment products* within those investment parameters.
- 6.2A.13 G For a *firm* not specialising in a particular market, the relevant market will generally include all *retail investment products*.

Guidance on providing unbiased and unrestricted advice

- 6.2A.14 G A *personal recommendation* on a *retail investment product* that invests in a number of underlying *investments* would not of itself meet the requirements for providing unbiased and unrestricted advice even if the *retail investment product* invests in a wide range of underlying *investments*.
- 6.2A.15 G In order to satisfy the *rule* on *firms* holding themselves out as independent (COBS 6.2A.3R) a *firm* should ensure that it is not bound by any form of agreement with a *retail investment product* provider that restricts the *personal recommendation* the *firm* can provide or imposes any obligation that may limit the *firm's* ability to provide a *personal recommendation* which is unbiased and unrestricted.
- 6.2A.16 G A *firm* may be owned by, or own in whole or part, or be financed by or provide finance to, a *retail investment product* provider without contravening the 'unbiased, unrestricted' requirement provided the *firm* ensures that that ownership or finance does not prevent the *firm* from providing a *personal recommendation* which is unbiased and unrestricted.
- 6.2A.17 G In providing unrestricted advice a *firm* should consider relevant financial products other than *retail investment products* which are capable of meeting the investment needs and objectives of a *retail client*, examples of which could include national savings and investments products and *cash deposit ISAs*.

Guidance on using panels and/or third parties to provide a comprehensive and fair analysis of the market

- 6.2A.18 G A *firm* may provide a *personal recommendation* on a comprehensive and fair analysis basis required by the *rule* on *firms* holding themselves out as independent (COBS 6.2A.3R) by using 'panels'. A *firm* would need to ensure that any panel is sufficiently broad in its composition to enable the *firm* to make *personal recommendations* based on a comprehensive and fair analysis, is reviewed regularly, and that the use of the panel does not materially disadvantage any *retail client*.
- 6.2A.19 G When using a panel a *firm* may exclude a certain type or class of *retail investment product* from the panel if, after review, there is a valid reason consistent with the *client's best interests rule*, for doing so.
- 6.2A.20 G If a *firm* chooses to use a third party to conduct a fair and comprehensive analysis of its relevant market, the *firm* is responsible for ensuring the criteria used by the third party are sufficient to meet the requirement. For example, criteria which selected *retail investment product* providers on the basis of payment of a fee (or facilitation of *adviser charges*), whilst excluding those not paying a fee (or such a facilitation) would not meet the comprehensive and fair analysis requirement.

Record keeping

- 6.2A.21 G *Firms* are reminded of the general record keeping requirements in SYSC 3.2 and SYSC 9. A *firm* should keep appropriate records of the disclosures required by this section.

Systems and controls

- 6.2A.22 G (1) *Firms* are reminded of the systems and controls requirements in SYSC.
- (2) A *firm* providing *restricted advice* should take reasonable care to establish and maintain appropriate systems and controls to ensure that if there is no *retail investment product* in the *firm's* range of products which meets the investment needs and objectives of the *retail client*, no *personal recommendation* should be made.
- (3) A *firm* specialising in a relevant market should take reasonable care to establish and maintain appropriate systems and controls to ensure that it does not make a *personal recommendation* if there is a *retail investment product* outside the relevant market which would meet the investment needs and objectives of the *retail client*.

Amend the following as shown.

6.3 Disclosing information about services, fees and commission – packaged products

...

- 6.3.1A R This section does not apply to a *firm* when it makes a *personal recommendation* to a *retail client* and that *retail client* is outside the *United Kingdom*.

- 6.3.1B G If a *firm* makes a *personal recommendation* to a *retail client* in relation to a *packaged product* and uses the *services and costs disclosure document* or *combined initial disclosure document* to make the disclosures required under the *rule* on describing the breadth of a *firm's* advice service (COBS 6.2A.5R) and the *rule* on content and wording of disclosure (COBS 6.2A.6R), it may also use these documents for its disclosures in respect of any other *retail investment products*.

...

- 6.3.3 G (1) ~~The *rules* referred to in (4) are derived from the *Single Market directives* and the *Distance Marketing Directive*. In the *FSA's*~~

opinion, a *firm* may comply with ~~them~~ the *rules* referred to in (4) of which (a) to (g) are derived from the *Single Market Directives* and the *Distance Marketing Directive* by ensuring that in good time before:

...

...

- (4) For the purposes of (1), provision of a *services and costs disclosure document* or *combined initial disclosure document* will comply with:

...

- (b) the *rule* on information about costs and charges (*COBS* 6.1.9R) but only if ~~the hourly rates indicated~~ in the *services and costs disclosure document* or *combined initial disclosure document*:

(i) if a *firm* is providing a *personal recommendation* or related services and the total *adviser charge* can be determined, the total *adviser charge* is disclosed as part of the charging structure; or

(ii) if the total *adviser charge* cannot be determined or a *firm* is not providing a *personal recommendation*, if hourly rates are disclosed, the hourly rates are actual hourly rates rather than indicative hourly rates;

...

- (f) the investor compensation scheme *rule* in *COBS* 6.1.16R(1) and (2); ~~and~~

- (g) the *rule* on information to be provided by an *insurance intermediary* (*COBS* 7.2.1R(1) and *COBS* 7.2.1R(2)); and

- (h) the *rule* on describing the breadth of a *firm's* advice service (*COBS* 6.2A.5R), the *rule* on content and wording of disclosure (*COBS* 6.2A.6R) and the *rule* on initial information for *clients* on the cost of advice services (*COBS* 6.1A.15G).

...

- 6.3.14 G A *firm* would be unlikely to comply with the *client's best interests rule* and the *fair, clear and not misleading rule*, if:

- (1) the *services and costs disclosure document* or the *combined initial disclosure document* that it provided initially did not reflect the relevant *adviser charge* or expected *commission* arrangements; or

...

...

Provision of information on request

- 6.3.17 G ~~A firm should take reasonable steps to ensure that its *representative* provides a copy of the appropriate *range of packaged products* to a *client* on the *client's* request. [deleted]~~

...

- 6.3.20 G (1) In accordance with the *rule* on information disclosure before providing services (COBS 2.2.1R), if a *firm's* initial contact with a *retail client* with a view to providing a *personal recommendation* on *packaged products* is by telephone then the following information should be provided before proceeding further:

...

- (b) ~~whether the *firm* offers *packaged products* from the whole market or from a limited number of *companies* or from a single *company* or a single group of *companies* whether the *firm* provides *independent advice* or *restricted advice* and, if a *firm* provides *restricted advice*, the oral disclosure required by the *rule* on additional oral disclosure for *firms* providing *restricted advice* (COBS 6.2A.9R);~~
- (c) ~~whether the *firm* will provide the *client* with a *personal recommendation on packaged products* the *firm's* charging structure; and~~
- (d) ~~that the *client* can request a copy of the appropriate range of *packaged products*; that the information given under (a) to (c) will subsequently be confirmed in writing.~~
- (e) ~~whether the *firm* offers a *fee*-based service, a *commission*-based service, a service based on a combination of *fee* and *commission*, or a combination of these services, and the consequences for the *client* of proceeding with each type of service; and [deleted]~~
- (f) that the information given under (a) to (e) will subsequently

~~be confirmed in writing.~~ [deleted]

Group Personal Pensions

- 6.3.21 R A *firm* must take reasonable steps to ensure that its *representatives* when making contact with an employee with a view to giving a *personal recommendation* on his employer's *group personal pension scheme* or *stakeholder pension scheme*, inform the employer:

...

- (3) ~~the amount and nature of any payments that the employee will have to pay, directly or indirectly, for the personal recommendation.~~ [deleted]

- (4) that the employee will have to pay an *adviser charge* (if applicable).

- 6.3.22 G The payments that the employee would have to pay could be:

- (1) *fees*;

- (2) *commission*

- (3) *commission equivalent*;

- (4) a combination of the above. [deleted]

...

6.4 Disclosure of charges, remuneration and commission

...

- 6.4.1 R This section applies to a *firm* ~~carrying on designated investment business with~~ when it sells or *arranges* the sale of a *packaged product* to a *retail client* and the *firm's* services to sell or *arrange* are not in connection with the provision of a *personal recommendation*.

...

- 6.4.3 R (1) If a *firm* sells, ~~*personally recommends*~~ or *arranges* the sale of a *packaged product* to a *retail client*, and subsequently if the *retail client* requests it, the *firm* must disclose to the *client* in cash terms:

...

...

...

6.4.5 R (1) A *firm* must make the disclosure required by the *rule* on disclosure of *commission* or *equivalent* (COBS 6.4.3R) as close as practicable to the time that it sells, ~~*personally recommends*~~ or *arranges* the sale of a *packaged product*.

...

...

6.4.7 R A *firm* must not enter into an arrangement to pay *commission* other than to the *firm* responsible for a sale, unless:

...

(2) ~~another *firm* has given a *personal recommendation* to the same *retail client* after the sale; or [deleted]~~

...

...

6.4.9 G The *rules* in this section build on the disclosure of fees, commissions and non-monetary benefits made under the *rule* on inducements (COBS 2.3.1R). ~~However the *rules* in this section do not require disclosures before the *firm* makes a *personal recommendation*.~~

Delete COBS 6 Annex 1G in its entirety and replace it with the following. The text is not underlined.

6 Annex 1G Services and costs disclosure document described in COBS 6.3.7G(1)

Firms should omit the notes and square brackets which appear in the following specimen.



about our services and costs [Note 1]



[Note 2]

[Note 3]
[123 Any Street
Some Town
ST21 7QB]

1. The Financial Services Authority (FSA)

The FSA is the independent watchdog that regulates financial services. This document is designed by the FSA to be given to consumers considering buying certain financial products. You need to read this important document. It explains the service you are being offered and how you will pay for it.

2. Which service will we provide you with? [Note 4] [Note 5]

- Independent advice – We will advise and make a recommendation for you after we have assessed your needs. Our recommendation will be based on a comprehensive and fair analysis of the market. [Note 6]
- Restricted advice – We will advise and make a recommendation for you after we have assessed your needs, but we only offer products from one company or a limited number of companies. [Note 7].
- No advice – You will not receive advice or a recommendation from us. We may ask some questions to narrow down the selection of products that we will provide details on. You will then need to make your own choice about how to proceed.

3. What will you have to pay us for our services? [Note 8]

[You will pay for our services on the basis of [insert charging arrangements [Note 9]]. We will discuss your payment options with you and answer any questions you have. We will not charge you until we have agreed with you how we are to be paid.[Note 10]]

[non-advised services [Note 11 -13]]

[Advised services [Note 14]]

The cost of our services [Note 15-17]

Your payment options [Note 18]

[Settling your adviser charge through a single payment [Free text Note 19]]

[Settling your adviser charge by instalments [Free text Note 20]]

[Paying by instalments through your recommended product [Free text Note 21]]

[Paying through other arrangements [Free text Note 22]]

[Keeping up with your payments [Free text Note 23]]

[Payment for ongoing services [Free text Note 24]]

[Other benefits we may receive [Note 25]]

4. Who regulates us? [Note 26]

[ABC Financial Services] [123 Any Street, Some Town, ST21 7QB] [Note 27] [Note 28] is authorised and regulated by the Financial Services Authority. Our FSA Register number is []. [Note 29]

Our permitted business is []. [Note 30]

[or] [Note 31]

[Name of *appointed representative* or *tied agent*] [Note 2] is [an appointed representative or a tied agent] of [name of *firm*] [address of *firm*] [Note 27] [Note 28] which is authorised and regulated by the Financial Services Authority. [Name of *firm's*] FSA Register number is [].

[Name of *firm's*] permitted business is [] [Note 30] [Name of *appointed representative* or *tied agent*] is regulated in [an EEA state or the United Kingdom]. [Note 29]

You can check this on the FSA's Register by visiting the FSA's website www.fsa.gov.uk/register or by contacting the FSA on 0845 606 1234. [Note 29]

5. Loans and ownership [Note 31]

[[XXX plc] owns [YY]% of our share capital.]

[[XXX plc] provides us with loan finance of [YY] per year.]

[[XXX] (or we) have [YY]% of the voting rights in [ZZZ].] [Note 32][Note 33][Note 34][Note 35]

6. What to do if you have a complaint [Note 26]

If you wish to register a complaint, please contact us:

...in writing Write to [ABC Financial Services], [Complaints Department, 123 Any Street, Some Town, ST21 7QB].

... by phone Telephone [0121 100 1234]. [Note 36]

If you cannot settle your complaint with us, you may be entitled to refer it to the Financial Ombudsman Service. [Note 37]

7. Are we covered by the Financial Services Compensation Scheme (FSCS)? [Note 26] [Note 38] [Note 39]

We are covered by the FSCS. You may be entitled to compensation from the scheme if we cannot meet our obligations. This depends on the type of business and the circumstances of the claim.

Most types of investment business are covered up to a maximum of £50,000.

Further information about compensation scheme arrangements is available from the FSCS.

The following notes do not form part of the *services and costs disclosure document*.

Note 1 – permission to use the keyfacts logo: the *FSA* has developed a common keyfacts logo to be used on significant pieces of information directed to *clients*. The keyfacts logo and the text ‘about our services and costs’ may only be used and positioned as shown in the *services and costs disclosure document* (see *COBS* 6.3.4R). The logo may be re-sized and re-coloured. It may only be used if it is reasonably prominent and its proportions are not distorted. A specimen of the keyfacts logo can be obtained from the *FSA* website http://www.fsa.gov.uk/pubs/other/keyfacts_logo.

Note 2 – insert the *firm’s* or *appointed representative’s* or *tied agent’s* name (either the name under which it is *authorised* or the name under which it trades). A corporate logo or logos may be included. If an individual who is employed or engaged by an *appointed representative* or *tied agent* provides the information, the individual should not put his or her own name on the *services and costs disclosure document*.

Note 3 – insert the address of the head office and/or if appropriate the principal place of business from which the *firm*, *appointed representative* or *tied agent* expects to conduct business (this can include a *branch*) with *clients*. (An *appointed representative* or *tied agent* should include its own name and address rather than those of the *authorised firm*.)

Section 2: Which service will we provide you with?

Note 4 – the *firm* should select, for example by ticking, the box(es) which are appropriate for the service that it expects to provide to the *client*. This needs to be done only in relation to the service the *firm* is offering to a particular *client*. More than one box can be selected if more than one service is being offered to a particular *client*. If more than one box is selected, the *firm* should clearly explain the different nature of the services by adding text to this section, such that the explanation of the services the *firm* offers under this section is fair, clear and not misleading. Do not remove boxes that are not selected.

The *firm* should tick the first box in section 2 if it will be providing *independent advice*.

The *firm* should tick the second box in section 2 if it will be providing *restricted advice*, including *basic advice* (on *stakeholder products*).

The *firm* should tick the third box in section 2 if it will not be providing advice.

Note 5 – if the *services and costs disclosure document* is provided by an *appointed representative* or *tied agent*, the service described should be that offered by the *appointed representative* or *tied agent*.

Note 6 – if the *firm* selects this box and the *firm* does not consider all *retail investment products*,

the *firm* should include an explanation of the types of products it does consider, in a way that meets the *fair, clear and not misleading rule*. For example, if a *firm* only considers ethical and socially responsible investments, this should be explained here.

Note 7 – if the *firm* selects this box, it will be offering:

- (a) products from a limited number of companies; or
- (b) products of a single company or single group of companies; or
- (c) its own products (e.g. where the *firm* is a *product provider* offering only its own products, or is part of a *product provider* offering only the products sold under that part’s trading name); or
- (d) *basic advice on stakeholder products*.

The *firm* should replace the preceding text with the relevant text as set out below. If the *firm* does not select this box, then no amendments should be made to the preceding text.

(a)	“Restricted advice – We will advise and make a recommendation for you after we have assessed your needs. We [can] [Note a] only offer products from a limited number of companies. You may ask us for a list of the companies whose products we offer.” [Note b].
(b)	“Restricted advice – We will advise and make a recommendation for you after we have assessed your needs. We [can] [Note a] only offer products from [name of provider].” or if the provider has only one product the <i>firm</i> should amend the text to the singular, for example “We [can] [Note a] only offer a pension from [name of provider].”
(c)	“Restricted advice – We will advise and make a recommendation for you after we have assessed your needs. We only offer our own products.”
(d)	“Restricted advice – We will provide basic advice on a limited range of stakeholder products and in order to do this we will ask some questions about your income, savings and other circumstances, but we will not conduct a full assessment of your needs or offer advice on whether a non-stakeholder product may be more suitable.” [Note c]: “We [can] [Note a] offer products from a single stakeholder product provider.”; or “We [can] [Note a] offer products from a limited number of stakeholder product providers You may ask us for a list of the companies whose products we offer.” [Note b]; or “We only offer our own stakeholder products.”

[Note a] – insert “can” if the *firm*’s range of products is determined by any contractual obligation.

[Note b] – the list of products will be the range of *retail investment products* that is appropriate having regard to the services that the *firm* is providing, or may provide, to the *client*. For services provided in relation to non-investment insurance contracts, this is the list required by *ICOB*S 4.1.6R(2).

[Note c] – the *firm* should insert one of the three statements, whichever is relevant.

Section 4: What will you have to pay us for our services?

Note 8 – in this section, the *firm* should outline how it intends to charge its *clients* for the services provided. If the *firm* is not intending to provide a *personal recommendation* it should refer to the notes under ‘Non-advised services’ below. If the *firm* is intending to provide a *personal recommendation*, it should refer to the notes under ‘Advised services’. If the *firm* is providing both a *personal recommendation* and ‘non-advised’ services, the *firm* should set out the charging arrangements for the non-advised and advised services separately, and make clear which charging arrangements apply to which service using appropriate sub-headings.

Note 9 – a *firm* should disclose all of the charging arrangements it offers its *clients*, from the alternatives of *adviser charge, fee, commission* or a combination.

Note 10 – if applicable, a *firm* should disclose to the *client* the possibility that other costs including taxes (for example VAT), related to transactions in connection with the *packaged product* and that are not paid via the *firm* or imposed by it, may arise for the *client*.

Notes for non-advised services

Note 11 – any reference in this section to “*commission*” means *commission* and *commission equivalent*.

Note 12 – a *firm* that is not proposing to give *personal recommendations* on *packaged products* can amend this section accordingly. The *firm* need not provide information regarding payment options but should provide at this section at least a statement explaining that the *client* will be told how much the *firm* will be paid before the *firm* carries out any business for the *client* and honour that undertaking. For example, “We will tell you how we get paid and the amount before we carry out any business for you.” If a *firm* chooses to provide the *client* with the total price in this section and any part of that price is to be paid in or represents an amount of foreign currency, the *firm* should provide an indication of the currency and the applicable currency conversion rates and costs.

Note 13 – in order to comply with *COBS* 2.3.1R as qualified by 2.3.2R, *firms* receiving non-monetary benefits may wish to disclose those benefits in summary form here, under the heading “**Other benefits we may receive**”. If a *firm* does so, it should provide the undertaking described in *COBS* 2.3.2R(1) (to provide further details on request) in writing, in this section and honour that undertaking. However, it is not the purpose of this section to provide significant or extensive explanation of non-monetary benefits such that it distracts from the wider purpose of the document.

For example

“We sell a range of products from a variety of firms; some of these firms provide us with annual training, which allows us to offer you a better service. This year we expect to receive in total [XX] hours worth of training from XYZ, ABC and DEF firms, predominantly from ABC. Some of the cost of this training may be passed to you as part of the total charges you pay should you choose a product provided by XYZ, ABC or DEF. Further information regarding these arrangements is available on request.”

Notes for advised services

Note 14 – *firms* proposing to provide a *personal recommendation on packaged products* should use the following notes to provide information to the *client* on the *firm's* charging structure and the *client's* payment options.

Note 15 – a *firm* should include here its charging structure, outlining as closely as possible the services that it offers and the charge for each service. The *firm* should ensure that this is presented in clear and plain language and, as far as practicable, uses cash terms.

Note 16 – the charging structure should be expressed in pounds sterling or, where relevant, another appropriate currency. Where a *firm's* charging structure is in non-cash terms, examples in cash terms should be used to illustrate how the charging structure will be applied in practice. Where a *firm* uses hourly rates in its charging structure, it should state whether the rates are actual or indicative and provide an approximate indication of the number of hours a particular service may take. If a *firm* chooses to provide the *client* with the total *adviser charge* in this section and any part of that *adviser charge* is to be paid in or represents an amount of foreign currency, the *firm* should provide an indication of the currency and the applicable currency conversion rates and costs.

For example

Our charging structure

Service	Initial charge	Ongoing charge for twice yearly reviews
Review of your pension arrangements (pre-retirement)	Charged at £100 per hour (exc. VAT) - approx. 4-6 hours	
Advice on what to do with your pension fund (at retirement)	Charged at £130 per hour (exc. VAT) - approx. 2-3 hours	
Where to put your savings (for those with up to £25,000 to invest)	3% of your investment, if you go ahead with our recommendations	Service available on request for 0.5% of your investment per year

Note 17 – where a *firm* provides an ongoing service, it should disclose the ongoing service that will be offered and that there will be an *adviser charge* for that service. The *firm* can also include in this section additional information the *client* would receive before the provision of the *personal*

recommendation or related services.

For example

“There will be an additional charge for any ongoing work, such as periodic or ongoing reviews, we carry out on your behalf. We will confirm the rate, frequency and length of this ongoing service before beginning any ongoing service.”

Note 18 – a *firm* must use the headings (i) “Your payment options” and (ii) the following sub-headings as applicable: “Settling your adviser charge in a single payment” and/or “Settling your adviser charge by instalments”. A *firm* should outline the payment options offered to *clients* and any restrictions on these payment options. In addition, a *firm* should provide an explanation relating to each option offered in clear and plain language.

Note 19 – Additional text to be included under the heading “Settling your adviser charge in a single payment”

The text for describing how the *client* can settle the *adviser charge* through a single payment is not prescribed, but should be clear and in plain language. This could commence with an explanation of the arrangements relating to the single payment of the *adviser charge*, including any specific provision as to the circumstances when an *adviser charge* will be payable (including where relevant, payment of any “non-contingent” *adviser charge* (i.e. where the *client* will be charged even if they do not purchase a product)), the type of payments accepted by the *firm* and the timing for the payment of the *adviser charge*. For example:

“Whether you buy a product or not, you will pay us an adviser charge for our advice and services, which will become payable on completion of our work.”

“You will be required to settle the payment of your adviser charge on completion of our work in [insert number of days] days. We accept cheque or card payments. We do/do not accept payment by cash. You will be provided with a receipt upon payment.”

Note 20 – Additional text to be included under the heading “Settling your adviser charge by instalments”

This text should be included where a *firm* is offering payment of its *adviser charge* by instalments and no ongoing service is provided. *Firms* should make it clear that the option to pay by instalment does not relate to an ongoing service. A *firm* which offers the payment of an *adviser charge* over a period of time for ongoing services should use the text in **Note 24** below.

A *firm* should note that the option for *clients* to pay their *adviser charge* by instalments is only permitted where regular premium products are recommended (see COBS 6.1.A.21R). If a *firm* offers the option to pay the *adviser charge* by instalments, the *firm* must use the headings (i) “Settling your adviser charge by instalments” and (ii) the following sub-headings as applicable: “Paying by instalments through your recommended product” and/or “Paying by other arrangements”.

The text for describing the option to pay for the *adviser charge* by instalments is not prescribed, but should be clear and in plain language. This should commence with an explanation of the

arrangements relating to the payment of the *adviser charge* over time.

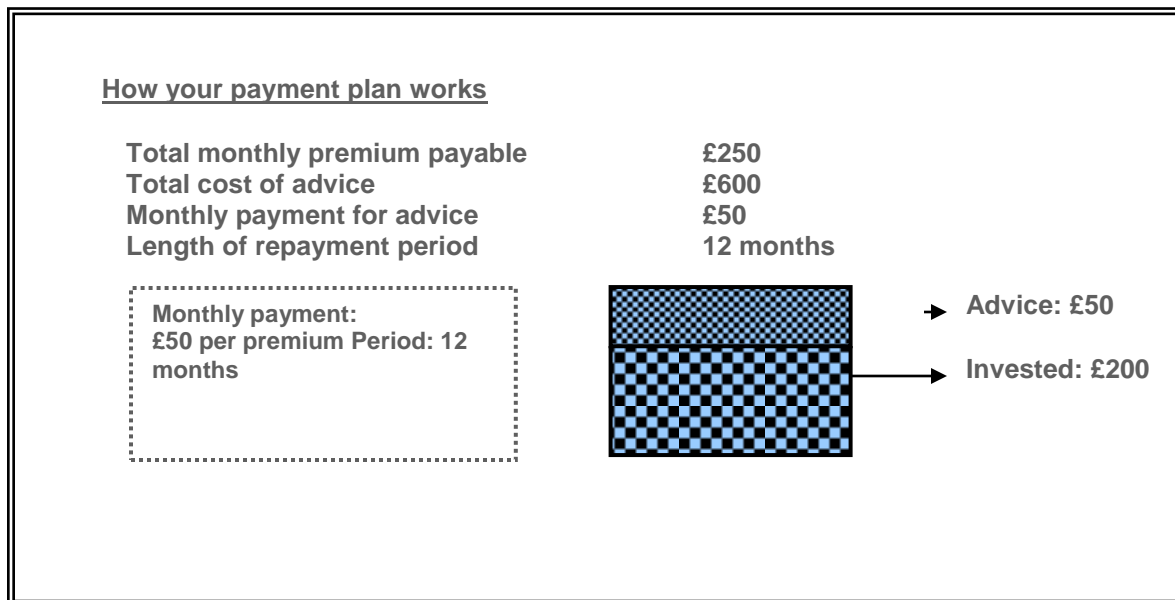
Note 21 – Additional text to be included under the heading “Paying by instalments through your recommended product”

A *firm* which offers the *client* the option to have the *adviser charge* facilitated through a *retail investment product* should include this heading. The text for describing a *client’s* option to pay by instalment through the recommended *retail investment product* is not prescribed, but should be clear and in plain language. This could commence with an explanation of the arrangements including any specific provision as to the circumstances when this option is permitted/not permitted and the frequency and period over which this arrangement will operate. A *firm* could consider the use of graphical representations to ensure that the *client* understands what they are paying for, how much they are required to pay and how frequently.

For example

“If you buy a financial product, you can choose to have your adviser charge deducted from the product through instalments. Although you pay nothing to us up front, that does not mean that our service is free. You still pay us indirectly through deductions from the amount you pay into your product. These deductions will pay towards settling the adviser charge. These deductions could reduce the amount left for investment.”

and



with the following text:

“You have chosen to pay for the advice you have received today through instalments. These instalments will be deducted from the premium you pay each month and allocated towards settling

the adviser charge. For example, the total cost of advice is £600. You have been recommended a regular premium product of which £250 will be paid each month. £50 will be taken from this amount to pay off your adviser charge over 12 months. The remaining £200 will be invested during this time. At the end of this period the adviser charge would have been settled in full. From month 13 the full £250 will be invested.”

Note 22 – Additional text to be included under the heading “Paying through other arrangements”

Where a *firm* is offering the option to pay its *adviser charge* by instalments through arrangements other than facilitating payment through the recommended *retail investment product*, it must use the heading “Paying through other arrangements”. The text for describing the *client’s* option to pay through other arrangements is not prescribed, but should be in clear and plain language. This could commence with an explanation of the option to pay through other arrangements and how this could work in practice.

Note 23 – Keeping up with your payments

This text is not prescribed, but a *firm* must include the heading “Keeping up with your payments” if it is offering the *client* the option to pay by instalments. In this section the *firm* should outline the implications for the *client* if they fail to keep up with their payments before the *adviser charge* has been paid, including if its recommended product is cancelled before the *adviser charge* is paid.

Note 24 – Payment for ongoing services

If a *firm* provides an ongoing service to the *client* for which there is an *adviser charge* payable over a period of time, the *firm* must include the heading “Payment for ongoing services”. The text for describing how the *client* pays for ongoing service is not prescribed but should be in clear and plain language and should also include the nature of the service to be provided.

For example

“We have a range of ongoing services we can provide to ensure that your personal recommendation is reviewed frequently and remains relevant to your changing circumstances. The frequency of the charge will depend on the service you choose and is usually made by direct debit on the 1st of every month. Ask your adviser for more details.”

“We offer an ongoing service where we review your account every 3 months and inform you of new recommendations or changes that may be relevant to your circumstances. This service is provided at a charge of [insert charge here] per month and can be either deducted from your investment or paid by direct debit. This service can be cancelled at any time. Please ask your adviser for more details.”

Note 25 – in order to comply with *COBS* 2.3.1R as qualified by 2.3.2R, a *firm* receiving a benefit, in relation to the facilitation of the payment of an *adviser charge* may wish to disclose those benefits in summary form here, under the heading “**Other benefits we may receive**”. If a *firm* does so, it should provide the undertaking described in *COBS* 2.3.2R(1) (to provide further details on

request) in writing, in this section and honour that undertaking.

For example

“ABC firm provides us with a specialised software CD-ROM and accompanying [XX] hours worth of training per annum. We use this software in processing your details when you apply for an investment product and wish to facilitate the payment of the adviser charge through deductions from your investment. Some of the cost of this software may be passed on to you as part of the total charges you pay ABC firm. Further information regarding this arrangement is available on request.”

Section 5: Who regulates us?

Note 26 – the *firm* may omit this section for services relating to *packaged products* if the *firm* has, on first contact with the *client*, provided the *client* with its *client* agreement which contains that information. If this section is omitted, the other sections of the *services and costs disclosure document* should be renumbered accordingly.

Note 27 – if the *firm's* address on the *FSA Register* differs from that given on the *services and costs disclosure document* under Note 3, the address on the *FSA Register* should be given in this section. If the address is the same as that given under Note 3 it should be repeated in this section.

Note 28 – where the *authorised firm* trades under a different name from that under which it is *authorised*, it should include the name under which it is *authorised* and listed in the *FSA Register*. It may also include its trading name(s) if it wishes.

Note 29 – an *incoming EEA firm* will need to modify this section if it chooses to use the *services and costs disclosure document* (see *GEN 4 Annex 1R(2)*). A *tied agent* that is regulated in an *EEA State* other than the *United Kingdom* will similarly need to modify this section.

Note 30 – insert a short, plain language description of the business for which the *firm* has a *permission* which relates to the service it is providing.

Note 31 – where the information is provided by an *appointed representative* or *tied agent*, the *appointed representative* or *tied agent* should use this text instead. The *appointed representative* or *tied agent* should give details of the *authorised firm(s)* that is its *principal(s)* for each type of service that it is providing to a particular *client*.

Section 6: Loans and ownership

Note 32 – omit this section where there are no relevant loan or ownership arrangements under the following notes. If this section is omitted the other sections of the *services and costs disclosure document* should be renumbered accordingly. Where the information is provided by an *appointed representative* or *tied agent*, it should cover loans made to or by that *appointed representative* or *tied agent*, or holdings in or held by that *appointed representative* or *tied agent*, as appropriate.

Note 33 – insert, in the *firm's* own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of the *firm* which is held by a provider or *operator* of a *packaged product* or by the parent of the provider or *operator*.

Note 34 – insert, in the *firm's* own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of a provider or *operator* of a *packaged product* which is held by the *firm*.

Note 35 – insert, in the *firm's* own words, a short description of any *credit* provided to the *firm* by a *product provider* (other than *commission* due to the *firm* in accordance with an indemnity claw-back arrangement) or by any *undertaking* in the *immediate group* of the *product provider* where the amount of the *credit* exceeds 10 per cent of the share and loan capital of the *firm*.

Section 7: What to do if you have a complaint

Note 36 – if different to the address in Note 3, give the address and telephone number which is to be used by *clients* wishing to complain.

Note 37 – if the *firm* is carrying on an activity from an establishment which is outside the *United Kingdom* it should make clear that the *Financial Ombudsman Service* will not be available. The *firm* may refer to any similar complaints scheme that may be applicable.

Section 8: Are we covered by the Financial Services Compensation Scheme (FSCS)?

Note 38 – when an *incoming EEA firm* provides the *services and costs disclosure document*, it should modify this section as appropriate.

Note 39 – when a *firm* which is not a *participant firm* provides the *services and costs disclosure document*, it should answer this question ‘No’ and should state the amount of cover provided (if any) and from whom further information about the compensation arrangements may be obtained.

Amend the following as shown.

6 Annex 2 **Combined initial disclosure document described in COBS 6.3, ICOBS 4.5, MCOB 4.4.1R(1) and MCOB 4.10.2R(1)**

....



about our services and costs [Note 1]



[Note 2]

[Note 3]
[123 Any Street
Some Town
ST21 7QB]

1 The Financial Services Authority (FSA)

The FSA is the independent watchdog that regulates financial services. This document is designed by the FSA to be given to consumers considering buying certain financial products. You need to read this important document. It explains the service you are being offered and how you will pay for it.

2 Whose products do we offer? [Note 4][Note 6]

Investment

- ~~[We offer products from the whole market.] [Note 5] [We offer our own product(s); you can ask us for a list, but our recommendation will be made following an analysis of the whole market.] [Note 8]~~

Please refer to section 3 of this document

- ~~We [can] [Note 7] only offer products from a limited number of companies. [These include our own product(s) but our recommendation will be made following an analysis of our entire range of products.] [Note 9]
Ask us for a list of the companies whose products we offer. [Note 15]~~

- ~~We [can] [Note 7] only offer [a] product[s] from [a single group of companies] [name of single company]. [Note 11(1)] [Note 16]
[or] [Note 11(2)]
We only offer our own products.~~

~~[free text [Note 17]]~~

Insurance

- We offer products from a range of insurers [for] [list the types of *non-investment insurance contracts*].

We [can] **[Note 7]** only offer products from a limited number of insurers [for] [list the types of *non-investment insurance contracts*].

Ask us for a list of the insurers we offer insurance from. **[Note 15]**

We [can] **[Note 7]** only offer [a] product[s] from [a single insurer] [name of single *insurance undertaking*] [for] [list the types of *non-investment insurance contracts*]. **[Note 10] [Note 11(1)] [Note 16]**

[or] **[Note 11(2)]**

We only offer our own products for [list the types of *non-investment insurance contracts*].

Home Finance Products [Note 13]

[Compliance with Islamic law [Note 18]

Our services are regularly checked by [name(s) of scholar(s)] to ensure compliance with Islamic law. Ask us if you want further information about the role of our scholar(s).]

[1] [Lifetime] [Mortgages] [Equity Release Products] [and home reversion schemes] [Note 13]

We offer [lifetime] [mortgages] [home reversion plans] [equity release products] from the whole market.

We [can] **[Note 7]** only offer [lifetime] [mortgages] [home reversion plans] [equity release products] from a limited number of [lenders / companies].
Ask us for a list of the [lenders / companies] we offer [lifetime] [mortgages] [home reversion plans] [equity release products] from. **[Note 14]**

We [can] **[Note 7]** only offer [a limited range of the] [a] [lifetime] [mortgage] [s] [home reversion plan] [s] [equity release products] from [a single lender / company] [name of single lender / company]. **[Note 11(1) and (3)] [Note 16]**

[or]

We only offer our own [lifetime] [mortgages] [home reversion plan] [equity release products]. **[Note 11(2)]**

We do not offer [lifetime mortgages] [home reversion plans]. **[Note 12]**

[2] [Islamic Home Purchase Plans] [Note 19] [Note 13]

- We offer Islamic home purchase plans from the whole market.
- We [can] [Note 7] only offer Islamic home purchase plans from a limited number of providers.
Ask us for a list of the providers we offer Islamic home purchase plans from. [Note 14]
- We [can] [Note 7] only offer [a limited range of the] [a] Islamic home purchase plan [s] from [a single provider] [name of single provider]. [Note 11(1) and (3)][Note 16]
[or]
We only offer our own Islamic home purchase plans. [Note 11(2)]

3 Which service will we provide you with? [Note 4][Note 6]

Investment

- Independent advice – We will advise and make a recommendation for you after we have assessed your needs. Our recommendation will be based on a comprehensive and fair analysis of the market. [Note A]
- Restricted advice – We will advise and make a recommendation for you after we have assessed your needs, but we only offer products from one company or a limited number of companies. [Note B]~~You will not receive advice or a recommendation from us. We may ask some questions to narrow down the selection of products that we will provide details on. You will then need to make your own choice about how to proceed.~~
- No advice - You will not receive advice or a recommendation from us. We may ask some questions to narrow down the selection of products that we will provide details on. You will then need to make your own choice about how to proceed. We will provide basic advice on a limited range of stakeholder products and in order to do this we will ask some questions about your income, savings and other circumstances but we will not:
- ~~• conduct a full assessment of your needs;~~
 - ~~• offer advice on whether a non-stakeholder product may be more suitable~~
- [Note 5]

[free text [Note 20]]

Insurance

- We will advise and make a recommendation for you after we have assessed your

needs [for] [list the types of *non-investment insurance contracts*].

- You will not receive advice or a recommendation from us [for] [list the types of *non-investment insurance contracts*]. We may ask some questions to narrow down the selection of products that we will provide details on. You will then need to make your own choice about how to proceed.

[Home Finance Products] [Note 13]

[1] [Mortgages] [Equity Release Products] [Note 13]

- We will advise and make a recommendation for you on [lifetime mortgages] [home reversions] [equity release products] after we have assessed your needs.
- You will not receive advice or a recommendation from us. We may ask some questions to narrow down the selection of [lifetime mortgages] [home reversions] [equity release products] that we will provide details on. You will then need to make your own choice about how to proceed.

[2] [Islamic Home Purchase Plans] [Note 13]

- We will advise and make a recommendation for you after we have assessed your needs.
- You will not receive advice or a recommendation from us. We may ask some questions to narrow down the selection of products that we will provide details on. You will then need to make your own choice about how to proceed.

4 What will you have to pay us for our services? [Note 20A]

Investment

[You will pay for our services on the basis of [insert charging arrangements [Note 20B]]. We will discuss your payment options with you and answer any questions you have. We will not charge you until we have agreed with you how we are to be paid.[Note 20C]]

[non-advised services [Note 21 -23]]

[Advised services [Note 24]]

The cost of our services [Note 25-27]

Your payment options [Note 28A]

[Settling your adviser charge through a single payment [Free text Note 28B]]

[Settling your adviser charge by instalments [Free text Note 28C]]

[Paying by instalments through your recommended product [Free text Note 28D]]

[Paying through other arrangements [Free text Note 28E]]

[Keeping up with your payments [Free text Note 29]]

[Payment for ongoing services [Free text Note 30]]

[Other benefits we may receive [Note 31]]

~~{non-advised sales [Note 20B]}~~

~~{You will pay for our services on the basis of [Note 21][Note 22]. We will discuss your payment options with you and answer any questions you have. We will not charge you until we have agreed with you how we are to be paid.}~~

~~{Paying by fee [Note 23]}~~

~~{free text [Notes 24-25]}~~

~~{Paying by commission (through product charges) [Note 23]}~~

~~{free text [Notes 26-28]}~~

~~{Paying by a combination of fee and commission (through product charges)[Note 23]}~~

~~{free text [Notes 29-30]}~~

~~{Other benefits we may receive [Note 31]}~~

~~{free text [Note 31]}~~

Insurance [Note 32]

- A fee [of £ [] [for] [list the types of services provided for *non-investment insurance contracts*].
- No fee [for] [list the types of services provided for *non-investment insurance contracts*].

You will receive a quotation which will tell you about any other fees relating to any particular insurance policy.

[Home Finance Products] [Note 13]

[1] [Mortgages] [Equity Release Products] [Note 13]

- No fee. [We will be paid by commission from the [lender/company that buys your home].] [Note 33]
- A fee of £[] payable at the outset and £[] payable when you apply for a [lifetime] [mortgage] [home reversion plan] [equity release product]. [We will also be paid commission from the [lender/company that buys your home.]]. [Note 33] [Note 34]

You will receive a *key facts illustration* when considering a particular [lifetime] [mortgage] [home reversion plan] [equity release product], which will tell you about any fees relating to it. [Note 13]

Refund of fees [Note 32] [Note 13]

If we charge you a fee, and your [lifetime] [mortgage] [home reversion plan] does not go ahead, you will receive: [Note 35]

- A full refund [if the [lender/company] rejects your application]. [Note 36]
- A refund of £ [] [if your application falls through]. [Note 36] [Note 37] [Note 38]
- No refund [if you decide not to proceed]. [Note 36]

[2] [Islamic Home Purchase Plans] [Note 13]

- No fee. [We will be paid by commission from the provider.] [Note 33]
- A fee of £[] payable at the outset and £[] payable when you apply for an Islamic home purchase plan. [We will also be paid commission from the provider]. ~~[Note 18]~~ Note 18

Refund of fees [Note 35]

If we charge you a fee, and your Islamic home purchase plan does not go ahead, you will receive: [Note 32]

- A full refund [if the provider] rejects your application]. [Note 36]
- A refund of £ [] [if your application falls through]. [Note 36] [Note 37] [Note 38]
- No refund [if you decide not to proceed]. [Note 36]

5 Who regulates us? [Note 39]

[ABC Financial Services] [123 Any Street, Some Town, ST21 7QB] [Note 40] [Note 41] is authorised and regulated by the Financial Services Authority. Our FSA Register number is []. [Note 42]

Our permitted business is []. [Note 43]

[or] [Note 44]

[Name of *appointed representative* or *tied agent*] [Note 2] is [an appointed representative or a tied agent] of [name of *firm*] [address of *firm*] [Note 40] [Note 41] which is authorised and regulated by the Financial Services Authority. [Name of *firm's*] FSA Register number is [].

[Name of *firm's*] permitted business is [] [Note 43] [Name of *appointed representative* or

ti ed agent] is regulated in [an EEA state or the United Kingdom] [Note 42]

You can check this on the FSA's Register by visiting the FSA's website www.fsa.gov.uk/register or by contacting the FSA on 0845 606 1234. [Note 42]

6 Loans and ownership [Note 45]

[[XXX plc] owns [YY]% of our share capital]

[[XXX plc] provides us with loan finance of £[YY] per year.]

[[XXX] (or we) have [YY]% of the voting rights in [ZZZ].] [Note 45][Note 46]
[Note 47][Note 48][Note 49][Note 50]

7 What to do if you have a complaint [Note 39]

If you wish to register a complaint, please contact us:

...in writing Write to [ABC Financial Services], [Complaints Department, 123 Any Street, Some Town, ST21 7QB].

... by phone Telephone [0121 100 1234]. [Note 41 51]

If you cannot settle your complaint with us, you may be entitled to refer it to the Financial Ombudsman Service. [Note 52] [Note 53] [Note 54]

8 Are we covered by the Financial Services Compensation Scheme (FSCS)? [Note 39] [Note 55] [Note 56]

We are covered by the FSCS. You may be entitled to compensation from the scheme if we cannot meet our obligations. This depends on the type of business and the circumstances of the claim.

Investment

Most types of investment business are covered up to a maximum limit of £50,000.

Insurance

Insurance advising and arranging is covered for 90% of the claim, without any upper limit.

[or] [Note 57] [Note 58]

For compulsory classes of insurance, insurance advising and arranging is covered for 100% of the claim, without any upper limit.

[Mortgages] [and] [and Home Purchase Plans] [Equity Release Products] [Note 13]

[Mortgage], [and] [Home purchase] [and] [Equity release] advising and arranging is covered up to a maximum limit of £50,000.

Further information about compensation scheme arrangements is available from the FSCS.

[Note 59] Message from the Financial Services Authority

Think carefully about this information before deciding whether you want to go ahead.

If you are at all unsure about which equity release product is right for you, you should ask your adviser to make a recommendation.

[Note 60] Think carefully about the product and services you need. [We can only offer services in relation to Islamic home purchase plans and cannot provide advice on standard mortgages.] [If you want [information][or][advice] on standard mortgages, please ask.]

The following notes do not form part of the *combined initial disclosure document*.

Note 1 – permission to use the keyfacts logo: the *Financial Services Authority* has developed a common keyfacts logo to be used on significant pieces of information directed to *clients*. The keyfacts logo and the text ‘about our services and costs’ may only be used and positioned as shown in the *combined initial disclosure document* (see *COBS 6.3.4R*). The logo may be re-sized and re-coloured. It may only be used if it is reasonably prominent and its proportions are not distorted. A specimen of the keyfacts logo can be obtained from the *FSA* website http://www.fsa.gov.uk/pubs/other/keyfacts_logo.

Note 2 – insert the *firm’s*, *appointed representative’s* or *tied agent’s* name (either the name under which it is *authorised* or the name under which it trades). A corporate logo or logos may be included. If an individual who is employed or engaged by an *appointed representative* or *tied agent* provides the information, the individual should not put his or her own name on the *combined initial disclosure document*.

Note 3 – insert the head office and/or if ~~more~~ appropriate the principal place of business from which the *firm*, *appointed representative* or *tied agent* expects to conduct business (this can include a *branch*) with *clients*. (An *appointed representative* or *tied agent* should not include the name and address of the *authorised firm* instead of its own.)

Section 2: Whose products do we offer? And Section 3: Which services will we provide you with?

Note 4 – a *firm* should describe the services that it expects to provide to, the particular *client*. For services in relation to:

- ~~*investments packaged products*~~ – the *firm* should select, for example by ticking, the box(es) which are appropriate for the service that it expects to provide to the *client*. This needs to be done only in relation to the service the *firm* is offering to a particular *client*. More than one box can be selected if more than one service is being offered to a particular *client*. If more than one box is selected, the *firm* should clearly explain the different nature of the services by adding text to this section, such that the explanation of the services the *firm* offers under this section is fair, clear and not misleading. Do not remove boxes that are not selected.
The *firm* should tick the first box in section 2 if it will be providing *independent advice*. The *firm* should tick the second box in section 2 if it will be providing *restricted advice*, including *basic advice* (on *stakeholder products*).
- ~~the *firm* should tick the third box in section 2 if it will not be providing advice~~ the *firm* should select, for example by ticking, one box.
- *non-investment insurance contracts* – the *firm* should select more than one box if the scope of the service or the type of service it provides varies by type of contract (e.g. if it deals with a single *insurance undertaking* for motor insurance and a range of *insurance undertakings* for household insurance). If more than one box is selected, the *firm* should specify which box relates to which type of *non-investment insurance contract*, by adding text to the *combined initial disclosure document*. *Firms* should not omit the boxes not selected.
- *equity release transactions* – the *firm* should select a maximum of two boxes within this section. *Firms* should not omit the boxes not selected.

~~**Note 5** – if a *firm* indicates that it will give *basic advice* then the first box in section 2 should not be ticked as the *firm* will not be doing so on the basis of *personal recommendations* from the whole market.~~

Note 6 – if the *combined initial disclosure document* is provided by an *appointed representative* or *tied agent*, the service described should be that offered by the *appointed representative* or *tied agent*.

Note 7 – insert “can” if the *firm*’s range of products is determined by any contractual obligation. This does not apply where a *product provider*, *insurer*, *lender*, *home purchase provider* or *home reversion provider* is selling its own products.

Note A – if the *firm* selects this box and the *firm* does not consider all *retail investment products*, the *firm* should include an explanation of the types of products it does consider, in a way that meets the *fair, clear and not misleading rule*. For example, if a *firm* only considers ethical and socially responsible investments, this should be explained here.

Note B – if the *firm* selects this box, it will be offering:

- (a) products from a limited number of companies; or
- (b) products of a single company or single group of companies; or
- (c) its own products (e.g. where the *firm* is a *product provider* offering only its own

products, or is part of a *product provider* offering only the products sold under that part's trading name); or

(d) *basic advice on stakeholder products*.

The *firm* should replace the preceding text with the relevant text as set out below. If the *firm* does not select this box, then no amendments should be made to the preceding text.

(a)	“Restricted advice – We will advise and make a recommendation for you after we have assessed your needs. We [can] [Note a] only offer products from a limited number of companies. You may ask us for a list of the companies whose products we offer.” [Note b].
(b)	“Restricted advice – We will advise and make a recommendation for you after we have assessed your needs. We [can] [Note a] only offer products from [name of provider].” or if the provider has only one product the <i>firm</i> should amend the text to the singular, for example “We [can] [Note a] only offer a pension from [name of provider].”
(c)	“Restricted advice – We will advise and make a recommendation for you after we have assessed your needs. We only offer our own products.”
(d)	“Restricted advice – We will provide basic advice on a limited range of stakeholder products and in order to do this we will ask some questions about your income, savings and other circumstances, but we will not conduct a full assessment of your needs or offer advice on whether a non-stakeholder product may be more suitable.” [Note c]: “We [can] [Note a] offer products from a single stakeholder product provider.”; or “We [can] [Note a] offer products from a limited number of stakeholder product providers You may ask us for a list of the companies whose products we offer.” [Note b]; or “We only offer our own stakeholder products.”

[Note a] – insert “can” if the *firm*'s range of products is determined by any contractual obligation.

[Note b] – the list of products will be the range of *retail investment products* that is appropriate having regard to the services that the *firm* is providing, or may provide, to the *client*. For services provided in relation to non-investment insurance contracts, this is the list required by *ICOB*S 4.1.6R(2).

[Note c] – the *firm* should insert one of the three statements, whichever is relevant.

Note 8 – a *firm* should only include these words if it offers whole of market *personal recommendations* and it owns or operates products that fall within the relevant market (e.g. a *SIPP*). *Firms* that are conducting cross border business and holding themselves out as whole of market, should include such free text as is necessary to explain in a way that meets the *fair, clear and not misleading rule* and the *clients best interest rule*, what whole of market means in that context.

Note 9 – a *firm* should only include these words if it offers limited range *personal recommendations* and it owns or operates products that fall within the relevant range (e.g. a *SIPP*).

Note 10 – if the *insurance intermediary* or *insurer* deals with a different *insurance*

undertaking for different types of *non-investment insurance contracts*, it should identify all the *insurance undertakings* and specify the type of contract to which they relate on the *combined initial disclosure document*. This only needs to be done in relation to the service it is offering a particular *client*. For example, “we can only offer products from ABC Insurance for motor insurance and ABC Insurance for household insurance”.

Note 11 – if the *firm* selects this box, it will be offering the products of one provider for a particular product type. It should therefore follow the format specified in (1) below except when offering its own products, in which case it should follow (2) instead. In the case of *non-investment insurance contracts*, where the *firm* is providing a service in relation to different types of insurance, this box covers the situation where it is offering a particular type of insurance from a single *insurance undertaking*.

- (1) Insert the name of the provider, namely the *product provider* for *packaged products*, the *insurance undertaking(s)* for *non-investment insurance contracts*, the *lender* for *regulated mortgage contracts* and *regulated lifetime mortgage contracts* and the *home reversion provider* for *home reversion plans*. For example: “We can only offer products from [name of *product provider*]”. For *non-investment insurance contracts* the type of insurance offered should also be included. For example: “We only offer ABC’s household insurance and ABC’s motor insurance.” If the provider has only one product, the *firm* should amend the text to the singular – for example: “We can only offer a mortgage from [name of *lender*]”. If the *firm* does not offer all of the *home finance transactions* generally available from that provider, it should insert the words “a limited range of” as shown in the specimen.
- (2) If the *firm* is a *product provider* offering only its own products, or is part of a *product provider* offering only the products sold under that part’s trading name, it should use this alternative text.
- (3) If the *firm* offers *home reversion plans* from only one *reversion provider*, and *lifetime mortgages* from only one *lender*, which is different from the *reversion provider*, then the *firm* should identify the *lender* and the *reversion provider* and specify the type of *equity release transaction* to which they relate. For example, “We can only offer lifetime mortgages from ABC Mortgages Ltd and home reversion plans from ABC Reversions Ltd.”

Note 12 – if the *firm* does not give *personal recommendations* advise or give personalised information on both types of *equity release transactions*, then it should indicate to the *client* the sector that the *firm* does not cover. However, if the *firm*’s scope of service does not include *equity release transactions*, the last box (‘We do not offer [lifetime mortgages] [home reversion plans]’), should be omitted.

Note 13 – in describing the services and products provided, *firms* should omit the text in brackets that do not apply and ensure that they describe accurately their activities with respect of the services and products that they offer, as follows:

- (1) Headings and sub-headings:

- a. If the *firm* offers both *regulated mortgage contracts* and *home purchase plans*, it should include the heading “Home Finance Products” in the *combined initial disclosure document* and describe the *regulated mortgage contracts* and *home purchase plans* that it offers under two separate sub-headings. The sub-headings (“Mortgages” and “Home Purchase Plans”) should be numbered accordingly. If the *firm* only offers one of these two products, then the heading “Home Finance Products” should be omitted and the heading will read “Mortgages” or “Home Purchase Plans”, as appropriate.
 - b. If the *firm* offers *equity release transactions*, then the heading “Home Finance Products” should be omitted and the heading will read “Equity Release Products” (even if the *firm* offers *equity release transactions* from only one sector).
- (2) Describing the products:
- a. If a *firm* gives *personal recommendations* or gives personalised information on lifetime mortgages, it should change “mortgage” to “lifetime mortgage”
 - b. If a *firm* gives *personal recommendations* or gives personalised information on home reversion plans, it should use the text in brackets relating to home reversion plans.
 - c. If the *firm* gives *personal recommendations* or gives personalised information on products from both equity release market sectors, then it should use the term ‘equity release products’ when referring to them collectively.

(3) Describing the provider: If a *firm* gives *personal recommendations* or gives personalised information on *home purchase plans* or *home reversion plans*, it should change “mortgage” to “product” and “lender” to “company” or “provider”, as appropriate.

Note 14 – for services provided in relation to *home finance transactions*, this sentence is required only where a *firm* selects this service option. It may also be omitted if a *firm* chooses to list all of the *lenders*, *home purchase providers* and *home reversion providers* it offers *home finance transactions* from in the previous line, so long as the *firm* offers all of the products generally available from each.

Note 15 – this sentence is required only where a *firm* selects this service option. For services provided in relation to *packaged products*, the list of products will be the range of *packaged products* that is appropriate having regard to the services that the *firm* is providing, or may provide, to the *client*. For services provided in relation to *non-investment insurance contracts*, this is the list required by *ICOBS 4.1.6R(2)*.

Note 16 – if the *firm* does not select this box, it should alter the wording to say “a single group of companies” for *packaged products*, “a single insurer” for *non-investment*

insurance contracts, “a single lender” for *regulated mortgage contracts* or *lifetime mortgages* and “a single company” (or “a single provider”) for *home purchase plans* and *home reversion plans*. For example: “We only offer the products from a single group of companies” should replace the text in the specimen *combined initial disclosure document*.

~~**Note 17** – the explanation of whose products the *firm* offers under this section should be fair, clear and not misleading. A *firm* should therefore enter, as free text, such further explanation as is needed of any additional factors that it considers to be relevant.~~

Section 2: Subsection on “Compliance with Islamic law” or other beliefs

Note 18 – This subsection is optional unless the *firm* holds itself, its *regulated mortgage contract* or *home purchase plan* products or services out as compliant with Islamic law in the *combined initial disclosure document*. If a *firm* includes this section it should describe it as Section 2 and renumber subsequent sections accordingly.

A *firm* that wishes to hold itself, its *regulated mortgage contract* or *home purchase plan* products or services out as compliant with religious or philosophical beliefs other than Islamic law in the *combined initial disclosure document* may also use the subsection in accordance with this note and modify the wording in the section to the extent appropriate.

Note 19 – A *firm* that carries on *home purchase activities* may omit the word “Islamic” from “Islamic home purchase plan(s)” if one or more *home purchase plans* within its scope of service is not held out as compliant with Islamic law. If “Islamic” is omitted, it should be omitted consistently throughout the document. However, a *firm* may omit the word “Islamic” in sections 5 and 8 without having to omit it throughout the document. A *firm* that wishes to hold itself, its products or services out as compliant with religious or philosophical belief other than Islamic law in the *combined disclosure document* may make appropriate amendments to references to “Islamic” and “Islamic law”.

~~**Note 20** – a *firm* may include here a list of its services or the products on which advice is offered but if it chooses to do so the list should be fair, clear and not misleading and consist of only a factual description in summary form.~~

For example:

~~“We offer a full financial planning service or alternatively can provide specific advice on:~~

- ~~● — savings and investment,~~
- ~~● — protecting yourself and/or loved ones in the event of death, serious illness or disability,~~
- ~~● — retirement planning.”~~

Section 4: What will you have to pay us for our services?

~~**Note 20A**—any reference in this section to “commission” means *commission* and *commission equivalent*.~~

~~**Note 20B**—*firms* that are not proposing to give *personal recommendations* on *packaged products* can amend this section accordingly. Those *firms* need not provide information regarding payment options but should provide at this section at least a statement explaining that the *client* will be told how much the *firm* will be paid before the *firm* carries out any business for the *client* and honour that undertaking. For example, “We will tell you how we get paid and the amount before we carry out any business for you.”~~

~~**Note 21**—*firms* should disclose all of the payment options that they will offer to the client, from the alternatives of *fee*, *commission* and/or a combination of both *fee* and *commission*.~~

~~**Note 22**—*firms* holding themselves out as independent in accordance with COBS 6.2.15R are reminded that they are required to offer the *fee* option.~~

~~**Note 23**—*firms* should include the headings: “**Paying by fee**”, “**Paying by commission (through product charges)**” and “**Paying by a combination of fee and commission (through product charges)**”. In addition, in accordance with the reference notes, a *firm* should provide an explanation in its own words relating to each option offered.~~

~~Additional text to be included under the heading “Paying by fee”~~

~~**Note 24**—the text for describing a *firm’s fee* charging arrangements is not prescribed, but should be clear and in plain language. This should commence with an explanation of the arrangements relating to the payment of *fees*, including any specific provision as to the timing for the payment of *fees*, the circumstances when *fees* will or will not be payable, (including where relevant payment of any “contingent” *fee*) and the arrangements for any *commission* paid in addition to *fees*.~~

For example:

~~“Whether you buy a product or not, you will pay us a fee for our advice and services, which will become payable on completion of our work. If we also receive *commission* from the product provider when you buy a product, we will pass on the full value of that *commission* to you in one or more ways. For example, we could reduce our fee; or reduce your product charges; or increase your investment amount; or refund the *commission* to you.”~~

~~Example alternative text for the contingent fee—“If you buy a financial product, you will pay us a fee for our advice and services but if you do not buy a financial product, you will not have to pay us anything.”~~

~~**Note 25**—a *firm* should provide numerical statements of the amount or rate of its *fees* and these should be expressed in pounds sterling or another appropriate currency, where relevant.~~

~~A *firm* may describe actual hourly rates where possible or typical hourly rates. If a *firm* describes typical rates it should undertake to provide the actual rate in writing before providing services (and honour that undertaking).~~

For example:

~~“Hourly Rate~~

~~We will confirm the rate we will charge in writing before beginning work. Our typical charges are:~~

~~Principal/Director/Partner £[XX-YY] per hour~~

~~Financial adviser £[XX-YY] per hour~~

~~Administration £[XX] per hour~~

~~We will tell you if you have to pay VAT.”~~

~~“Lump sum~~

~~We will confirm what we will charge you in writing before beginning work. Our typical charges are:~~

~~are:~~

~~Investments up to £[XX : YY]~~

~~Investments above £[XX : ZZ]~~

~~We will tell you if you have to pay VAT.”~~

~~“Reviews~~

~~We will confirm what we will charge you in writing before beginning work. Our typical charges are:~~

~~are:~~

~~Initial review : £[XX]~~

~~Annual review : £[YY]~~

~~We will tell you if you have to pay VAT.”~~

~~“We may charge from £[XX] to advise and arrange a personal pension for you. We will confirm what we will charge you in writing before beginning work.”~~

~~“We will confirm the rate we will charge in writing before beginning work and we will tell you if you have to pay VAT. You may ask us for an estimate of how much in total we might charge. You may also ask us not to exceed a given amount without checking with you first.”~~

~~Additional text to be included under the heading “Paying by commission (through product charges)”~~

~~**Note 26**—the text for describing a *firm’s* commission payment arrangements is not prescribed, but should be clear and in plain language. This should commence with an explanation of the arrangements relating to the payment of commission.~~

For example:

“If you buy a financial product, we will normally receive commission on the sale from the product provider. Although you pay nothing to us up front, that does not mean our service is free. You still pay us indirectly through product charges. Product charges pay for the product provider’s own costs and any commission. These charges reduce the amount left for investment. If you buy direct, the product charges could be the same as when buying through an adviser, or they could be higher or lower.”

Note 27—the *firm* should provide details of typical commission that might be received by the *firm* that reflect its actual business, together with an undertaking (which the *firm* should honour) to confirm the actual commission that will be received from any investments before the investment is completed. For example, a *firm* that does not have a significant weighting of business in any one area may provide examples showing commission for lump sum investments, whole life and pensions, whereas a pensions specialist may want to illustrate commission based purely on pensions.

For example:

“The amount of commission we receive will vary depending on the amount you invest and (sometimes) how long you invest or your age.”

For example,

- “If you invest £[XX] in an individual savings account (ISA) we would receive commission of [Y]% of the amount invested (£[ZZ]) and [AA]% of the value of the fund (roughly £[BB] every year).
- If you pay £[XX] a month into a personal pension (with a term of 25 years) then we would receive commission of £[YY].
- If you pay £[XX] towards a whole life policy then we would receive £[YY].

We will tell you how much the commission will be before you complete an investment, but you may ask for this information earlier.”

Note 28—*firms* should indicate whether the commission includes payment for any ongoing service such as a periodic or ongoing review.

Additional text to be included under the heading “Paying by a combination of fee and commission (through product charges)”

Note 29—the text for describing a *firm*’s arrangements for paying by a combination of *fee* and commission is not prescribed, but should be clear and in plain language. This should commence with an explanation of the arrangements relating to the payment of *fees*, including any specific provision as to the timing for the payment of *fees*, the circumstances as to when *fees* will or will not be payable, (including where relevant payment of any “contingent” *fee*) and the arrangements for any commission paid in addition to *fees*, together with an undertaking (which the *firm* should honour) to confirm the actual commission that will be received from any investments before the investment is completed.

For example:

~~“We will charge you a combination of fee and commission. The fee will not exceed the rates shown in this document. We will agree the rate we will charge before beginning work and we will tell you if you have to pay VAT. The fee will become payable on completion of our work. You may ask us for an estimate of how much in total we might charge. You may also ask us not to exceed a given amount without checking with you first. We will tell you how much the commission will be before you complete an investment, but you may ask for this information earlier.”~~

~~“We charge a consultation fee of up to £[X], and, if you buy a financial product, we will also retain commission within the amounts set out in the section headed **“Paying by commission (through product charges)”**.”~~

~~“We will charge you a combination of fees and commission. The actual amounts will depend on the service provided to you, but will be in line with the arrangements set out in the sections headed **“Paying by fee”** and **“Paying by commission (through product charges)”**.”~~

~~“We charge an annual fee as described in the fee information set out above. If we arrange for you to purchase a financial product, then we will also retain commission which will be in line with the arrangements set out in the section headed **“Paying by commission (through product charges)”**.”~~

~~**Note 30**—if *firms* offer a combination of *fee* and commission they can either:~~
~~(a) provide the detailed information relating to *fees* and commission, in which case *firms* should ensure that the information is provided in accordance with the guidance at the relevant Notes; or~~
~~(b) include an appropriate statement that refers the reader to the information provided under the headings of **“Paying by fee”** and **“Paying by commission (through product charges)”**.~~

~~**Note 31**—in order to comply with *COBS 2.3.1R* as qualified by *COBS 2.3.2R*, *firms* receiving non-monetary benefits may wish to disclose such benefits in summary form here, under the heading **“Other benefits we may receive”**. If a *firm* does so, it should provide the undertaking described in *COBS 2.3.2R(1)* (to provide further details on request) in writing, in this section (and honour that undertaking). However, it is not the purpose of this section to provide significant or extensive explanation of non-monetary benefits such that it distracts from the wider purpose of the document.~~

For example:

~~“We advise on a range of products from a variety of firms; some of these firms provide us with annual training, which allows us to offer you a better service. This year we expect to receive in total [XX] hours worth of training from XYZ, ABC and DEF firms, predominantly from ABC. Some of the cost of this training may be passed to you as part of the total charges you pay should you chose a product provided by XYZ, ABC or DEF. Further information regarding these arrangements is available on request.”~~

~~“ABC firm provides us with a specialised software CD-ROM and accompanying [XX] hours worth of training per annum. We use this software in processing your details when you apply for an investment product. Some of the cost of this software may be passed on to you as part of the total charges you pay ABC firm. Further information regarding this arrangement is available on request.”~~

Note 20A – in this section, the *firm* should outline how it intends to charge its *clients* for the services provided. If the *firm* is not intending to provide a *personal recommendation* it should refer to the notes under ‘Non-advised services’ below. If the *firm* is intending to provide a *personal recommendation*, it should refer to the notes under ‘Advised services’. If the *firm* is providing both a *personal recommendation* and ‘non-advised’ services, the *firm* should set out the charging arrangements for the non-advised and advised services separately, and make clear which charging arrangements apply to which service using appropriate sub-headings.

Note 20B – a *firm* should disclose all of the charging arrangements it offers its *clients*, from the alternatives of *adviser charge, fee, commission* or a combination.

Note 20C – if applicable, a *firm* should disclose to the *client* the possibility that other costs including taxes (for example VAT), related to transactions in connection with the *packaged product* and that are not paid via the *firm* or imposed by it, may arise for the *client*.

Notes for non-advised services

Note 21 – any reference in this section to “*commission*” means *commission* and *commission equivalent*.

Note 22 – a *firm* that is not proposing to give *personal recommendations on packaged products* can amend this section accordingly. The *firm* need not provide information regarding payment options but should provide at this section at least a statement explaining that the *client* will be told how much the *firm* will be paid before the *firm* carries out any business for the *client* and honour that undertaking. For example, “We will tell you how we get paid and the amount before we carry out any business for you.” If a *firm* chooses to provide the *client* with the total price in this section and any part of that price is to be paid in or represents an amount of foreign currency, the *firm* should provide an indication of the currency and the applicable currency conversion rates and costs.

Note 23 – in order to comply with COBS 2.3.1R as qualified by 2.3.2R, *firms* receiving non-monetary benefits may wish to disclose those benefits in summary form here, under the heading “**Other benefits we may receive**”. If a *firm* does so, it should provide the undertaking described in COBS 2.3.2R(1) (to provide further details on request) in writing, in this section and honour that undertaking. However, it is not the purpose of this section to provide significant or extensive explanation of non-monetary benefits such that it distracts from the wider purpose of the document.

For example

“We sell a range of products from a variety of firms; some of these firms provide us with

annual training, which allows us to offer you a better service. This year we expect to receive in total [XX] hours worth of training from XYZ, ABC and DEF firms, predominantly from ABC. Some of the cost of this training may be passed to you as part of the total charges you pay should you choose a product provided by XYZ, ABC or DEF. Further information regarding these arrangements is available on request.”

Notes for advised services

Note 24 – *firms* proposing to provide a *personal recommendation on packaged products* should use the following notes to provide information to the *client* on the *firm's* charging structure and the *client's* payment options.

Note 25 – a *firm* should include here its charging structure, outlining as closely as possible the services that it offers and the charge for each service. The *firm* should ensure that this is presented in clear and plain language and, as far as practicable, uses cash terms.

Note 26 – the charging structure should be expressed in pounds sterling or, where relevant, another appropriate currency. Where a *firm's* charging structure is in non-cash terms, examples in cash terms should be used to illustrate how the charging structure will be applied in practice. Where a *firm* uses hourly rates in its charging structure, it should state whether the rates are actual or indicative and provide an approximate indication of the number of hours a particular service may take. If a *firm* chooses to provide the *client* with the total *adviser charge* in this section and any part of that *adviser charge* is to be paid in or represents an amount of foreign currency, the *firm* should provide an indication of the currency and the applicable currency conversion rates and costs.

For example

Our charging structure

Service	Initial charge	Ongoing charge for twice yearly reviews
Review of your pension arrangements (pre-retirement)	Charged at £100 per hour (exc. VAT) - approx. 4-6 hours	
Advice on what to do with your pension fund (at retirement)	Charged at £130 per hour (exc. VAT) - approx. 2-3 hours	
Where to put your savings (for those with up to £25,000 to invest)	3% of your investment, if you go ahead with our recommendations	Service available on request for 0.5% of your investment per year

Note 27 – where a *firm* provides an ongoing service it should disclose the ongoing service that will be offered and that there will be an *adviser charge* for that service. The *firm* can also include in this section additional information the *client* would receive before the provision of the *personal recommendation* or related services.

For example

“There will be an additional charge for any ongoing work, such as periodic or ongoing reviews, we carry out on your behalf. We will confirm the rate, frequency and length of this ongoing service before beginning any ongoing service.”

Note 28A – a *firm* must use the headings (i) “Your payment options” and (ii) the following sub-headings as applicable: “Settling your adviser charge in a single payment” and/or “Settling your adviser charge by instalments”. A *firm* should outline the payment options offered to *clients* and any restrictions on these payment options. In addition, a *firm* should provide an explanation relating to each option offered in clear and plain language.

Note 28B – Additional text to be included under the heading “Settling your adviser charge in a single payment”

The text for describing how the *client* can settle the *adviser charge* through a single payment is not prescribed, but should be clear and in plain language. This could commence with an

explanation of the arrangements relating to the single payment of the *adviser charge*, including any specific provision as to the circumstances when an *adviser charge* will be payable (including where relevant, payment of any “non-contingent” *adviser charge* (i.e. where the *client* will be charged even if they do not purchase a product)), the type of payments accepted by the *firm* and the timing for the payment of the *adviser charge*. For example:

“Whether you buy a product or not, you will pay us an adviser charge for our advice and services, which will become payable on completion of our work.”

“You will be required to settle the payment of your adviser charge on completion of our work in [insert number of days] days. We accept cheque or card payments. We do/do not accept payment by cash. You will be provided with a receipt upon payment.”

Note 28C – Additional text to be included under the heading “Settling your adviser charge by instalments”

This text should be included where a *firm* is offering payment of its *adviser charge* by instalments and no ongoing service is provided. *Firms* should make it clear that the option to pay by instalment does not relate to an ongoing service. A *firm* which offers the payment of an *adviser charge* over a period of time for ongoing services should use the text in **Note 30** below.

A *firm* should note that the option for *clients* to pay their *adviser charge* by instalments is only permitted where regular premium products are recommended (see COBS 6.1A.22R). If a *firm* offers the option to pay the *adviser charge* by instalments, the *firm* must use the headings (i) “Settling your adviser charge by instalments” and (ii) the following sub-headings as applicable: “Paying by instalments through your recommended product” and/or “Paying by other arrangements”.

The text for describing the option to pay for the *adviser charge* by instalments is not prescribed, but should be clear and in plain language. This should commence with an explanation of the arrangements relating to the payment of the *adviser charge* over time.

Note 28D – Additional text to be included under the heading “Paying by instalments through your recommended product”

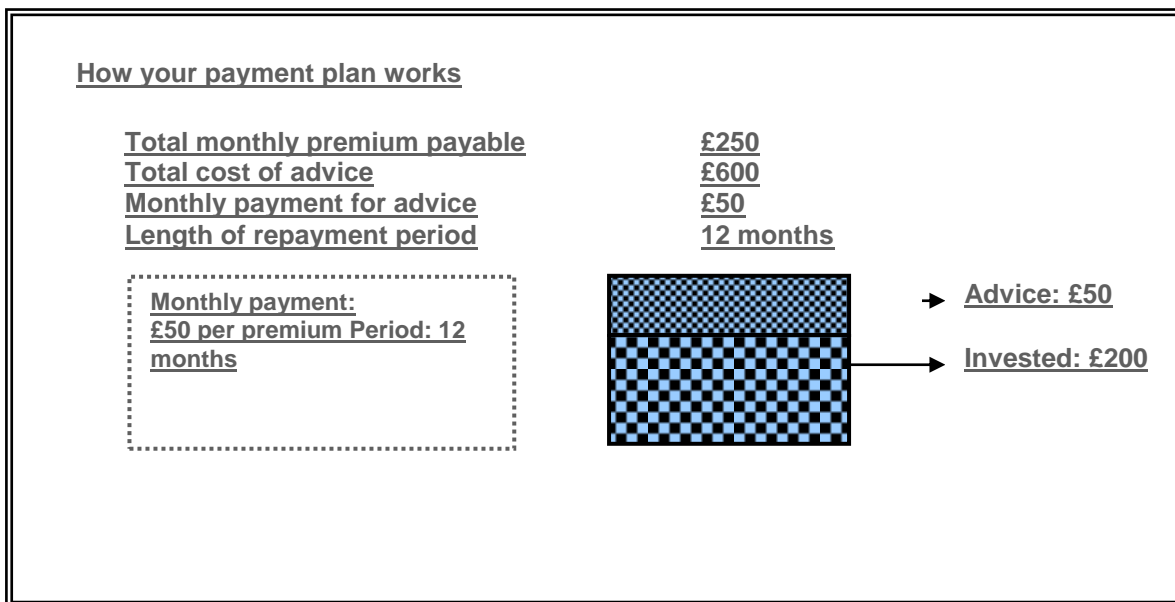
A *firm* which offers the *client* the option to have the *adviser charge* facilitated through a *retail investment product* should include this heading. The text for describing a *client’s* option to pay by instalment through the recommended *retail investment product* is not prescribed, but should be clear and in plain language. This could commence with an explanation of the arrangements including any specific provision as to the circumstances when this option is permitted/not permitted and the frequency and period over which this arrangement will operate. A *firm* could consider the use of graphical representations to ensure that the *client* understands what they are paying for, how much they are required to pay and how frequently.

For example

“If you buy a financial product, you can choose to have your adviser charge deducted from the product through instalments. Although you pay nothing to us up front, that does not mean that

our service is free. You still pay us indirectly through deductions from the amount you pay into your product. These deductions will pay towards settling the adviser charge. These deductions could reduce the amount left for investment.”

and



With the following text:

“You have chosen to pay for the advice you have received today through instalments. These instalments will be deducted from the premium you pay each month and allocated towards settling the adviser charge. For example, the total cost of advice is £600. You have been recommended a regular premium product of which £250 will be paid each month. £50 will be taken from this amount to pay off your adviser charge over 12 months. The remaining £200 will be invested during this time. At the end of this period the adviser charge would have been settled in full. From month 13 the full £250 will be invested.”

Note 28E – Additional text to be included under the heading “Paying through other arrangements”

Where a firm is offering the option to pay its adviser charge by instalments through arrangements other than facilitating payment through the recommended retail investment product, it must use the heading “Paying through other arrangements”. The text for describing the client’s option to pay through other arrangements is not prescribed, but should be in clear and plain language. This could commence with an explanation of the option to pay through other arrangements and how this could work in practice.

Note 29 – Keeping up with your payments

This text is not prescribed but a firm must include the heading “Keeping up with your

payments” if it is offering the *client* the option to pay by instalments. In this section the *firm* should outline the implications for the *client* if they fail to keep up with their payments before the *adviser charge* has been paid, including if its recommended product is cancelled before the *adviser charge* is paid.

Note 30 – Payment for ongoing services

If a *firm* provides an ongoing service to the *client* for which there is an *adviser charge* payable over a period of time, the *firm* must include the heading “Payment for ongoing services”. The text for describing how the *client* pays for ongoing service is not prescribed but should be in clear and plain language and should also include the nature of the service to be provided.

For example

“We have a range of ongoing services we can provide to ensure that your personal recommendation is reviewed frequently and remains relevant to your changing circumstances. The frequency of the charge will depend on the service you choose and is usually made by direct debit on the 1st of every month. Ask your adviser for more details.”

“We offer an ongoing service where we review your account every 3 months and inform you of new recommendations or changes that may be relevant to your circumstances. This service is provided at a charge of [insert charge here] per month and can be either deducted from your investment or paid by direct debit. This service can be cancelled at any time. Please ask your adviser for more details.”

Note 31 – in order to comply with COBS 2.3.1R as qualified by 2.3.2R, a *firm* receiving a benefit, in relation to the facilitation of the payment of an *adviser charge* may wish to disclose those benefits in summary form here, under the heading “**Other benefits we may receive**”. If a *firm* does so, it should provide the undertaking described in COBS 2.3.2R(1) (to provide further details on request) in writing, in this section and honour that undertaking.

For example

“ABC firm provides us with a specialised software CD-ROM and accompanying [XX] hours worth of training per annum. We use this software in processing your details when you apply for an investment product and wish to facilitate the payment of the adviser charge through deductions from your investment. Some of the cost of this software may be passed on to you as part of the total charges you pay ABC firm. Further information regarding this arrangement is available on request.”

Note 32 – if the *customer* will be charged a *fee* for *insurance mediation activities* in connection with *non-investment insurance contracts*, insert a plain language description of what each *fee* is for and when each *fee* is payable. This should include any *fees* for *advising on* or *arranging a non-investment insurance contract* and any *fees* over the life of the contract, for example, for mid-term adjustments. If a *firm* does not charge a *fee* the text in the first box should be abbreviated to ‘A fee’. If the *firm* is offering more than one type of service in connection with *non-investment insurance contracts*, the *firm* may aggregate the

fees over all the services provided, and (if that is the case) identify the services for which there is no *fee*.

Note 33 – if the *firm* receives commission instead of, or in addition to, *fees* from the *client* for services relating to *home finance transactions*, it should insert a plain language explanation of this (see specimen for a plain language example). If the *firm* will pay over to the *client* any commission the *firm* receives, it may refer to that fact here.

Note 34 – insert a plain language description of when any *fees* are payable for services relating to *home finance transactions*. This description could include, for example, a cash amount, a percentage of the loan or reversion amount or the amount per hour, as appropriate. However, where a cash amount is not disclosed, one or more examples of the cash amount should be included. If a *firm* offers more than one pricing option in relation to *equity release transactions*, it should specify the pricing policy for each of them. For example, “A fee of £[XX] payable at the outset and £[YY] when you apply for a lifetime mortgage and £[ZZ] when you apply for a home reversion plan”. If a *firm* does not charge a *fee*, the text for the second box should be abbreviated to ‘A fee’.

Note 35 – a *firm* may omit this part of the *combined initial disclosure document* on ‘Refund of fees’ if the *firm* has indicated that there will be “No fee” for services in relation to *home finance transactions* or that any *fee* will be payable only if the product completes.

Note 36 – *firms* may select as many boxes as appropriate.

Note 37 – insert a short, plain language description of the circumstances in which the *fee* for services in relation to *home finance transactions* is refundable or not refundable as described. If the refund policy is different depending on the *equity release transaction* in question, the *firm* should specify the refund policy for each of them. For example, “A refund of £[XX] if your lifetime mortgage application falls through and a refund of £[YY] if your home reversion plan application falls through.”

Note 38 – a *firm* may delete this line if it does not offer a partial refund for services in relation to *home finance transactions* in any circumstances.

Section 5: Who regulates us?

Note 39 – the *firm* may omit this section for services relating to *packaged products* if the *firm* has, on first contact with the *client*, provided the *client* with its *client agreement* which contains that information. This section may be omitted for services relating to *non-investment insurance contracts* if the information covered by this section is not required by *ICOBS* or is required by *ICOBS* but is provided to the *customer* by some other means. This section may be omitted for services relating to *home finance transactions* in accordance with *MCOB* 4.4.1R(3). If this section is omitted, the other sections of the *combined initial disclosure document* should be renumbered accordingly.

Note 40 – if the *firm*’s address on the *FSA Register* differs from that given on the *combined*

initial disclosure document under Note 5, the address on the *FSA Register* should be given in this section. ~~If the address is the same as that given under Note 5 it should be repeated in this section.~~

Note 41 – where the *authorised firm* trades under a different name from that under which it is *authorised*, it should include the name under which it is *authorised* and listed in the *FSA Register*. It may also include its trading name(s) if it wishes.

Note 42 – an *incoming EEA firm* will need to modify this section if it chooses to use this *combined initial disclosure document* (see GEN 4 ~~Ann~~ Annex 1R(2)). A *tied agent* that is regulated in an *EEA State* other than the *United Kingdom* will similarly need to modify this section.

Note 43 – insert a short, plain language description of the business for which the *firm* has a *permission* which relates to the service it is providing.

Note 44 – where the information is provided by an *appointed representative* or *tied agent*, the *appointed representative* or *tied agent* should use this text instead. The *appointed representative* or *tied agent* should give details of the *authorised firm(s)* that is its *principal(s)* for each type of service that it is providing to a particular *client*.

Section 6: Loans and ownership

Note 45 – omit this section where there are no relevant loan or ownership arrangements under the following notes or if the *firm* is an *insurer* selling its own *non-investment insurance contracts*. If this section is omitted the other sections of the *combined initial disclosure document* should be renumbered accordingly. If the *firm* is not providing services in relation to *packaged products*, the heading of this section should be changed to ‘Ownership’. Where the information is provided by an *appointed representative* or *tied agent*, it should cover loans made to or by that *appointed representative* or *tied agent* or holdings in, or held by, that *appointed representative* or *tied agent* as appropriate.

Notes 46, 47 and 48 apply only to a *firm* making a *personal recommendation, dealing in, or arranging* in relation to *packaged products*.

Note 46 – insert, in the *firm’s* own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of the *firm* which is held by a provider or *operator* of a *packaged product* or by the parent of the provider or *operator*.

Note 47 – insert, in the *firm’s* own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of a provider or *operator* of a *packaged product* which is held by the *firm*.

Note 48 – insert, in the *firm’s* own words, a short description of any *credit* provided to the *firm* by a *product provider* (other than *commission* due to the *firm* in accordance with an

indemnity claw-back arrangement) or by any *undertaking* in the *immediate group* of the *product provider* where the amount of the *credit* exceeds 10 per cent of the share and loan capital of the *firm*.

Notes 49 and 50 apply to an *insurance intermediary* providing services in relation to *non-investment insurance contracts*.

Note 49 – insert, in the *insurance intermediary's* own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of the *insurance intermediary* which is held by an *insurance undertaking* or by the parent of an *insurance undertaking*.

Note 50 – insert, in the *insurance intermediary's* own words, a short description of any direct or indirect holding of more than 10 per cent in the capital or voting power of an *insurance undertaking* which is held by the *insurance intermediary*.

Section 7: What to do if you have a complaint

Note 51 – if different to the address in Note 3, give the address and telephone number which is to be used by *clients* wishing to complain.

Note 52 – this text may be omitted for *non-investment insurance contracts* if the *insurance intermediary* or *insurer* is aware that a *commercial customer* would not be an *eligible complainant*.

Note 53 – if the *combined initial disclosure document* is provided by an *authorised professional firm* which is exclusively carrying on *non-mainstream regulated activities*, the *authorised professional firm* should delete this sentence and refer to the alternative complaints handling arrangements.

Note 54 – if the *firm* is carrying on an activity from an establishment which is outside the *United Kingdom* it should make clear that the *Financial Ombudsman Service* will not be available. The *firm* may refer to any similar complaints scheme that may be applicable.

Section 8: Are we covered by the Financial Services Compensation Scheme (FSCS)?

Note 55 – when an *incoming EEA firm* provides the *combined initial disclosure document*, it should modify this section as appropriate.

Note 56 – when a *firm* which is not a *participant firm* provides the *combined initial disclosure document*, it should answer this question ‘No’ and should state the amount of cover provided (if any) and from whom further information about the compensation arrangements may be obtained.

Note 57 – where the *insurance intermediary* or *insurer* provides a service in relation to a compulsory class of insurance, such as *employers' liability insurance*, it should use this

alternative text.

Note 58 – where the *insurance intermediary* or *insurer* provides a service in relation to a contract which covers both a compulsory class of insurance and a class of insurance which is not compulsory, it should indicate the level of compensation that applies to each class.

Home finance products warning

Note 59 – this warning box should be added when the *firm* sells *lifetime mortgages* or home reversion plans or both.

Note 60 – a *firm* should only include this paragraph if the services to which the *combined initial disclosure document* relates include *home purchase activities*. If the *firm* does not carry on *regulated mortgage activities*, it should include the second sentence and delete the third. If the *firm* carries on *regulated mortgage activities* as well as *home purchase activities* it should omit the second sentence and include the third.

...

9.6.6A G A firm will meet the requirements in respect of its obligation to provide written disclosure in the rules on describing the breadth of advice (COBS 6.2A.5R) and content and wording of disclosure (COBS 6.2A.6R) by providing its basic advice initial disclosure information (in COBS 9 Annex 1R).

...

9.6.8 R If a firm's initial contact with a *retail client* is not face to face, it must:

- (1) inform the *client* at the outset:
 - (a) ...
 - (b) ~~whether the firm will select from, or deal with, stakeholder products from a single provider, or from more than one provider; [deleted]~~
- ...
- (2) ... ;
- (3) (unless the relevant product is a deposit-based stakeholder product) if the contact is by spoken interaction, provide the client with the disclosure required by the rules on additional oral disclosure for firms providing restricted advice (COBS 6.2A.9R).

...

9.6.17 R (1) ~~When a firm provides basic advice on a stakeholder product, it must not hold itself out as giving independent advice. [deleted]~~

(2) ~~Nevertheless, a firm~~ When a firm provides basic advice on a stakeholder product, it may still use the facilities and stationery it uses for other business in respect of which it does hold itself out as acting or advising independently.

...

9 Annex 1 R Basic advice initial disclosure document

...

Information that comprises the following:	
...	
2.	a statement as to whether the range of stakeholder products on which advice will be given comprises products from a single stakeholder product provider, or a limited number of stakeholder product providers; [deleted]
...	
5.	a statement disclosing any product provider loans (where such credit exceeds 10% of share and loan capital) and direct or indirect ownership (where that ownership exceeds 10% of share capital or voting power) either by, or of, a single <i>product provider</i> or <i>operator</i> ; (See also notes 20-23 <u>32-35</u> in <i>COBS 6 Annex 1G</i> and notes 33-38 <u>45-50</u> of <i>COBS 6 Annex 2</i>);
6.	A a description of the arrangements concerning complaints and the circumstances in which the <i>retail client</i> can refer the matter to the <i>Financial Ombudsman Service</i> ; (See also notes 24-25 <u>36-37</u> in <i>COBS 6 Annex 1G</i> and notes 39-42 <u>51-54</u> of <i>COBS 6 Annex 2</i>);
7	a description of the circumstances and the extent to which <u>the firm</u> is covered by the <i>compensation scheme</i> and the <i>retail client</i> will be entitled to compensation from the <i>compensation scheme</i> ; (See also notes 26-27 <u>38-39</u> of <i>COBS 6 Annex 1G</i> and notes 43-46 <u>55-58</u> of <i>COBS 6 Annex 2</i>);
8.	<u>any relevant disclosure required by the rules on describing the breadth of advice (COBS 6.2A.5R) and content and wording of disclosure (COBS 6.2A.6R).</u>
...	

18.1 Trustee Firms

...

Application of COBS to trustee firms

- 18.1.2 R The provisions of *COBS* in the table do not apply to a *trustee firm* to which this section applies:

COBS	Description
<u>6.1A</u>	<u>Adviser charging and remuneration</u>
<u>6.1B</u>	<u>Retail investment product provider requirements relating to adviser charging and remuneration</u>
<u>6.2</u>	<u>Describing the breadth of a firm's advice on investments</u>
<u>6.2A</u>	<u>Describing advice services</u>
...	

...

18.2 Energy market activity and oil market activity

Energy market activity and oil market activity - MiFID business

- 18.2.1 R The provisions of *COBS* in the table do not apply in relation to any *energy market activity* or *oil market activity* carried on by a *firm* which is *MiFID* or *equivalent third country business*:

COBS	Description
<u>6.1A</u>	<u>Adviser charging and remuneration</u>
<u>6.1B</u>	<u>Retail investment product provider requirements relating to adviser charging and remuneration</u>
<u>6.2</u>	<u>Describing the breadth of a firm's advice on investments</u>
<u>6.2A</u>	<u>Describing advice services</u>
...	

...

18.3 Corporate finance business

Corporate finance business - MiFID business

- 18.3.1 R The provisions of *COBS* in the table do not apply in respect of any *corporate finance business* carried on by a *firm* which is *MiFID* or *equivalent third country business*:

COBS	Description
<u>6.1A</u>	<u>Adviser charging and remuneration</u>
<u>6.1B</u>	<u>Retail investment product provider requirements relating to adviser charging and remuneration</u>
<u>6.2</u>	<u>Describing the breadth of a firm's advice on investments</u>
<u>6.2A</u>	<u>Describing advice services</u>
...	

...

18.4 Stock lending activity

- 18.4.1 R The provisions of *COBS* in the table do not apply in relation to any *stock lending activity* carried on by a *firm* which is *MiFID* or *equivalent third country business*:

COBS	Description
<u>6.1A</u>	<u>Adviser charging and remuneration</u>
<u>6.1B</u>	<u>Retail investment product provider requirements relating to adviser charging and remuneration</u>
<u>6.2</u>	<u>Describing the breadth of a firm's advice on investments</u>
<u>6.2A</u>	<u>Describing advice services</u>
...	

Schedule 1 Record keeping requirements

...

1.3G

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
...				
<u>COBS 6.1A.27R</u>	<u>Adviser charging and</u>	<u>(1) the <i>firm's</i> charging</u>	<u>(1) when the charging</u>	<u>See <i>COBS</i> 6.1A.27R(1) to</u>

	<u>remuneration</u>	<u>structure;</u> <u>(2) the total adviser charge payable by each retail client;</u> <u>(3) if the total adviser charge paid by a retail client has varied materially from the charge indicated for that service in the firm's charging structure, the reasons for that difference.</u>	<u>structure is first used;</u> <u>(2) from the date of disclosure;</u> <u>(3) from the date of disclosure;</u>	<u>(3)</u>
<i>COBS 6.2.12R</i>	<i>Information about the firm, services and information: packaged products</i>	<i>Scope and range of packaged products</i>	<i>Firm's scope and range— from date on which superseded by more up-to-date record</i> <i>Client-specific records— from date of communication of personal recommendation</i>	<i>5 years</i> <i>5 years</i>
...				

LISTING RULES SOURCEBOOK (AMENDMENT NO 5) INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000:
- (1) section 73A (Part 6 rules);
 - (2) section 75 (Applications for listing);
 - (3) section 77 (Discontinuance and suspension of listing);
 - (4) section 79 (Listing particulars and other documents);
 - (5) section 80 (General duty of disclosure in listing particulars);
 - (6) section 81 (Supplementary listing particulars);
 - (7) section 88 (Sponsors);
 - (8) section 89 (Public censure of sponsor);
 - (9) section 96 (Obligations of issuers of listed securities);
 - (10) section 99 (Fees);
 - (11) section 101 (Part 6 rules: general provisions);
 - (12) section 138 (General rule-making power);
 - (13) section 156 (General supplementary powers);
 - (14) section 157(1) (Guidance); and
 - (15) schedule 7 (The Authority as Competent Authority for Part VI).

Commencement

- B. This instrument comes into force on 23 April 2010.

Amendments to the Handbook

- C. The Listing Rules sourcebook (LR) is amended in accordance with this instrument.

Citation

- D. This instrument may be cited as the Listing Rules Sourcebook (Amendment No 5) Instrument 2010.

By order of the Board
22 April 2010

Annex**Amendments to the Listing Rules sourcebook (LR)**

In this Annex, striking through indicates deleted text.

14 Standard listing (shares)

...

14.1.1 R This chapter applies to a *company* with, or applying for, a *standard listing* of ~~equity~~ *shares* other than:

- (1) *equity shares* issued by a *company* that is an *investment entity* unless it has a *premium listing* of a class of its *equity shares*; and
- (2) *preference shares* that are *specialist securities*.

...

14.2.5 G A *company* applying for a *standard listing* of ~~equity~~ *shares* will need to comply with LR 3 (Listing applications: All securities).

**DISCLOSURE RULES AND TRANSPARENCY RULES SOURCEBOOK
(AMENDMENT NO 2) INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in or under the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 73A (Part 6 rules);
 - (2) section 89A (Transparency rules);
 - (3) section 89F (Transparency rules: interpretation etc);
 - (4) section 89G (Transparency rules: other supplementary provisions);
 - (5) section 89O (Corporate governance rules);
 - (6) section 101 (Part 6 rules: general provisions);
 - (7) section 138 (General rule-making power);
 - (8) section 156 (General supplementary powers);
 - (9) section 157(1) (Guidance); and
 - (10) schedule 7 (The Authority as Competent Authority for Part VI).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 6 May 2010.

Amendments to the Handbook

- D. The Disclosure Rules and Transparency Rules sourcebook (DTR) is amended in accordance with the Annex to this instrument.

Notes

- E. In the Annex to this instrument, the “note” (indicated by “**Note:**”) is included for the convenience of readers but does not form part of the legislative text.

Citation

- F. This instrument may be cited as the Disclosure Rules and Transparency Rules Sourcebook (Amendment No 2) Instrument 2010.

By order of the Board
22 April 2010

Annex

Amendments to the Disclosure Rules and Transparency Rules sourcebook (DTR)

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 4.4.2 R The *rules* on annual financial reports in ~~(DTR 4.1)~~ (including DTR 4.1.7R(4)), half-yearly financial reports (DTR 4.2) and interim management statements (DTR 4.3) do not apply to an *issuer* that issues exclusively *debt securities admitted to trading* the denomination per unit of which is at least 50,000 Euros (or an equivalent amount).

[**Note:** article 8(1)(b) of the *TD* and article 45(1) of the *Audit Directive*]

...

- 4.4.8 R An *issuer* whose registered office is in a *non-EEA State* whose relevant laws are considered equivalent by the *FSA* is exempted from the *rules* on annual financial reports in ~~(DTR 4.1)~~ (other than DTR 4.1.7R(4) which continues to apply), half-yearly financial reports (DTR 4.2) and interim management statements (DTR 4.3).

PERIODIC FEES (2010/2011) AND OTHER FEES INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in or under the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 99 (Fees);
 - (b) section 101 (Part 6 rules: general provisions);
 - (c) section 156 (General supplementary powers);
 - (d) section 157(1) (Guidance);
 - (e) section 234 (Industry Funding);
 - (f) paragraph 17(1) (Fees) of Schedule 1 (The Financial Services Authority); and
 - (g) paragraph 1 (General), 4 (Rules), and 7 (Fees) of Schedule 7 (The Authority as Competent Authority for Part VI); and
 - (2) the following provisions of the Payment Services Regulations 2009 (SI 2009/209) (“the Regulations”):
 - (a) regulation 82 (Reporting requirements);
 - (b) regulation 92 (Costs of supervision); and
 - (c) regulation 93 (Guidance).
- B. The rule-making powers listed above are specified for the purposes of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 June 2010.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Fees manual (FEES) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Periodic Fees (2010/2011) and Other Fees Instrument 2010.

By order of the Board
27 May 2010

Annex A**Amendments to the Glossary of definitions**

Insert the following new definitions in the appropriate alphabetical position.

securities derivative a *derivative* instrument *admitted to trading* on a *regulated market* or *prescribed market*, the value of which is dependent on an underlying equity or debt instrument or index/basket of equity or debt instruments.

Solvency 2 Directive the Directive of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (No. 2009/138/EC).

Annex B

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

- 4.2.7 R A *firm* (other than an *ICVC* or *UCITS qualifier*) which becomes authorised, or whose *permission* and/or *payment service* activities are extended, during the course of the financial year must pay a fee which is calculated by:
- ...
- (2) calculating the amount for each of those tariffs which is the higher of:
 - (a) the minimum fee (but not the minimum fee under Part 1A of FEES 4 Annex 2R) specified for the tariff (where this applies); and
 - (b) the result of applying the tariff to the projected valuation, for its first year (as provided to the *FSA* in the course of the *firm's* application), of the business to which the tariff relates;
 - (3) adding together the amounts calculated under (2); ~~and~~
 - (4) ~~modifying the result as indicated by the table in FEES 4.2.6R (except that FEES 4 Annex 10 (Periodic fees for MTF operators) deals with a firm that receives permission for operating a multilateral trading facility or has its permission extended to include this activity during the course of the relevant financial year and FEES 4.2.6R does not apply)~~ working out whether a minimum fee is payable under Part 1A of FEES 4 Annex 2R and if so how much (except that that minimum fee is not payable again by a firm whose permission is extended if the fee was already payable before the extension);
 - (5) adding together the amounts calculated under (3) and (4) and then adding this sum to any applicable flat rate fee; and
 - (6) modifying the result as indicated by the table in FEES 4.2.6R (except that FEES 4 Annex 10 (Periodic fees for MTF operators) deals with a firm that receives permission for operating a multilateral trading facility or has its permission extended to include this activity during the course of the relevant financial year and FEES 4.2.6R does not apply).
- ...

4.2.11 R Table of periodic fees

1 Fee payer	2 Fee payable	3 Due date	4 Events occurring during the period leading to modified periodic fee
...			
<i>Sponsors</i>	£10,000 <u>£12,500</u> per year for the period from 1 April to 31 March the following year (see Note)	...	...
...			
All <i>firms</i> reporting transactions in securitised <u>securities derivatives</u> to the FSA in accordance with SUP 17, and <i>market operators</i> who provide facilities for trading in securitised <u>securities derivatives</u>.	...	...	...

...

4.3.3 R The periodic fee referred to in FEES 4.3.1R is (except in relation to the *Society* and *fee-paying payment service providers*) calculated as follows:

- (1) identify each of the tariffs set out in Part 1 of FEES 4 Annex 2R which apply to the business of the *firm* for the period specified in that annex;
- (2) for each of those tariffs, calculate the sum payable in relation to the business of the *firm* for that period, ~~applying any minimum fee discount as may be applicable (see FEES 4.3.16R);~~
- (3) add together the amounts calculated under (2); ~~and~~
- (4) ~~apply any applicable payment charge or discount specified in FEES 4.2.4R, provided that:~~ work out whether a minimum fee is payable under Part 1A of FEES 4 Annex 2R and if so how much;
 - (a) ~~for payment by direct debit, successful collection of the amount due is made at the first attempt by the FSA; or~~

- (b) ~~for payment by credit transfer, the amount due is received by the FSA on or before the due date.~~
- (5) add together the amounts calculated under (3) and (4); and
- (6) apply any applicable payment charge specified in FEES 4.2.4R, provided that:
 - (a) for payment by direct debit, successful collection of the amount due is made at the first attempt by the FSA; or
 - (b) for payment by credit transfer, the amount due is received by the FSA on or before the due date.

...

~~Minimum fee discount~~

- 4.3.16 R
- (1) ~~A firm (other than a firm in (2) or a credit union) in more than one fee block must pay at least 50% of the total minimum fee payable in any fee block in which it is a minimum fee payer. [deleted]~~
 - (2) ~~A firm (other than a credit union) liable to pay only minimum fees in each fee block it is in must pay 100% of the highest total minimum fee payable within any one fee block and must pay at least 50% of the total minimum fee payable in any other fee blocks in which it is a minimum fee payer. [deleted]~~
 - (3) ~~A credit union in more than one fee block must pay at least 50% of the total minimum fee payable in any fee block, other than fee block A.1, in which they are a minimum fee payer. [deleted]~~

...

4 Annex 1R Activity groups, tariff bases and valuation dates applicable

...

Activity group	Fee payer falls in the activity group if
...	
A.7 Fund managers	(1) its <i>permission</i> includes <i>managing investments (a firm falling within this category is a class (1) firm)</i> ; OR (2) its <i>permission</i> includes ONLY either one or both of: • <i>safeguarding and administering of investments (without arranging)</i> ; and • <i>arranging safeguarding and administration of</i>

	<p><u>assets (a firm falling within this category is a class (2) firm);</u></p> <p>OR</p> <p><u>(3) the firm is a venture capital firm (a firm falling within this category is a class (3) firm if it is not a class (1) or (2) firm).</u></p> <p>...</p>
...	
A.13 Advisory arrangers, dealers or brokers (not holding or controlling client money or assets, or both)	<p>(1) it is an <i>authorised professional firm</i> and ALL the <i>regulated activities</i> in its <i>permission</i> are limited to non-mainstream regulated activities (<u>a firm falling within this category is a class (1) firm</u>);</p> <p>OR</p> <p>(2) its permission:</p> <p>...</p> <p>(d) PROVIDED the fee-payer is NOT any of the following:</p> <ul style="list-style-type: none"> • a <i>corporate finance advisory firm</i>; • a <i>firm</i> for whom all of the applicable activities above are otherwise limited to carrying out <i>corporate finance business</i>; • a <i>firm</i> whose activities are limited to carrying out <i>venture capital business</i>; • a <i>firm</i> whose activities are limited to acting as an <i>operator</i> of a <i>regulated collective investment scheme</i>; • a <i>firm</i> whose activities are limited to carrying out <i>trustee</i> activities; • a <i>service company</i>. <p><u>A firm falling within (2) and not (1) is a class 2 firm.</u></p>
...	

4 Annex 2R Fee tariff rates, permitted deductions and EEA/Treaty firm modifications for the period from 1 July 2009 ~~April 2010~~ to 1 July 2010 ~~31 March 2011~~

Part 1

This table shows the tariff rates applicable to each fee block

(1)	For each activity group specified in the table below, the fee is the total of the sums payable for each of the tariff bands applicable to the <i>firm's</i> business, calculated as follows: <u>by multiplying the value of the <i>firm's</i> tariff base by the rate applicable to each tranche of the tariff base, as indicated (Note 1).</u>	
	(a)	the relevant minimum fee; plus
	(b)	an additional fee calculated by multiplying the <i>firm's</i> tariff base by the appropriate rates applying to each tranche of the tariff base, as indicated (Note 1).
...		
Note 1	<p><u>In the case of activity group A.1 there are two tariff rates. The rate in column 1 is the general periodic fee. The rate in column 2 is the reclaim funds set-up fee and is payable by all <i>firms</i> except <i>credit unions</i> and <i>e-money issuers</i>. The total periodic fee for the A1 fee-block is determined by adding the amounts obtained under both columns.</u></p> <p>In the case of activity groups A.3 and A.4 there are two <u>three</u> tariff rates. The rate in column 1 applies to all <i>firms</i> in their respective fee-blocks. The rate in column 2 relates to the Solvency 2 Implementation fee and <i>firms</i> must determine their obligation to pay this fee by reference to Part 5 of this Annex. <u>The rate in Column 3 relates to the Solvency 2 Special Project fee and <i>firms</i> must determine their obligation to pay this fee by reference to Part 4 of this annex. The total periodic fee for each of these fee-blocks is determined by adding the amounts obtained under both <u>all three</u> columns, as applicable.</u></p>	
Activity group	Fee payable	
A.1	Minimum fee (£)	160
	<u>Band width (£ million of Modified Eligible Liabilities (MELs))</u>	Fee (£/£m or part £m of MELs)
	0—0.5	0
	≥0.5—2	additional flat fee of £380
	≥2—10	additional flat fee of £530
	≥10—200	32.31

	>200 – 2,000	32.31																					
	>2,000 – 10,000	32.31																					
	>10,000 – 20,000	47.19																					
	>20,000	47.19																					
		<table border="1"> <thead> <tr> <th></th> <th><u>Column 1</u></th> <th><u>Column 2</u></th> </tr> <tr> <th></th> <th><u>General Periodic fee</u></th> <th><u>Reclaim Fund Set-Up fee</u></th> </tr> </thead> <tbody> <tr> <td><u>>10 – 140</u></td> <td><u>29.90</u></td> <td><u>0.12</u></td> </tr> <tr> <td><u>>140 – 630</u></td> <td><u>29.90</u></td> <td><u>0.12</u></td> </tr> <tr> <td><u>>630 – 1,580</u></td> <td><u>29.90</u></td> <td><u>0.12</u></td> </tr> <tr> <td><u>>1,580 – 13,400</u></td> <td><u>37.38</u></td> <td><u>0.12</u></td> </tr> <tr> <td><u>>13,400</u></td> <td><u>49.34</u></td> <td><u>0.12</u></td> </tr> </tbody> </table>		<u>Column 1</u>	<u>Column 2</u>		<u>General Periodic fee</u>	<u>Reclaim Fund Set-Up fee</u>	<u>>10 – 140</u>	<u>29.90</u>	<u>0.12</u>	<u>>140 – 630</u>	<u>29.90</u>	<u>0.12</u>	<u>>630 – 1,580</u>	<u>29.90</u>	<u>0.12</u>	<u>>1,580 – 13,400</u>	<u>37.38</u>	<u>0.12</u>	<u>>13,400</u>	<u>49.34</u>	<u>0.12</u>
	<u>Column 1</u>	<u>Column 2</u>																					
	<u>General Periodic fee</u>	<u>Reclaim Fund Set-Up fee</u>																					
<u>>10 – 140</u>	<u>29.90</u>	<u>0.12</u>																					
<u>>140 – 630</u>	<u>29.90</u>	<u>0.12</u>																					
<u>>630 – 1,580</u>	<u>29.90</u>	<u>0.12</u>																					
<u>>1,580 – 13,400</u>	<u>37.38</u>	<u>0.12</u>																					
<u>>13,400</u>	<u>49.34</u>	<u>0.12</u>																					
	<p>For a <i>firm</i> in A.1 which has a limitation on its <i>permission</i> to the effect that it may <i>accept deposits</i> from <i>wholesale depositors</i> only, the <u>this</u> fee is calculated as above less 30%.</p> <p>The tariff rates in A.1 are not relevant for the <i>permissions</i> relating to <i>operating a dormant account fund</i>. Instead a flat fee of £6,000 <u>£6,018</u> is payable in respect of these <i>permissions</i>. <u>The flat fee of £6,018 is made up of a portion of the general periodic fee of £6,000 and a reclaim fund set-up fee of £18.</u></p>																						
A.2	Minimum fee (£)	525																					
	<u>Band width (No. of mortgages and/or home finance transactions)</u>	Fee (£/mortgage)																					
	0 – 50	0																					
	51 – 500 <u>>50 - 130</u>	6.40 <u>1.26</u>																					
	501 – 1,000 <u>>130 – 320</u>	2.37 <u>1.26</u>																					
	1,001 – 50,000 <u>>320 – 4,570</u>	2.37 <u>1.26</u>																					
	50,001 – 500,000 <u>>4, 570 – 37,500</u>	1.35 <u>1.26</u>																					

	<u>≥500,000</u> <u>>37,500</u>	<u>0.32</u> <u>1.26</u>		
A.3	Gross premium income (GPI)	Column 1 (General periodic fee)	Column 2 (Solvency 2 Implementation Fee fee)	Column 3 <u>Solvency 2 Special Project fee</u>
	Minimum fee (£)	430 <u>Not applicable</u>	25.04 <u>50.00</u>	<u>25.00</u>
	<u>Band Width</u> (£ million of GPI)	Fee (£/£m or part £m of GPI)		
	<u>0—0.5</u>	0		0
	<u>>0.5 – 2</u> <u>10.5</u>	2.461.92 <u>531.58</u>	154.50 <u>110.45</u>	<u>93.40</u>
	<u>≥2—5</u> <u>>10.5 – 30</u>	2.461.92 <u>531.58</u>	154.50 <u>110.45</u>	<u>93.40</u>
	<u>≥5—20 >30</u> <u>– 245</u>	2.461.92 <u>531.58</u>	154.50 <u>110.45</u>	<u>93.40</u>
	<u>≥20—75</u> <u>>245 –</u> <u>1,900</u>	799.42 <u>531.58</u>	50.18 <u>110.45</u>	<u>93.40</u>
	<u>≥75—150</u> <u>>1,900</u>	799.42 <u>531.58</u>	50.18 <u>110.45</u>	<u>93.40</u>
	<u>≥150</u>	107.36	6.75	
	PLUS			
	Gross technical liabilities (GTL)	Column 1 (General Periodic fee)	Column 2 (Solvency 2 Implementation fee)	Column 3 <u>Solvency 2 Special Project fee</u>
	Minimum fee (£)	0	0	
<u>Band Width</u> (£ million of GTL)	Fee (£/£m or part £m of GTL)			
<u>0—1</u>	0	0		

	>1 – 5 <u>12.5</u>	60.30 <u>28.39</u>	3.74 <u>5.65</u>	<u>5.55</u>
	≥5 – 50 <u>≥12.5 – 70</u>	60.30 <u>28.39</u>	3.74 <u>5.65</u>	<u>5.55</u>
	≥50 – 100 <u>>70 – 384</u>	60.30 <u>28.39</u>	3.74 <u>5.65</u>	<u>5.55</u>
	≥100 – 1,000 <u>≥384 – 3,750</u>	18.96 <u>28.39</u>	1.18 <u>5.65</u>	<u>5.55</u>
	≥1,000 <u>>3,750</u>	7.59 <u>28.39</u>	0.48 <u>5.65</u>	<u>5.55</u>
	PLUS			
	Solvency 2 Special Project Fee (the “Solvency 2 fee”)			
	Minimum fee (£)	0		
	There is only a single tariff band	The fee is calculated in accordance with Part 4 of this Annex. The percentage for this fee block (by which periodic fees are multiplied as described in Part 4) is 9.79%.		
...				
A.4	Adjusted annual gross premium income (AGPI)	Column 1 (General Periodic fee)	Column 2 (Solvency 2 Implementation fee)	<u>Column 3 Solvency 2 Special Project fee</u>
	<u>Minimum fee (£)</u>	215 <u>Not applicable</u>	10.09 <u>25.00</u>	<u>25.00</u>
	<u>Band Width (£ million of AGPI)</u>	Fee (£/£m or part £m of AGPI)		
	0 – 1	0	0	

>1 – 50 5	740.00 706.46	40.84 137.00	114.60
≥50 – 1,000 ≥5 – 40	740.00 706.46	40.84 137.00	114.60
≥1,000 – 2,000 ≥40 – 260	554.56 706.46	30.60 137.00	114.60
≥2,000 ≥260 – 4,000	380.75 706.46	17 137.00	114.60
≥4,000	706.46	137.00	114.60
PLUS			
Mathe- matical reserves (MR)	Column 1 (General Periodic fee)	Column 2 (Solvency 2 Implementation fee)	Column 3 (Solvency 2 Special Project fee)
Minimum fee (£)	215 Not applicable	9.73 25.00	25.00
Band Width (£ million of MR)	Fee (£/£m or part £m of MR)		
0 – 1	0	0	
>1 – 10 20	42.35 15.32	2.20 3.00	2.95
≥10 – 100 ≥20 – 270	42.35 15.32	2.20 3.00	2.95
≥100 – 1000 ≥270 – 7,000	22.25 15.32	1.17 3.00	2.95
≥1,000 – 5,000 ≥7,000 – 45,000	22.25 15.32	1.17 3.00	2.95
≥5,000 –	15.04		

	15,000			
	≥15,000	15.04		
	≥45,000	<u>15.32</u>	<u>3.00</u>	<u>2.95</u>
	PLUS			
	Solvency 2 Special Project Fee (Solvency 2 fee)			
	Minimum fee (£)	0		
	There is only a single tariff band.	The fee is calculated in accordance with Part 4 of this Annex. The percentage for this fee block (by which periodic fees are multiplied as described in Part 4) is 9.66%.		
A.5	Minimum fee (£)	580		
	Band Width (£ million of Active Capacity (AC))	Fee (£/£m or part £m of AC)		
	0 – 50	0		
	>50 – 150	122.49 <u>54.55</u>		
	>150 – 250	116.67 <u>54.55</u>		
	>250 – 500	48.21 <u>54.55</u>		
	≥500 – 1,000	<u>54.55</u>		
	>1,000	<u>54.55</u>		
A.6	Flat fee	1,743,958 <u>1,500,514</u>		
	PLUS			
	Solvency 2 Special Project Flat Fee (£)	95,000 <u>249,603.72</u>		
	PLUS			

	Solvency 2 Implementation Flat Fee fee (£)	83,000 <u>300,100.80</u>
A.7	For class 1(C), (2) and (3) <i>firms</i> :	
	Minimum fee (£)	1,210
	Band Width (£ million of Funds under Management (FuM))	Fee (£/£m or part £m of FuM)
	0—10	0
	>10—400 <u>150</u>	58.27 <u>8.52</u>
	≥100—2,500 <u>>150—2,800</u>	18.74 <u>8.52</u>
	≥2,500—10,000 <u>≥2,800—17,500</u>	10.43 <u>8.52</u>
	≥10,000 <u>≥17,500—100,000</u>	1.60 <u>8.52</u>
	>100,000	8.52

...	...	
A.9	Minimum fee (£)	1,890
	Band Width (£ million of Gross Income (GI))	Fee (£/£m or part £m of GI)
	0—1	0
	>1—5 <u>4.5</u>	991.25 <u>1,052.62</u>
	≥5—15 <u>>4.5—17</u>	955 <u>1,052.62</u>
	≥15—40 <u>>17—145</u>	955 <u>1,052.62</u>
	≥40 <u>>145—750</u>	940 <u>1,052.62</u>
	>750	1,052.62
A.10	Minimum fee (£)	2,310
	Band Width (No. of traders)	Fee (£/trader)
	0—2	0
	3—5 <u>2—3</u>	3,937 <u>3,196.91</u>

	6—10 <u>4—5</u>	2,677 <u>3,196.91</u>
	11—50 <u>6—30</u>	2,677 <u>3,196.91</u>
	51—200 <u>31—180</u>	3,283 <u>3,196.91</u>
	≥200 <u>>180</u>	3,283 <u>3,196.91</u>
...		
A.12	Minimum fee (£)	1,960
	<u>Band Width</u> (No. of persons)	Fee (£/person)
	0—1	0
	2—4 <u>5</u>	1,232 <u>426.35</u>
	5—10 <u>6—35</u>	590 <u>426.35</u>
	11—25 <u>36—175</u>	504 <u>426.35</u>
	26—150 <u>176—1,600</u>	255 <u>426.35</u>
	151—1,500	255
	≥1,600	<u>426.35</u>
	≥1,500	160
	...	
A.13	For class (2) <i>firms</i> :	
	Minimum fee (£)	1,850
	<u>Band Width</u> (No. of persons)	Fee (£/person)
	0—1	0
	2—4 <u>3</u>	1,119 <u>1,290.54</u>
	5—10 <u>4—30</u>	1,073 <u>1,290.54</u>
	11—25 <u>31—300</u>	1,073 <u>1,290.54</u>
	26—500 <u>301—2,000</u>	939 <u>1,290.54</u>
	501—4,000 <u>≥2,000</u>	939 <u>1,290.54</u>
	≥4,000	939

	For class (1) firms: £1,850	
	...	
A.14	Minimum fee (£)	1,335
	<u>Band Width</u> (No. of persons)	Fee (£/person)
	0—1	0
	2—4	1,393 <u>1,340.87</u>
	3—4 <u>5—25</u>	1,393 <u>1,340.87</u>
	5—10 <u>26—80</u>	1,211 <u>1,340.87</u>
	11—100 <u>81—199</u>	1,211 <u>1,340.87</u>
	101—200 <u>>199</u>	902 <u>1,340.87</u>
	>200	902
...		
A.18	Minimum fee (£)	745
	<u>Band Width</u> (£ thousands of Annual Income (AI))	Fee (£/£ thousand or part £ thousand of AI)
	0—100	0
	>100—4,000 <u>180</u>	6.93 <u>10.54</u>
	>1,000—5,000 <u>>180—1,000</u>	5.60 <u>10.54</u>
	>5,000—10,000 <u>>1,000—12,500</u>	5.60 <u>10.54</u>
	>10,000—20,000 <u>>12,500—50,000</u>	4.33 <u>10.54</u>
	>20,000 <u>>50,000</u>	3.71 <u>10.54</u>
A.19	Minimum fee (£)	450
	<u>Band Width</u> (£ thousands of Annual Income (AI))	Fee (£/£ thousand or part £ thousand of AI)
	0—100	0
	>100—4,000 <u>325</u>	4.66 <u>2.43</u>

	≥1,000 – 5,000 <u>≥325 – 10,000</u>	4.30 <u>2.43</u>
	≥5,000 – 15,000 <u>≥10,000 – 50,750</u>	2.99 <u>2.43</u>
	≥15,000 – 100,000 <u>≥50,750 – 250,000</u>	1.40 <u>2.43</u>
	≥100,000 <u>≥250,000</u>	0.57 <u>2.43</u>
B. Market operators	£30,000 <u>£35,000</u>	
B. Service companies	Bloomberg LP	£40,000 <u>£45,000</u>
	EMX Co Ltd	£30,000 <u>£35,000</u>
	LIFFE Services Ltd	£30,000 <u>£35,000</u>
	[row deleted]	
	OMGEO Ltd	£30,000 <u>£35,000</u>
	Reuters Ltd	£40,000 <u>£45,000</u>
	Swapswire Ltd	£30,000 <u>£35,000</u>
	Thomson Financial Ltd	£30,000
...		

Part 1A

(1)	<u>This Part sets out the minimum fee applicable to the <i>firms</i> specified in (3) below.</u>	
(2)	<u>The minimum fee payable by any <i>firm</i> referred to in (3) is £1,000 unless:</u>	
	(a)	<u>it is a <i>credit union</i> that meets the conditions in (4), in which case the minimum fee payable is as set out in (4); or</u>
	(b)	<u>it is a <i>non-directive friendly society</i> that falls into the A.3 activity group but not the A.4 activity group and meets the conditions set out in (5)(a), in which case the minimum fee payable is £430; or.</u>
	(c)	<u>it is a <i>non-directive friendly society</i> that falls into the A.4 activity group but not the A.3 activity group and meets the conditions in (5)(b), in which case the minimum fee payable is £430; or</u>

	(d)	<u>it is a <i>non-directive friendly society</i> that falls into the A.3 and A.4 activity groups and meets the conditions in (5)(a) and (5)(b), in which case the minimum fee payable is £430;</u>
(3)		<u>A <i>firm</i> (including an <i>incoming EEA firm</i> and an <i>incoming Treaty firm</i>) is referred to in this paragraph if it falls within the following activity groups: A.1; A.2; A.3 (excluding <i>UK ISPVs</i>); A.4; A.5; A.7; A.9; A.10; A.12; A.13; A.14; A.18; and A.19 (Note 1).</u>
(4)		<u>The conditions referred to in (2)(a) are that the <i>credit union</i> has a tariff base (Modified Eligible Liabilities) of:</u>
	(a)	<u>£0 to £0.5million, in which case a minimum fee of £160 is payable; or</u>
	(b)	<u>greater than £0.5million but less than £2.0million, in which case a minimum fee of £540 is payable.</u>
(5)		<u>The conditions referred to in (2) are that:</u>
	(a)	<u>the <i>non-directive friendly society</i> falls into the A.3 activity group and has, for that activity, £0.5 million or less in gross <i>premium income</i> and holds gross technical liabilities of £1.0 million or less;</u>
	(b)	<u>the <i>non-directive friendly society</i> falls into the A.4 activity group and has, for that activity, written £1.0 million or less in adjusted gross <i>premium income</i> and holds mathematical reserves of £1.0 million or less.</u>
		<u>The figures for gross <i>premium income</i>, gross technical liabilities, adjusted gross <i>premium income</i> and mathematical reserves are the same as used for Part 1 of this Annex.</u>
<u>Note 1</u>		<u>In the case of a <i>firm</i> which is required to pay the Solvency 2 Implementation fee (see Part 5) and, where relevant, the Solvency 2 Special Project fee there is an additional minimum fee set out in Part 1.</u>

Part 2

This table shows the permitted deductions that apply where financial penalties are received under the *Act*:

Activity group	Nature of deduction	Amount of deduction
<u>Part 1A (minimum</u>		<u>7.5% of the fee payable by the <i>firm</i> for the activity group (see Part 1)</u>

fee)		
A.1	Financial penalties received	6.2% <u>7.5%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)
A.2	Financial penalties received	6.2% <u>7.5%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)
A.3	Financial penalties received	6.2% <u>7.5%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1). The deduction does not apply to any Solvency 2 <u>Special Project</u> fee (as defined in Part 1) or Solvency 2 Implementation fee as applicable under Part 5.
A.4	Financial penalties received	6.2% <u>7.5%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1). The deduction does not apply to any Solvency 2 <u>Special Project</u> fee (as defined in Part 1) or Solvency 2 Implementation fee as applicable under Part 5.
A.5	Financial penalties received	6.2% <u>7.5%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)
A.6	Financial penalties received	6.2% <u>7.5%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1). The deduction does not apply to any Solvency 2 Special Project flat fee or Solvency 2 Implementation flat fee (as defined in Part 1).
A.7	Financial penalties received	6.2% <u>7.5%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)
A.9	Financial penalties received	6.2% <u>7.5%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)
A.10	Financial penalties received	6.3% <u>7.5%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)
A.12	Financial penalties received	6.2% <u>9.3%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)
A.13	Financial penalties received	6.2% <u>7.8%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)

A.14	Financial penalties received	6.2% <u>7.5%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)
A.18	Financial penalties received	6.2% <u>7.5%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)
A.19	Financial penalties received	6.2% <u>7.5%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)

Part 3

This table shows the modifications to fee tariffs that apply to *incoming EEA firms* and *incoming Treaty firms* which have established branches in the UK.

Activity group	Percentage deducted from the tariff payable under Part 1 applicable to the firm	Minimum amount payable
A.1	80% <u>50%</u>	£100
A.3	100% <u>90%</u>	Nil
A.4	...	£100
A.7	...	£100
A.9	...	£100
A.10	...	£100
A.12	...	£100
A.13	...	£100
A.19	...	£100
B. MTF operators	...	Not applicable
<u>Note 1</u>	The modifications to fee tariffs payable by an <i>incoming EEA firm</i> or an <i>incoming Treaty firm</i> which has established a <i>branch</i> in the UK apply only in relation to the relevant <i>regulated activities</i> of the <i>firm</i> which are <i>passported activities</i> or <i>Treaty activities</i> and which are carried on in the <i>UK</i> .	
<u>Note 2</u>	The minimum fee described in Part 1A of <i>FEES 4 Annex 2R</i> applies in full and the modifications in this Part do not apply to <u>it</u> .	

Part 4

This table shows the calculation of the Solvency 2 Special Project fee for *firms* falling into fee block A3 or A4.

(1)	The Solvency 2 <u>Special Project</u> fee forms part of the periodic fee payable under fee block A3 and A4 (the "insurance fee blocks").
(2)	The Solvency 2 <u>Special Project</u> fee is only payable by a <i>firm</i> if it meets the conditions in Part (5). In addition:
(a)	it was in one or both of the insurance fee blocks at the start of the financial year 2009/10 where the <i>firm</i> falls into fee block A.3, the Solvency 2 <u>Special Project</u> fee is only payable with respect to that insurance fee block if the amount of the periodic fees payable by it under <i>FEES</i> 4.3 in respect of the financial year 2009/10 with respect to that insurance fee block was at least £49,000;
(b)	<i>FEES</i> 4.3.13R (Firms Applying to Cancel or Vary Permission Before Start of Period) does not apply with respect to the fee block in (a) where the <i>firm</i> falls into fee block A.4, the Solvency 2 <u>Special Project</u> fee is only payable with respect to that insurance fee block if the amount of the periodic fees payable by it under <i>FEES</i> 4.3 in respect of the financial year 2009/10 with respect to that insurance fee block was at least £55,000.
(c)	it has not notified the <i>FSA</i> before the start of the financial year 2009/10 that it intends to migrate out of the <i>United Kingdom</i> for regulatory purposes before the proposed Solvency II Directive is implemented; and [deleted]
(d)	it is not an <i>incoming EEA firm</i> or an <i>incoming Treaty firm</i> . [deleted]
(3)	The Solvency 2 fee is payable by the top sixty <i>firms</i> in the list of firms that fall into (2) and into fee block A3, and by the top sixty firms in the list of firms that fall into (2) and into fee block A4. A <i>firm's</i> ranking in the list for a particular insurance fee block is measured by reference to the amount of the periodic fees payable by it under <i>FEES</i> 4.3 in respect of the financial year 2008/9 with respect to that insurance fee block. [deleted]
(4)	The <u>prior year fee</u> referred to in (2) for a particular insurance fee block is calculated by multiplying the periodic fee payable by the <i>firm</i> with respect to that fee block (ignoring <u>does not take into account</u> the Solvency 2 <u>Special Project</u> fee and or the Solvency 2 Implementation fee) by the percentage specified in Part 1.
(5)	The total Solvency 2 fee payable by a <i>firm</i> (taking into account

	amounts payable under both insurance fee blocks) is capped at £95,000. [deleted]
(6)	For the purpose of (3) <i>firms</i> falling into (2) that are in the same group at the start of the financial year 2009/10 must be treated as a single <i>firm</i> , so that the total number of <i>firms</i> liable to pay the Solvency 2 fee may be greater than 120. [deleted]
(7)	Where (6) applies, the Solvency 2 fee payable by the <i>firms</i> in the group concerned for a particular insurance fee block is calculated by multiplying the total amount of the periodic fees payable by those <i>firms</i> with respect to that fee block (ignoring the Solvency 2 fee and the Solvency 2 Implementation fee) by the percentage specified in Part 1. All those <i>firms</i> are liable jointly and severally to pay the Solvency 2 fee. [deleted]
(8)	Where (7) applies, (5) is applied to the group as a whole so that the total joint Solvency 2 fee payable by the group is capped at £95,000. [deleted]
(9)	The definition of a <i>group</i> is restricted for the purpose of calculating the Solvency 2 fee to <i>parent undertakings</i> and their <i>subsidiary undertakings</i> . [deleted]
(10)	In calculating the fee to which the percentage in (4) or (7) is applied, no account is taken of any change in the fee that takes place after the Solvency 2 fee has been billed. [deleted]
(11)	The Solvency 2 fee is not reduced under the table in <i>FEES 4.2.6R</i> (Modifications for persons becoming subject to periodic fees during the course of a financial year). Instead the fee to which the percentage in (4) or (7) is applied takes account of any reduction under that table. The same applies for the reductions in Part 3 of this Annex (Modifications to fee tariffs that apply to incoming EEA firms and incoming Treaty firms). <i>FEES 4.2.6R</i> and <i>FEES 4.2.7R</i> do not apply to the Solvency 2 Special Project fee.

Part 5

...

...	
(2)	The conditions in this paragraph are:
	...
(b)	the <i>firm</i> has not notified the <i>FSA</i> before the start of the financial year 2009/10 <u>2010/11</u> that it intends to migrate out of the <i>United Kingdom</i> for regulatory purposes before the proposed <i>Solvency II 2 Directive</i> is implemented;

	(c)	<u>it meets either of the following conditions:</u>
	(i)	its gross premium income or adjusted gross premium income, as appropriate, referred to in <i>FEES 4 Annex 1R Part 2</i> , exceeds EUR 5 million at the end of the financial year ended in the calendar year ending 31 December prior to the FSA financial year; <u>or</u>
	(ii)	<u>its gross technical liabilities or mathematical reserves, as appropriate, referred to in <i>FEES 4 Annex 1R, Part 2</i>, exceed EUR 25 million at the end of the financial year ended in the calendar year ending 31 December prior to the FSA financial year;</u>
	(d)	its gross technical liabilities or mathematical reserves, as appropriate, referred to in <i>FEES 4 Annex 1R, Part 2</i>, exceed EUR 25 million at the end of the financial year ended in the calendar year ending 31 December prior to the FSA financial year <u>it was in one or both of the insurance fee blocks at the start of the financial year 2010/11;</u>
	(e)	<u>it is not an <i>incoming EEA firm</i> or an <i>incoming Treaty firm</i>.</u>
...		
(4)		Where a <i>firm</i> has notified the <i>FSA</i> that it intends to migrate out of the <i>United Kingdom</i> for regulatory purposes before the proposed <i>Solvency II 2 Directive</i> is implemented in the <i>United Kingdom</i> but when the proposed <i>Solvency 2 Directive</i> is implemented that <i>firm</i> remains in the <i>United Kingdom</i> for regulatory purposes, it must pay the Solvency 2 Implementation fee for each financial year commencing 1 April 2009 for which the Solvency 2 Implementation fee would have applied to the <i>firm</i> but for the <i>firm</i> notifying the <i>FSA</i> of its intention to migrate.
...		
(7)		<u><i>FEES 4.2.6R</i> and <i>FEES 4.2.7R</i> do not apply to the Solvency 2 Implementation fee.</u>

4 Annex 3 R Transaction reporting fees

Transaction reporting fees ~~for the period from 1 April 2009~~ 2010 ~~to 31 March 2010~~ until further notice

...

4 Annex 4 R Periodic fees in relation to collective investment schemes payable for the period 1 April ~~2009~~ 2010 to 31 March ~~2010~~ 2011

Part 1 - Periodic fees payable

Scheme type	Basic fee (£)	Total funds/sub-funds aggregate	Fund factor	Fee (£)
ICVC, AUT, Section 264 of the <i>Act</i> Section 270 of the <i>Act</i>	570 <u>560</u>	1-2	1	570 <u>560</u>
		3-6	2.5	1,425 <u>1,400</u>
		7-15	5	2,850 <u>2,800</u>
		16-50	11	6,270 <u>6,160</u>
		>50	22	12,540 <u>12,320</u>
Section 272 of the <i>Act</i>	2,325 <u>2,280</u>	1-2	1	2,325 <u>2,280</u>
		3-6	2.5	5,815 <u>5,700</u>
		7-15	5	11,630 <u>11,400</u>
		16-50	11	25,585 <u>25,080</u>
		>50	22	51,170 <u>50,160</u>

Fees are charged according to the number of funds or *sub-funds* operated by a *firm* as at 31 March ~~2009~~ 2010. ...

Schemes set up under section 264 of the *Act* are charged according to the number of funds or *sub-funds* which a *firm* is operating and *marketing* into the *UK* as at 31 March immediately before the start of the period to which the fee applies. For example, for ~~2008/09~~ 2010/11 fees a reference to 31 March means 31 March ~~2008~~ 2010.

4 Annex 5 R Periodic fees for designated professional bodies payable in relation to the period 1 April 2010 to 31 March 2011

Table of fees payable by Designated Professional Bodies

Name of Designated Professional Body	Amount payable	Due date
The Law Society of England & Wales	£34,545	30 April 2010
	£18,105 <u>£48,565</u>	1 September 2009 <u>2010</u>
The Law Society of Scotland	£13,990 <u>£14,620</u>	1 July 2009 <u>2010</u>
The Law Society of Northern Ireland	£12,990 <u>£13,380</u>	1 July 2009 <u>2010</u>
The Institute of Actuaries	£10,110 <u>£10,130</u>	1 July 2009 <u>2010</u>

The Institute of Chartered Accountants in England and Wales	£25,630 <u>£27,350</u>	1 July 2009 <u>2010</u>
The Institute of Chartered Accountants of Scotland	£11,330 <u>£11,450</u>	1 July 2009 <u>2010</u>
The Institute of Chartered Accountants in Ireland	£10,630 <u>£10,700</u>	1 July 2009 <u>2010</u>
The Association of Chartered Certified Accountants	£17,070 <u>£18,040</u>	1 July 2009 <u>2010</u>
The Council for Licensed Conveyancers	£11,090 <u>£11,290</u>	1 July 2009 <u>2010</u>
Royal Institution of Chartered Surveyors	£13,650 <u>£14,390</u>	1 July 2009 <u>2010</u>

...

4 Annex 6 R Periodic fees for recognised investment exchanges and recognised clearing houses payable in relation to the period 1 April 2010 to 31 March 2011

...

Part 1 - Periodic fees for UK recognised bodies

Name of UK recognised body	Amount payable	Due date
Euroclear UK & Ireland Limited	£277,500	30 April 2010
	£310,500 <u>£372,500</u>	1 September 2009 <u>2010</u>
ICE Futures Europe Ltd	£230,000	30 April 2010
	£267,500 <u>£280,000</u>	1 September 2009 <u>2010</u>
LIFFE Administration and Management	£325,000	30 April 2010
	£350,000 <u>£475,000</u>	1 September 2009 <u>2010</u>
LCH Clearnet Limited	£298,000	30 April 2010
	£315,000 <u>£452,000</u>	1 September 2009 <u>2010</u>

The London Metal Exchange Limited	£198,000	30 April 2010
	£211,500 <u>£277,000</u>	1 September 2009 <u>2010</u>
London Stock Exchange plc	£261,000	30 April 2010
	£252,500 <u>£409,000</u>	1 September 2009 <u>2010</u>
EDX London Ltd	£42,500	30 April 2010
	£37,000 <u>£77,500</u>	1 September 2009 <u>2010</u>
PLUS Markets Plc	£97,500	30 April 2010
	£118,000 <u>£122,500</u>	1 September 2009 <u>2010</u>
European Central Counterparty Limited	£163,500	30 April 2010
	£202,000 <u>£211,500</u>	1 September 2009 <u>2010</u>
ICE Clear Europe Limited	£184,000	30 April 2010
	£243,000 <u>£366,000</u>	1 September 2009 <u>2010</u>
...		

Part 2 - Periodic fees for overseas recognised bodies

Name of overseas recognised body	Amount payable	Due date
The Chicago Mercantile Exchange (CME) (ROIE)	£30,000 <u>£40,000</u>	1 July 2009 <u>2010</u>
Chicago Board of Trade	£30,000 <u>£40,000</u>	1 July 2009 <u>2010</u>
EUREX (Zurich)	£30,000 <u>£40,000</u>	1 July 2009 <u>2010</u>
National Association of Securities and Dealers Automated Quotations (NASDAQ)	£30,000 <u>£40,000</u>	1 July 2009 <u>2010</u>
New York Mercantile Exchange Inc.	£30,000 <u>£40,000</u>	1 July 2009 <u>2010</u>
The Swiss Stock Exchange	£30,000 <u>£40,000</u>	1 July 2009 <u>2010</u>

Sydney Futures Exchange Limited	£30,000 £40,000	1 July 2009 <u>2010</u>
ICE Futures US Inc	£30,000 £40,000	1 July 2009 <u>2010</u>
<u>NYSE Liffe US</u>	<u>£40,000</u>	<u>1 July 2010</u>
SIS x-clear AG	£60,000 £100,000	1 July 2009 <u>2010</u>
Eurex Clearing AG	£60,000 £200,000	1 July 2009 <u>2010</u>
ICE Clear US Inc	£60,000 £70,000	1 July 2009 <u>2010</u>
Chicago Mercantile Exchange (CME) (ROCH)	£60,000 £200,000	1 July 2009 <u>2010</u>
<u>European Multi-Lateral Clearing Facility</u>	<u>£100,000</u>	<u>1 July 2010</u>
<u>Cassa di Compensazione e Garanzia (CC&G)</u>	<u>£70,000</u>	<u>1 July 2010</u>
...		

4 Annex 7 R Periodic fees in relation to the Listing Rules for the period 1 April ~~2009~~ 2010 to 31 March ~~2010~~ 2011

Fee type	Fee amount
Annual fees for the period 1 April 2009 <u>2010</u> to 31 March 2010 <u>2011</u>	
Annual Issuer Fees - all <i>listed issuers</i> of <i>shares</i> , depositary receipts and <i>securitised derivatives</i> . This fee represents the total annual fee for a <i>listed issuer</i> - no additional annual fee is due under the <i>disclosure rules</i> and <i>transparency rules</i> .	<p>(1) For all <i>issuers</i> of <i>securitised derivatives</i>, depositary receipts and global depositary receipts the fees payable are set out in Table 1.</p> <p>(2) For all other <i>issuers</i>, fees to be determined according to market capitalisation, as at the last <i>business day</i> of the November prior to the <i>FSA</i> financial year in which the fee is payable, are as set out in Table 2. The fee is calculated as follows:</p> <p>...</p> <p>(3) Notwithstanding (2), <i>overseas issuers</i> with a <i>listing</i> of <i>equity securities</i> which is not a <i>primary premium listing</i> will only pay 80% of</p>

	the fee otherwise payable under (2).
...	

Table 1

Annual fees for issuers of *securitised derivatives*, depositary receipts and global depositary receipts

Issuer	Fee amount
<i>Issuers of securitised derivatives</i>	£3,425 <u>£3,700</u>
Issuers of depositary receipts and global depositary receipts	£4,110 <u>£4,440</u>

Table 2

Tiered annual fees for all other issuers

Fee payable	
Minimum fee (£)	3,425 <u>3,700</u>
£ million of Market Capitalisation as at the last <i>business day</i> of the November prior to the <i>FSA</i> financial year in which the fee is payable	Fee (£/£m or part £m of Market Capitalisation as at the last <i>business day</i> of the November prior to the <i>FSA</i> financial year in which the fee is payable)
0 - 100	0
>100 - 250	21.845700 <u>23.593356</u>
>250 - 1,000	8.737700 <u>9.436716</u>
>1,000 - 5,000	5.378413 <u>5.808686</u>
>5,000 - 25,000	0.131196 <u>0.141692</u>
>25,000	0.042386 <u>0.045777</u>

There is deducted from the fee specified in this Annex ~~6.4%~~ 0.0% of the fee payable to take into account financial penalties received by the *FSA* in the previous financial year.

...

4 Annex 8 R Periodic fees in relation to the disclosure rules and transparency rules for the period 1 April ~~2009~~ 2010 to 31 March ~~2010~~ 2011

Annual fees for the period 1 April 2009 <u>2010</u> to 31 March 2010 <u>2011</u>
...

Table 1

Annual fees for non-listed issuers of securitised derivatives, depositary receipts and global depositary receipts

Issuer	Fee amount
<i>Issuers of securitised derivatives</i>	£2,740 <u>£2,960</u>
<i>Issuers of depositary receipts and global depositary receipts</i>	£3,288 <u>£3,552</u>

Table 2

Fee payable	
Minimum fee (£)	2,740 <u>2,960</u>
£ million of Market Capitalisation	Fee (£/£m or part £m of Market Capitalisation)
0 - 100	0
>100 - 250	17.476560 <u>18.874685</u>
>250 - 1,000	6.990160 <u>7.549373</u>
>1,000 - 5,000	4.302730 <u>4.646949</u>
>5,000 - 25,000	0.104957 <u>0.113353</u>
>25,000	0.033909 <u>0.036622</u>

4 Annex 9 R Periodic fees in respect of securitised securities derivatives for the period from 1 April ~~2009~~ 2010 to 31 March ~~2010~~ 2011

Part 1

This table shows the fee amount applicable to *firms* and *market operators* in respect of certain ~~securitised~~ securities derivatives.

For the purposes of this Annex, a “relevant ~~contracts~~ contract” ~~are all transactions~~ is any contract entered into or settled by firms on or through

LIFFE or Eurex Clearing AG in securitised securities derivatives entered into on or settled through LIFFE or Eurex Clearing AG, and the “relevant period” is 1 January ~~2008~~ 2009 to 31 December ~~2008~~ 2009 inclusive.

The fee shown in the table below for *firms* (but not *market operators*) will be subject to a deduction of ~~6.2%~~ 7.5%, as if that fee were a periodic fee charged under *FEES* 4.3.3R, and the deduction were a deduction set out in Part 2 of *FEES* 4 Annex 2 R.

...

Fee amount for <i>firms</i>	
Number of relevant contracts entered into by the <i>firm</i> during the relevant period	Fee amount
...	
101 - 1,000	£475 <u>£550</u>
1,001 - 100,000	£2,450 <u>£2,775</u>
100,001 - 1,000,000	£7,350 <u>£8,340</u>
1,000,001 - 5,000,000	£17,100 <u>£20,000</u>
5,000,001 - 20,000,000	£31,300 <u>£35,435</u>
>20,000,000	£48,800 <u>£54,000</u>
Fee amount for <i>market operators</i>	
<i>Market operators</i> providing facilities for trading in <u>securitised securities derivatives</u> that do not identify those <u>securitised securities derivatives</u> using an International Securities Identity Number	£10,000 <u>£10,300</u>

...

4 Annex 10 R Periodic fees for MTF operators payable in relation to the period 1 April ~~2009~~ 2010 to 31 March ~~2010~~ 2011

Name of <i>MTF</i> operator	Fee payable (£)	Due date
		30 April 2009 <u>1 July 2010</u>
<u>Baikal Global Ltd</u>	<u>25,000</u>	
Barclays Bank Plc	2,600 <u>3,600</u>	
BATS Trading Ltd	38,000 <u>80,000</u>	

BGC Brokers L.P	2,600 <u>3,600</u>	
Cantor Index Limited	5,600 <u>7,750</u>	
CantorCO2e Limited	2,600 <u>3,600</u>	
Chi-X Europe Limited	38,000 <u>125,000</u>	
EuroMTS Limited	20,000 <u>30,000</u>	
GFI Brokers Limited	2,600 <u>3,600</u>	
GFI Securities Limited	2,600 <u>3,600</u>	
ICAP Electronic Broking Limited	4,400 <u>6,000</u>	
ICAP Energy Limited	2,600 <u>3,600</u>	
ICAP Europe Limited	2,600 <u>3,600</u>	
ICAP Hyde Shipping Tanker Derivatives Limited	2,600 <u>3,600</u>	
ICAP Securities Limited	2,600 <u>3,600</u>	
ICAP WCLK Limited	2,600 <u>3,600</u>	
Liquidnet Europe Limited	20,000 <u>70,000</u>	
MF Global UK Limited	2,300 <u>3,300</u>	
My Treasury Limited	2,600 <u>3,600</u>	
NASDAQ OMX Europe Limited	38,000 <u>70,000</u>	
NYMEX	20,000	
<u>SmartPool Trading Limited</u>	<u>20,000</u>	
TFS-ICAP Limited	2,600 <u>3,600</u>	
Tradeweb Europe Limited	9,200 <u>12,500</u>	

Tradition (UK) Limited	2,600 <u>3,600</u>	
Tradition Financial Services Limited	2,600 <u>3,600</u>	
Tullett Prebon (Europe) Limited	2,600 <u>3,600</u>	
Tullett Prebon (Securities) Limited	2,600 <u>3,600</u>	
Turquoise Services Limited	38,000 <u>80,000</u>	
Any other <i>firm</i> whose <i>permission</i> includes <i>operating a multilateral trading facility</i> , including: (a) an <i>EEA firm</i> ; or (b) a <i>firm</i> that, during the course of the relevant financial year, receives <i>permission</i> for <i>operating a multilateral trading facility</i> or whose <i>permission</i> is extended to include this activity.	In the case of an <i>EEA firm</i> that: (a) has not carried on the activity of <i>operating a multilateral trading facility</i> in the UK at any time in the calendar year ending 31 December 2008 <u>2009</u> ; and (b) notifies the FSA of that fact by the end of March 2009 <u>2010</u> ; the fee is zero. Information required under (b) is to be treated as information required under FEES 4.4 (Information on which Fees are calculated) In any other case: 2000 <u>£3,000</u>	In the case of a <i>firm</i> that, during the course of the relevant financial year, receives <i>permission</i> for <i>operating a multilateral trading facility</i> or whose <i>permission</i> is extended to include this activity, within 30 days of receiving that <i>permission</i> or extension. In any other case, 1 July 2009 <u>2010</u>

There is deducted from the fee specified in this Annex 7.5% of the fee payable to take into account financial penalties received by the FSA in the previous financial year.

...

**4 Annex 11
R**

Periodic fees in respect of payment services carried on by fee-paying payment service providers under the Payment Services Regulations in relation to the period 1 April 2010 to 31 March 2011

...

Part 5 - Tariff rates

Activity group	Fee payable in relation to 2010/11	
G.2	Minimum fee (£)	400
	£ million <u>or part £m</u> of Modified Eligible Liabilities (MELS)	Fee (£/£m or part £m of MELS)
	{tariff band to follow}	{tariff rate to follow}
	<u>> 0.1</u>	<u>0.42292</u>
	<u>> 0.25</u>	<u>0.42292</u>
	<u>> 1.0</u>	<u>0.42292</u>
	<u>> 10.0</u>	<u>0.42292</u>
	<u>> 50.0</u>	<u>0.42292</u>
<u>> 500.0</u>	<u>0.42292</u>	
G.3	Minimum fee (£)	400
	£ thousands or part £ thousand of Relevant Income	Fee (£/£thousand or part £ thousand of Relevant Income)
	{tariff band to follow}	{tariff rate to follow}
	<u>> 0.1</u>	<u>0.48508</u>
	<u>> 0.25</u>	<u>0.48508</u>
	<u>> 1.0</u>	<u>0.48508</u>
	<u>> 10.0</u>	<u>0.48508</u>
	<u>> 50.0</u>	<u>0.48508</u>
<u>> 500.0</u>	<u>0.48508</u>	
...		

Part 6 - Permitted deductions for financial penalties pursuant to the Payment Services Regulations

Fee-paying payment service providers may make deductions as provided in this Part.

Activity group	Nature of deduction	Amount of deduction
G.2	Financial penalties received	{to follow} <u>0.0%</u>
G.3	Financial penalties received	{to follow} <u>0.0%</u>
G.4	Financial penalties received	{to follow} <u>0.0%</u>
G.5	Financial penalties received	{to follow} <u>0.0%</u>

Part 7 - This table shows the modifications to fee tariffs that apply Permitted deductions for to EEA authorised payment institutions, and full credit institutions and e-money issuers that are EEA firms.

~~Fee-paying payment service providers may make deductions as provided in this Part.~~

Activity group	Percentage deducted from the tariff payable under Part 5 applicable to the firm	Minimum amount payable
G.2	{to follow} <u>40%</u>	{to follow}
G.3 excluding the Post Office Limited	{to follow} <u>40%</u>	{to follow}

5 Financial Ombudsman Service Funding

...

5 Annex 1 R Annual Fees Payable in Relation to 2010/11

Introduction: annual budget

1. The *annual budget* for ~~2009/10~~ 2010/11 approved by the FSA is ~~£92.5m~~ £113.7m.

Part 1: General levy

2. The total amount expected to be raised through the *general levy* in ~~2009/10~~ 2010/11 will be £17.7m (net of £1.8m to be raised from consumer credit firms).

Part 2: Fee tariffs for general levy

Industry block	Tariff base	General levy payable by firm
1 –Deposit acceptors, <i>home finance providers, home</i>	...	£0.027 <u>£0.0278</u> per relevant account subject to a minimum levy of

<i>finance administrators</i> (excluding firms in block 14) and <i>dormant account fund operators</i>		£100
2-Insurers - general (excluding <i>firms</i> in blocks 13 and 15)	...	£0.126 <u>£0.108</u> per £1,000 of relevant gross premium income subject to a minimum levy of £100
3-The <i>Society</i> (of Lloyd's)	...	£28,000 <u>£20,000</u> to be allocated by the <i>Society</i>
4-Insurers - life (excluding <i>firms</i> in block 15)	...	£0.028 <u>£0.033</u> per £1,000 of relevant adjusted gross premium income subject to a minimum levy of £100
...		
8-Advisory <i>arrangers</i> , dealers or brokers holding and controlling <i>client money</i> and/or assets	...	£45 <u>£35</u> per relevant <i>approved person</i> subject to a minimum levy of £45 <u>£35</u>
9-Advisory <i>arrangers</i> , dealers or brokers not holding and controlling <i>client money</i> and/or assets	...	£40 <u>£35</u> per relevant <i>approved person</i> subject to a minimum levy of £40 <u>£35</u>
...		
11- <i>fee-paying payment service providers</i> (but excluding <i>firms</i> in any other Industry block)	For <i>authorised payment institutions</i> , the Post Office Limited, the Bank of England, government departments and local authorities, and <i>EEA authorised payment institutions</i> relevant income as described in <i>FEES 4 Annex 11R Part 3</i>	[to follow] <u>£0.015 per £1,000 of relevant income subject to a minimum levy of £75</u>
	For <i>small payment institutions</i> and <i>small</i>	Levy of £75 as from

	<i>e-money issuers</i> a flat fee	2010/11
12-	N/A for 2009/10 <u>2010/11</u>	
...		
16- <i>Home finance providers, advisers and arrangers</i> (excluding <i>firms</i> in blocks 13, 14 & 15)	Flat fee	Levy of £70 <u>£90</u>
17-General insurance mediation (excluding <i>firms</i> in blocks 13, 14 & 15)	...	£0.175 <u>£0.31</u> per £1,000 of <i>annual income</i> (as defined in <i>MIPRU</i> 4.3) relating to <i>firm's relevant business</i> subject to a minimum levy of £80 <u>£85</u>

...

FEES (CFEB LEVY) INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 156 (General supplementary powers);
 - (2) section 157 (Guidance); and
 - (3) paragraph 12 of Part 2 (Funding) of Schedule 1A (Further provision about the consumer financial education body).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 June 2010.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Fees manual (FEES) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Fees (CFEB Levy) Instrument 2010.

By order of the Board
27 May 2010

Annex A

Amendments to the Glossary of definitions

Insert the following new definitions in the appropriate alphabetical position.

<i>CFEB</i>	<i>Consumer Financial Education Body Limited.</i>
<i>CFEB levy</i>	the levy payable to the <i>FSA</i> pursuant to <i>FEES</i> 7.2.1R by the <i>persons</i> listed in <i>FEES</i> 1.1.2R(5).
<i>Consumer Financial Education Body Limited</i>	the <i>body corporate</i> established by the <i>FSA</i> under section 6A(1) of the <i>Act</i> (Enhancing public understanding of financial matters etc).

Annex B

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

1.1 Application and Purpose

- 1.1.1 G *FEES* applies to all *persons* required to pay a fee or levy under a provision of the *Handbook*. The purpose of this chapter is to set out to whom the *rules* and *guidance* in *FEES* apply. *FEES* 2 (General Provisions) contains general provisions which may apply to any type of fee payer. *FEES* 3 (Application, Notification and Vetting Fees) covers one-off fees payable on a particular event, for example various application fees (including those in relation to authorisation, variation of *Part IV permission*, *listing* and the Basel Capital Accord) and fees relating to certain notifications and document vetting requests. *FEES* 4 (Periodic fees) covers all periodic fees and transaction reporting fees. *FEES* 5 (Financial Ombudsman Service Funding) relates to *FOS* levies and case fees, and *FEES* 6 (Financial Services Compensation Scheme Funding) relates to the *FSCS* levy. *FEES* 7 relates to the *CFEB* levy.

Application

- 1.1.2 R This manual applies in the following way:

...

(5) *FEES* 1, 2 and 7 apply to:

- (a) every person having a *Part IV permission*;
- (b) an incoming *EEA firm*;
- (c) an incoming *Treaty firm*;
- (d) the *Society*.

FEES 1, 2 and 7 do not apply to an incoming *EEA firm* or an incoming *Treaty firm* that has not established a branch in the United Kingdom.

...

2 General Provisions

...

- 2.1.4 G The purpose of this chapter is to set out the general provisions applicable to those who are required to pay fees or levies to the *FSA*, case fees to the *FOS*

Ltd or a share of the *FSCS* levy.

- 2.1.5 G Paragraph 17 of Schedule 1 to and section 99 of the *Act* and regulation 92 of the *Payment Services Regulations* enable the *FSA* to charge fees to cover its costs and expenses in carrying out its functions. The corresponding provisions for the *FSCS* levy, ~~and~~ *FOS* levies and case fees and *CFEB* levies are set out in *FEES* 6.1, ~~and~~ *FEES* 5.2 and *FEES* 7.1.4G respectively. *Fee-paying payment service providers* are not required to pay the *FSCS* levy but are liable for *FOS* levies.

...

- 2.1.7 G The key components of the *FSA* fee mechanism (excluding the ~~FSCS~~ *FSCS* levy, ~~and the *FOS*~~ *FOS* levy and case fees, and the *CFEB* levy which are dealt with in *FEES* 5, ~~and~~ *FEES* 6 and *FEES* 7) are:

...

...

Late Payments

- 2.2.1 R If a *person* does not pay the total amount of a periodic fee (including fees relating to *transaction reports* to the *FSA* using the *FSA*'s Transaction Reporting System (see *SUP* 17)), *FOS* levy or case fee, or share of the *FSCS* levy or *CFEB* levy, before the end of the date on which it is due, under the relevant provision in *FEES* 4, 5, ~~or~~ 6, or 7, that *person* must pay an additional amount as follows:

- (1) if the fee was not paid in full before the end of the due date, an administrative fee of £250; plus
- (2) interest on any unpaid part of the fee at the rate of 5% per annum above the Bank of England's repo rate from time to time in force, accruing on a daily basis from the date on which the amount concerned became due.

- 2.2.2 G The *FSA*, (for periodic fees, *FOS* and *FSCS* levies and *CFEB* levies), and the *FOS Ltd* (for *FOS* case fees), expect to issue invoices at least 30 *days* before the date on which the relevant amounts fall due. *FOS* case fees are invoiced on a monthly basis. Accordingly it will generally be the case that a *person* will have at least 30 *days* from the issue of the invoice before an administrative fee becomes payable.

Recovery of Fees

- 2.2.3 G Paragraph 17(4) and paragraph 19B of Schedule 1 to and section 99(5) ~~to~~ of the *Act* permit the *FSA* to recover fees (including fees relating to *payment services* and, where relevant, *FOS* levies and *CFEB* levies), and section 213(6) permits the *FSCS* to recover shares of the *FSCS* levy payable, as a debt owed to the *FSA* and *FSCS* respectively, and the *FSA* and the *FSCS*, as relevant, will consider taking action for recovery (including interest) through

the civil courts. Also, the FOS Ltd (in respect of case fees) may take steps to recover any money owed to it (including interest).

- 2.2.4 G In addition, the *FSA* may be entitled to take regulatory action in relation to the non-payment of fees, ~~and FOS levies and CFEB levies~~. ~~The FSA~~ FSA may also take regulatory action in relation to the non-payment of *FOS* case fees or share of the *FSCS* levy, after reference of the matter to the FSA by the FOS Ltd or the FSCS respectively. What action (if any) that is taken by the *FSA* will be decided upon in the light of the particular circumstances of the case.

...

- 2.3.1 R If it appears to the *FSA*, the *FSCS* (in relation to any *FSCS* levy only) or the FOS Ltd (in relation to any *FOS* case fee only), that in the exceptional circumstances of a particular case, the payment of any fee, *FSCS* levy, ~~or FOS levy or CFEB levy~~ would be inequitable, the *FSA*, the *FSCS* or the FOS Ltd, as relevant, may (unless *FEES* 2.3.2BR applies) reduce or remit all or part of the fee or levy in question which would otherwise be payable.

- 2.3.2 R If it appears to the *FSA*, the *FSCS* (in relation to any *FSCS* levy only) or the FOS Ltd (in relation to any *FOS* case fee only), that in the exceptional circumstances of a particular case to which *FEES* 2.3.1R does not apply, the retention by the *FSA*, the *FSCS*, ~~or the FOS Ltd or the CFEB~~, as relevant, of a fee, *FSCS* levy, ~~or FOS levy or CFEB levy~~ which has been paid would be inequitable, the *FSA*, the *FSCS*, ~~or the FOS Ltd or the CFEB~~, may (unless *FEES* 2.3.2BR applies) refund all or part of that fee or levy.

...

- 2.4.1 R All fees payable or any stated hourly rate under *FEES* 3 (Application, notification and vetting fees), ~~and FEES 4 (Periodic fees) and FEES 7 (The CFEB levy)~~ are stated net of VAT. Where VAT is applicable this must also be included.

...

Insert the following new chapter after *FEES* 6. The text is not underlined.

7 CFEB levies

7.1 Application and Purpose

Application

- 7.1.1 R This chapter applies to every *person* listed in *FEES* 1.1.2R(5).

Purpose

- 7.1.2 G The purpose of this chapter is to set out the requirements on the persons listed in *FEES* 7.1.1R to pay annual *CFEB levies* in order to establish and

fund the *CFEB*.

- 7.1.3 G Section 6A(1) of the *Act* (Enhancing public understanding of financial matters etc) requires the *FSA* to establish the *CFEB* in order to enhance:
- (1) the understanding and knowledge of members of the public of financial matters (including the UK financial system); and
 - (2) the ability of members of the public to manage their own financial affairs.
- 7.1.4 G Paragraph 12(1) of Part 2 of Schedule 1A to the *Act* enables the *FSA* to make *rules* requiring any *authorised persons* or *payment service providers* or class of *authorised persons* or class of *payment service providers* to pay to the *FSA* specified amounts or amounts calculated in a specified way in order to meet a proportion of:
- (1) the expenses incurred by the *FSA* in establishing the *CFEB*, whenever these were incurred; and
 - (2) the expenses incurred, or expected to be incurred, by the *CFEB* in connection with the discharge of the functions described in *FEES* 7.1.3G.
- 7.1.5 G *FEES* 7 sets out the *rules* referred to in *FEES* 7.1.4G.
- 7.1.6 G The *FSA* must have regard to other anticipated sources of funding of the costs described in *FEES* 7.1.4G when setting the *CFEB* levy.
- 7.1.7 G The amounts to be paid under the *CFEB* levy may include a component to cover the *FSA*'s expenses in collecting the payments.
- 7.1.8 G The *FSA* must pay to the *CFEB* the amounts that it receives under the *CFEB* levy apart from amounts in respect of its collection costs (which it may keep).
- 7.1.9 G Paragraph 7(1) of Part 1 of Schedule 1A to the *Act* requires the *CFEB* to adopt an annual budget which has been approved by the *FSA*.
- 7.1.10 G This chapter sets out the method by which the *CFEB* levy will be calculated. Details of the actual levy payable will vary from year to year, depending on the *CFEB*'s annual budget. These details are set out in *FEES* 7 Annex 1R. New details will be prepared and consulted on for each financial year.

7.2 The *CFEB* levy

Obligation to pay *CFEB* levy

- 7.2.1 R A *firm* must pay each *CFEB* levy applicable to it:

- (1) in full and without deduction (unless permitted or required by a provision in *FEES*); and
- (2) in accordance with the provisions of *FEES* 4.3.6R.

Calculation of CFEB levy

7.2.2 R The *CFEB* levy is calculated as follows:

- (1) identify each of the activity groups set out in Part 1 of *FEES* 7 Annex 1R that apply to the business of the *firm* for the relevant period (for this purpose, the activity groups are defined in accordance with Part 1 of *FEES* 4 Annex 1R);
- (2) for each of those activity groups, calculate the amount payable in the way set out in *FEES* 7.2.3R;
- (3) add the amounts calculated under (2);
- (4) work out whether a minimum fee is payable under Part 2 of *FEES* 7 Annex 1R and if so how much;
- (5) add together the amounts calculated under (3) and (4);
- (6) modify the result as indicated by the table in *FEES* 4.2.6R and *FEES* 4.2.7R (if applicable);
- (7) apply any applicable payment charge specified in *FEES* 4.2.4R to the amount in (6), provided that:
 - (a) for payment by direct debit, successful collection of the amount due is made at the first attempt by the *FSA*; or
 - (b) for payment by credit transfer, the amount due is received by the *FSA* on or before the due date;
- (8) make the calculations using information obtained in accordance with *FEES* 4.4.

7.2.3 R The amount payable by a *firm* with respect to a particular activity group is calculated as follows:

- (1) calculate the size of the *firm*'s tariff base for that activity group using the tariff base calculations in Part 2 of *FEES* 4 Annex 1R and the valuation date requirements in Part 3 of *FEES* 4 Annex 1R;
- (2) use the figure in (1) to calculate which of the bands set out in column 2 of the table in Part 1 of *FEES* 7 Annex 1R the *firm* falls into;
- (3) add together the fixed sums, as set out in column 3 of the table in Part 1 of *FEES* 7 Annex 1R, applicable to each band identified under

- (2);
- (4) the amount in (3) is the amount payable by the *firm* with respect to that activity group.
- 7.2.4 R For the purposes of *FEES* 7.2.3R:
- (1) a *firm* may apply the relevant tariff bases and rates to its non-*UK* business, as well as to its *UK* business, if:
- (a) it has reasonable grounds for believing that the costs of identifying the *firm's UK* business separately from its non-*UK* business in the way described in Part 2 of *FEES* 4 Annex 1R are disproportionate to the difference in fees payable; and
- (b) it notifies the *FSA* in writing at the same time as it provides the information concerned under *FEES* 4.4 (Information on which fees are calculated), or, if earlier, at the time it pays the fees concerned;
- (2) for a *firm* which has not complied with *FEES* 4.4.2R (Information on which fees are calculated) for this period, the *CFEB* levy is calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10.
- 7.2.5 R The modifications in Part 3 of *FEES* 4 Annex 2R apply.
- Amount payable by the Society of Lloyd's
- 7.2.6 R The *CFEB* levy in relation to the *Society* is specified against its activity group in Part 1 of *FEES* 7 Annex 1R.
- FEES* 4 rules incorporated into *FEES* 7 by cross-reference
- 7.2.7 G The *Handbook* provisions relating to the *CFEB* levy are meant to follow closely the provisions relating to the payment of periodic fees under *FEES* 4.3.1R. In the interests of brevity, not all of these provisions are set out again in *FEES* 7. In some cases, certain *FEES* 4 rules are applied to the payment of the *CFEB* levy by individual *rules* in *FEES* 7. The rest are set out in the table in *FEES* 7.2.9R.
- 7.2.8 R The *rules* set out in the table in *FEES* 7.2.9R and any other *rules* in *FEES* 4 included in *FEES* 7 by cross-reference apply to the *CFEB* levy in the same way as they apply to periodic fees payable under *FEES* 4.3.1R.

7.2.9 R Table of rules in FEES 4 that also apply to FEES 7

<i>FEES 4 rules incorporated into FEES 7</i>	Description
<i>FEES 4.2.4R</i>	Method of payment
<i>FEES 4.2.7BR</i>	Calculation of periodic fee and tariff base for a <i>firm's</i> second financial year
<i>FEES 4.2.8R</i>	How <i>FEES 4.2.7R</i> applies in relation to an <i>incoming EEA firm</i> or an <i>incoming Treaty firm</i>
<i>FEES 4.2.10R</i>	Extension of time
<i>FEES 4.2.11R</i> (first entry only)	Due date and changes in <i>permission</i> for periodic fees
<i>FEES 4.3.7 R</i>	Groups of <i>firms</i>
<i>FEES 4.3.13R</i>	<i>Firms</i> applying to cancel or vary permission before start of period
<i>FEES 4.3.15R</i>	<i>Firms</i> acquiring businesses from other <i>firms</i>
<i>FEES 4.4.1R to 4.4.6R</i>	Information on which fees are calculated

7.2.10 G References in a *FEES 4 rule* incorporated into *FEES 7* by cross-reference to a periodic fee should be read as being to the *CFEB levy*. References in a *FEES 4 rule* incorporated into *FEES 7* to *fee-paying payment service providers, market operators, service companies, MTF operators, investment exchanges, clearing houses, designated professional bodies* or Solvency 2 Implementation fees, Solvency 2 Implementation Flat fees, Solvency 2 Special Project fees and Solvency 2 Special Project Flat fees should be disregarded.

7.2.11 G In some cases, a *FEES 4 rule* incorporated into *FEES 7* in the manner set out in *FEES 7.2.7G* will refer to another *rule* in *FEES 4* that has not been individually incorporated into *FEES 7*. Such a reference should be read as being to the corresponding provision in *FEES 7*. The main examples are set out in *FEES 7.2.12G*.

7.2.12 G Table of FEES 4 rules that correspond to FEES 7 rules

<i>FEES 4 rules</i>	Corresponding <i>FEES 7</i> rules
----------------------------	--

<i>FEES</i> 4.2.1R	<i>FEES</i> 7.2.1R
<i>FEES</i> 4.3.1R	<i>FEES</i> 7.2.2R
<i>FEES</i> 4.3.3R	<i>FEES</i> 7.2.2R
<i>FEES</i> 4.3.12R	<i>FEES</i> 7.2.5R
Part 1 of <i>FEES</i> 4 Annex 2R	Part 1 of <i>FEES</i> 7 Annex 1R

7 Annex 1 R CFEB levies for the period from 1 April 2010 to 31 March 2011

Part 1

This table shows the *CFEB levies* applicable to each activity group (fee-block)

Activity Group	<i>CFEB levy payable</i>	
A.1	Band Width (£ million of Modified Eligible Liabilities (MELs))	Fixed sum (£/£m or part £m of MELs)
	> 10 – 140	3.67
	> 140 – 630	3.67
	>630 – 1,580	3.67
	>1,580 – 13,400	3.67
	>13,400	3.67
	Note 1 For a <i>firm</i> in A.1 which has a limitation on its <i>permission</i> to the effect that it may <i>accept deposits</i> from <i>wholesale depositors</i> only, this levy is calculated as above less 30%.	
A.2	Band Width (no. of mortgages and/or <i>home finance transactions</i>)	Fixed sum (£/mortgage)
	>50 – 130	0.10
	>130 – 320	0.10
	>320 – 4,570	0.10

	>4, 570 – 37,500	0.10
	>37,500	0.10
A.3	Gross premium income (GPI)	
	Band Width (£ million of GPI)	Fixed sum (£/£m or part £m of GPI)
	>0.5 – 10.5	45.21
	>10.5 – 30	45.21
	>30 – 245	45.21
	>245 – 1, 900	45.21
	>1,900	45.21
	PLUS	
	Gross technical liabilities (GTL)	
	Band Width (£ million of GTL)	Fixed sum (£/£m or part £m of GTL)
	>1 – 12.5	2.29
	>12.5 – 70	2.29
	>70 – 384	2.29
	>384 – 3,750	2.29
	>3,750	2.29
A.4	Adjusted annual gross premium income (AGPI)	
	Band Width (£ million of AGPI)	Fixed sum (£/£m or part £m of AGPI)
	>1 – 5	56.32
	>5 – 40	56.32
	>40 – 260	56.32

	>260 – 4,000	56.32
	>4,000	56.32
	PLUS	
	Mathematical reserves (MR)	
	Band Width (£ million of MR)	Fixed sum (£/£m or part £m of MR)
	>1 – 20	1.23
	>20 – 270	1.23
	>270 – 7,000	1.23
	>7,000 – 45,000	1.23
	>45,000	1.23
A.5	Band Width (£ million of Active Capacity (AC))	Fixed sum (£/£m or part £m of AC)
	>50 – 150	4.25
	>150 – 250	4.25
	>250 – 500	4.25
	>500 – 1,000	4.25
	>1,000	4.25
A.6	Flat levy	£120,590
A.7	For class 1(C), (2) and (3) <i>firms</i> :	
	Band Width (£ million of Funds under Management (FuM))	Fixed sum (£/£m or part £m of FuM)
	>10 – 150	0.68
	>150 – 2,800	0.68
	>2,800 – 17,500	0.68

	>17,500 – 100,000	0.68
	>100,000	0.68
	For <i>class 1(B) firms</i> : the <i>fee</i> calculated as for <i>class 1(C) firms</i> above, less 15%.	
	For <i>class 1(A) firms</i> : the <i>fee</i> calculated as for <i>class 1(C) firms</i> above, less 50%.	
	<i>Class 1(A), (B) and (C) firms</i> are defined in <i>FEES 4, Annex 1R</i> .	
A.9	Band Width (£ million of Gross Income (GI))	Fixed sum (£/£m or part £m of GI)
	>1 – 4.5	83.19
	>4.5 – 17	83.19
	>17 – 145	83.19
	>145 – 50	83.19
	>750	83.19
A.10	Band Width (no. of traders)	Fixed sum (£/trader)
	2 – 3	253.40
	4 – 5	253.40
	6 – 30	253.40
	31 – 180	253.40
	>180	253.40
A.12	Band Width (no. of persons)	Fixed sum (£/person)
	2 – 5	33.90
	6 – 35	33.90
	36 – 175	33.90
	176 – 1,600	33.90
	>1,600	33.90

	For a <i>professional firm</i> in A.12 the fee is calculated as above less 10%.	
A.13	For class (2) firms	
	Band Width (no. of persons)	Fixed sum (£/person)
	2 – 3	102.10
	4 – 30	102.10
	31 – 300	102.10
	301 – 2,000	102.10
	>2,000	102.10
	For a <i>professional firm</i> in A.13 the fee is calculated as above less 10%.	
A.14	Band Width (no. of persons)	Fixed sum (£/person)
	2 – 4	106.11
	5 – 25	106.11
	26 – 80	106.11
	81 – 199	106.11
	>199	106.11
A.18	Band Width (£ thousands of Annual Income (AI))	Fixed sum (£/£ thousand or part £ thousand of AI)
	>100 – 180	0.85
	>180 – 1,000	0.85
	>1,000 – 12,500	0.85
	>12,500 – 50,000	0.85
	>50,000	0.85
A.19	Band Width (£ thousands of Annual Income (AI))	Fixed sum (£/£ thousand or part £ thousand of AI)
	>100 – 325	0.20

	>325 – 10,000	0.20
	>10,000 – 50,750	0.20
	>50,750 – 250,000	0.20
	>250,000	0.20

Part 2	
(1)	This Part sets out the minimum <i>CFEB levy</i> applicable to the <i>firms</i> specified in (3) below.
(2)	The minimum <i>CFEB levy</i> payable by any <i>firm</i> referred to in (3) is £10.
(3)	A <i>firm</i> is referred to in this paragraph if it falls within the following activity groups: A.1; A.2; A.3 (excluding <i>UK ISPVs</i>); A.4; A.5; A.7; A.9; A.10; A.12; A.13; A.14; A.18; and A.19.

FEES TP 1 Transitional Provisions

FEES TP 1.1

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional Provision	(5) Transitional Provision: dates in force	(6) Handbook provision: coming into force
...					
<u>7.</u>	<u>FEES 7</u>	<u>R</u>	<u>The information on which the 2010/2011 CFEB levy is based is the information supplied under FEES 4.4 in respect of the 2010/2011 FSA fee year</u>	<u>2010/2011 FSA fee year</u>	<u>Refer to column (5)</u>

...

Schedule 4 Powers exercised

Sch 4.1G

The following powers and related provisions in or under the <i>Act</i> have been exercised by the <i>FSA</i> to make the <i>rules</i> in <i>FEES</i> :	
	...
	Paragraph 17 (Fees) of Schedule 1 (The Financial Services Authority)
	<u>Paragraph 12 of Part 2 (Funding) of Schedule 1A (Further provision about the consumer financial education body)</u>
	...

**PERIODIC FEES (UNAUTHORISED MUTUAL SOCIETIES REGISTRATION)
(2010/2011) INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 156 (General supplementary powers); and
 - (2) paragraph 17 (Fees) of Schedule 1 (The Financial Services Authority).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 June 2010.

Amendments to the FSA’s rules

- D. The Unauthorised mutuals registration fees rules are amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Periodic Fees (Unauthorised Mutual Societies Registration) (2010/2011) Instrument 2010.

By order of the Board
27 May 2010

Annex

Amendments to the Unauthorised mutuals registration fees rules

In this Annex, underlining indicates new text and striking through indicates deleted text.

Amend Annex 1R as shown.

ANNEX 1R

PERIODIC FEES PAYABLE FOR THE PERIOD 1 APRIL ~~2009~~ 2010 TO 31 MARCH ~~2010~~ 2011

Part 1

Periodic fee payable by Registered Societies (on 30 June ~~2009~~ 2010)

This fee is not payable by a *credit union*.

Transaction	Total assets (£'000s)	Amount payable (£)
Periodic fee	0 - 50	55
	> 50 to 100	110
	> 100 to 250	180
	> 250 to 1,000	235
	> 1,000	425

Part 2

Methods of payment of periodic fees

A periodic fee must be paid using either direct debit, credit transfer (BACS/CHAPS), cheque, switch or by credit card (Visa/Mastercard only). Any payment by permitted credit card must include an additional 2% of the sum paid.

DISPUTE RESOLUTION: COMPLAINTS (PAYMENT PROTECTION INSURANCE COMPLAINTS: REFERRAL TO OMBUDSMAN) INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the power in paragraph 13 (Authority's procedural rules) of Schedule 17 (The Ombudsman Scheme) of the Financial Services and Markets Act 2000 ('the Act').
- B. The rule-making power referred to above is specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 28 May 2010.

Amendments to the Handbook

- D. The Dispute Resolution: Complaints sourcebook (DISP) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Dispute Resolution: Complaints (Payment Protection Insurance Complaints: Referral to Ombudsman) Instrument 2010.

By order of the Board
27 May 2010

Annex

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

In this Annex, underlining indicates new text.

TP 1.1 Transitional Provisions table

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
<u>26</u>	<u>DISP 2.8.2R</u>	<u>R</u>	<u>In relation to <i>complaints</i> about the sale of <i>payment protection contracts</i> where the <i>respondent</i> has sent the complainant a <i>final response</i> between 28 November 2009 and 28 April 2010 inclusive, time for the purposes of <i>DISP 2.8.2R(1)</i> is to be treated as not running whilst this transitional provision is in force.</u>	<u>From 28 May 2010 to 27 October 2010</u>	<u>6 November 2008</u>

HANDBOOK ADMINISTRATION (NO 18) INSTRUMENT 2010**Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force as follows:
- (1) Part 2 of Annex D (IPRU(INV)) comes into force on 31 December 2011;
 - (2) the remainder of this instrument comes into force on 6 July 2010.

Amendments to the Handbook

- D. The modules of the FSA's Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Statements of Principle and Code of Practice for Approved Persons (APER)	Annex B
General Prudential sourcebook (GENPRU)	Annex C
Interim Prudential sourcebook for Investment Businesses (IPRU(INV))	Annex D
Conduct of Business sourcebook (COBS)	Annex E
Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)	Annex F
Supervision manual (SUP)	Annex G
Building Societies sourcebook (BSOCS)	Annex H

Citation

- E. This instrument may be cited as the Handbook Administration (No 18) Instrument 2010.

By order of the Board
24 June 2010

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical place. This text is not underlined.

<i>debt capital</i>	(in <i>IPRU(INV)</i> 13) a <i>security</i> of indeterminate duration or other instrument the debt agreement for which provides that: <ul style="list-style-type: none"> (a) it may not be reimbursed on the holder's initiative; (b) the borrower has the option of deferring the payment of interest on the debt; (c) the lender's claims on the borrower must be wholly subordinated to those of all non-subordinated creditors; (d) debt and unpaid interest should be such as to absorb losses, whilst leaving the borrower in a position to continue trading; and which is fully paid-up.
<i>exchange traded</i>	(in <i>IPRU(INV)</i> 13) listed or traded on a <i>recognised</i> or <i>designated investment exchange</i> .
<i>material current year losses</i>	(in <i>IPRU(INV)</i> 13) losses of an amount equal to 10 per cent or more of the amount by which the <i>own funds</i> of an <i>undertaking</i> exceed the <i>own funds</i> needed to meet financial resources test 1 as prescribed in chapter 13.
<i>moneymadeclear</i>	information for consumers produced and published by the Consumer Financial Education Body.

Amend the following as shown.

<i>deposit</i>	(1) ...
	(2) (in <i>COMP</i>) the <i>investment</i> within (1), but including a sum of money that would otherwise be excluded: <ul style="list-style-type: none"> (a) ... (b) ...; <u>or</u> (c) <u>by article 6 of the Regulated Activities Order, where the person paying it is an eligible claimant.</u>

[*Editor's Note:* This definition supersedes the text of the change made by FSA 2009/49, in order to provide for an earlier commencement date of the change than that provided for in FSA 2009/49.]

own funds

...

(3) (in *IPRU(INV)* Chapter 8) ...

(3A) (in *IPRU(INV)* 13) the own funds of a *firm* calculated in accordance with 13.1A.14R.

...

Annex B

Amendments to the Statements of Principle and Code of Practice for Approved Persons (APER)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Systems of control

- 4.7.12 G ... The nature and extent of the systems of control that are required will depend upon the relevant requirements and standards of the *regulatory system*, and the nature, scale and complexity of the business (~~see APER 3.3.2~~).

Annex C**Amendments to the General Prudential sourcebook (GENPRU)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 3.1.2 G *GENPRU* 3.1 implements the *Financial Groups Directive*. However, material on the following topics is to be found elsewhere in the *Handbook* as follows:

...

- (3) material on reporting obligations can be found in *SUP* ~~16.7.82R~~ 16.12.32R and *SUP* ~~16.7.83R~~ 16.12.33R; and

...

Annex D

Amendments to the Interim Prudential sourcebook for Investment Businesses
(IPRU(INV))

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Part 1: Comes into force on 6 July 2010

13.1.15 ~~G-R~~ If a policy is denominated in any currency other than euros, a *firm* must take reasonable steps to ensure that the *limits of indemnity* are, when the policy is effected (i.e. agreed) and at renewal, at least equivalent to those denominated in euros.

...

13.1.29 G For the purposes of the provisions relating to professional indemnity insurance, “additional capital resources” means readily realisable *own funds*. The FSA expects items included in *own funds* to be regarded as “readily realisable” only if they can be realised, at any given time, within 90 days.

...

13.1A.3 R (1) A *firm* which is not an *IMD insurance intermediary* must have:

- (a) *initial capital* of €50,000; or
- (b) professional indemnity insurance at least equal to the requirements of ~~13.1.4(2)(b)~~ 13.1.11R and ~~13.1.4(3)~~ 13.1.15R to ~~13.1.6~~ 13.1.27R; or
- (c) a combination of *initial capital* and professional indemnity insurance in a form resulting in a level of coverage equivalent to (a) or (b).

[Note: Article 67(3) of *MiFID* and Article 7 of *CAD* (see also rule ~~13.1.4(2)(b)~~ 13.1.11R)]

(2) If a *firm* chooses to comply with either (b) or (c) above, it must nevertheless have *initial capital* of at least £10,000.

13.1A.4 R (1) A *firm* that is also an *IMD insurance intermediary* must have professional indemnity insurance at least equal to the limits set out in ~~13.1.4(2)(b)~~ 13.1.10R and in addition has to have:

- (a) *initial capital* of €25,000; or

- (b) *professional indemnity insurance* at least equal to the requirements of ~~13.1.4(2)(e)~~ 13.1.12R and ~~13.1.4(3)~~ 13.1.15R to ~~13.1.6~~ 13.1.27R; or
- (c) a combination of *initial capital* and professional indemnity insurance in a form resulting in a level of coverage equivalent to (a) or (b).

[Note: Article 67(3) of *MiFID* and Article 8 of *CAD* (see also rule ~~13.1.4(2)(e)~~ 13.1.12R)]

- (2) If a *firm* chooses to comply with either (b) or (c) above, it must nevertheless have *initial capital* of at least £10,000.

...

In place of **Appendix 13(1) (Defined terms for Chapter 13)** [deleted], insert the following new text which is not shown underlined.

APPENDIX 13(1)

Defined terms for Chapter 13

If a defined term does not appear in the IPRU(INV) 13 glossary below, the definition appearing in the main Handbook Glossary applies.

exchange	<i>a recognised investment exchange or designated investment exchange.</i>
low resource firm	<i>a Category B3 firm which is not a network, has fewer than 26 financial advisers or representatives and is not permitted to:</i> <ul style="list-style-type: none"> (a) carry on discretionary portfolio management; (b) <i>establish, operate or wind up a personal pension scheme;</i> or (c) delegate the activities in (a) or (b) to an <i>investment firm</i>.
net current assets	the total, at a particular date, of all assets which are not intended for use on a continuing basis in the <i>firm's</i> business (i.e. current assets), less all the liabilities payable within 12 months of that date.
properly secured	fully secured by a first <i>charge</i> in favour of the <i>firm</i> on land and buildings, or on a <i>readily realisable investment</i> where the <i>firm</i> has in its possession or under its control a document of title or a document evidencing title to that <i>investment</i> .

Part 2: Comes into force on 31 December 2011

...

Delete Appendix 13(1) (Defined terms for Chapter 13) in its entirety. The deleted text is not shown here.

Appendix 13(1) (Defined terms for Chapter 13) [deleted]

Annex E

Amendments to the Conduct of Business sourcebook (COBS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

9 Annex 2G Sales processes for stakeholder products

...

...	
21.	A <i>firm</i> may provide a copy of the table setting out initial monthly pension amounts, found within the FSA's "Stakeholder pension decision tree" factsheet, <u>available on www.moneymadeclear.org.uk</u> in accordance with COBS 13 Annex 2 1.8R, but in doing so should also provide and explain the caveats and assumptions behind the table. ...
...	

...

13 Annex 2 Projections

...

R	
1.8	In the case of a <i>stakeholder pension scheme</i> , the specimen benefits table, contained within the FSA's "Stakeholder pension decision tree" factsheet <u>available on www.moneymadeclear.org.uk</u> and headed "Pension Table... How much should I save towards a pension?" which sets out initial monthly pension amounts, may be used instead of a <i>standardised deterministic projection</i> but only if it is accompanied by an explanation of the caveats and assumptions behind the table.

...

...

16.2 Occasional reporting

...

16.2.6 R In relation to business that is not *MiFID or equivalent third country business*, a *firm* need not despatch a confirmation if:

...

- (2) the *designated investment* is a *life policy*, *stakeholder pension scheme* or a *personal pension scheme* (other than a *SIPP*); or

...

...

19.4 Open market options

19.4.1 R In this section:

...

- (3) ‘open market option statement’ means:

- (a) the ~~FSA’s~~ fact sheet “Your pension: it’s time to choose” ~~fact sheet~~ available on www.moneymadeclear.org.uk, together with a written summary of the *retail client’s* open market option, which is sufficient for the *client* to be able to make an informed decision about whether to exercise, or to decline to exercise, an open market option; or

...

Annex F

**Amendments to the Mortgages and Home Finance: Conduct of Business sourcebook
(MCOB)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

5.6 Content of illustrations

...

5.6.25 R Under the section heading ‘Description of this mortgage’ the *illustration* must:

...

- (5) include the following text if the *regulated mortgage contract* meets the Government’s mortgage CAT standards: ‘This mortgage meets the Government’s CAT standards. ~~Further information on mortgage CAT standards is available from the FSA~~ (~~www.fsa.gov.uk/consumer~~) or by calling ~~0845 606 1234~~.’;

...

...

5.6.65 R The following text must be included at the end of Section 7 ‘Are you comfortable with the risks?’: ‘The FSA’s money made clear information sheet “You can afford your mortgage now, but what if...?” will help you consider the risks. You can get a free copy from ~~www.money made clear.fsa.gov.uk~~ www.money made clear.org.uk, or by calling ~~0845 606 1234~~ 0300 500 5000.’

...

5.6.145 R The following text must be included at the end of Section 7 ‘Are you comfortable with the risks?’: ‘The FSA’s money made clear information sheet “You can afford your mortgage now, but what if...?” will help you consider the risks. You can get a free copy from ~~www.money made clear.fsa.gov.uk~~ www.money made clear.org.uk, or by calling ~~0845 606 1234~~ 0300 500 5000.’

...

5 Annex 1R The mortgage illustration: table of contents, prescribed text and prescribed section headings and subheadings.

...

[...]. Where can you get more information about mortgages?

The ~~FSA~~ Consumer Financial Education Body publishes useful guides on choosing a mortgage. These are available free through its website: ~~www.moneymadeclear.fsa.gov.uk~~ www.moneymadeclear.org.uk, or by calling ~~0845 606 1234~~ 0300 500 5000. The website also provides Comparative Tables to help you shop around.

...

9 Annex 1R The illustration: table of contents, prescribed text and prescribed section headings and subheadings.

...

1. About this information

...

The ~~FSA~~ Consumer Financial Education Body (CFEB) provides useful information on lifetime mortgages and other ways of releasing equity from your home in a booklet called 'Raising money from your home'. You can get this free through the ~~FSA CFEB~~ website ~~www.moneymadeclear.fsa.gov.uk~~ www.moneymadeclear.org.uk or by calling ~~0845 606 1234~~ 0300 500 5000.

...

9 Annex 2R The illustration: table of contents, prescribed text and prescribed section headings and subheadings.

...

1. About this information

...

The ~~FSA~~ Consumer Financial Education Body (CFEB) provides useful information on ways of releasing equity from your home in a booklet called 'Raising money from your home'. You can get this free through the ~~FSA CFEB~~ website ~~www.moneymadeclear.fsa.gov.uk~~ www.moneymadeclear.org.uk or by calling ~~0845 606 1234~~ 0300 500 5000.

13.4 Arrears: provision of information to the customer of a regulated mortgage contract

- 13.4.1 R If a *customer* falls into *arrears* on a *regulated mortgage contract*, a *firm* must as soon as possible, and in any event within 15 *business days* of becoming aware of that fact, provide the *customer* with the following in a *durable medium*:
- (1) the current ~~FSA information sheet on mortgage arrears~~ money made clear information sheet “Just the facts about problems paying your mortgage”;
- ...
- 13.4.2 G (1) The ~~current FSA~~ money made clear information sheet ~~on mortgage arrears~~ “Just the facts about problems paying your mortgage” is available on the ~~FSA website, www.fsa.gov.uk website~~ www.money made clear.org.uk; copies can also be obtained ~~from the FSA by calling 0300 500 5000.~~
- (2) ~~In the event of the FSA making any changes to the information sheet, at least three months’ notice of the changes will be given on the FSA website. [deleted]~~
- 13.4.3 G (1) A *firm* may provide the information in MCOB 13.4.1R(2), (3), (4), (5) and (6) orally, for example, by telephone, but must provide the information in a *durable medium* with a copy of the ~~FSA~~ money made clear information sheet ~~on mortgage arrears~~ “Just the facts about problems paying your mortgage” within 15 *business days* of becoming aware of the *customer’s* account falling into *arrears*.
- ...
- ...

13.7 Business loans

- 13.7.1 R Where the *regulated mortgage contract* is for a business purpose, a *firm* may as an alternative to MCOB 13.4.1R(1) provide the following information in a *durable medium* instead of the ~~FSA~~ money made clear information sheet ~~on mortgage arrears~~ “Just the facts about problems paying your mortgage”:
- ...

Annex G

Amendments to the Supervision manual (SUP)

In this Annex, text is being deleted without being shown struck through.

Schedule 2 Notification requirements

In SUP Sch 2.2G delete the rows starting “*SUP 16.7.7R to SUP 16.7.15R*” to “*SUP 16.7.64R to SUP 16.7.65R*” inclusive. The deleted text of these rows is not shown.

Annex H

Amendments to the Building Societies sourcebook (BSOCS)

In this Annex, striking through indicates deleted text.

5.7.3 G This table sets out guidance on financial risk management processes and procedures in accordance with the five approaches (see *BSOCS* 1.1.2G).

...

FINANCIAL RISK MANAGEMENT

...

EXTENDED APPROACH	
...	
HEDGING INSTRUMENTS	Match funding Vanilla interest rate <i>swaps</i> (purchase only) Vanilla interest rate caps/collars /floors (purchase only) Swaptions (purchase only) <i>FRAs / Futures</i> (purchase only) FTSE <i>swaps</i> (receive only) FX <i>swaps/forward</i> contracts (purchase only) FX <i>options</i> (purchase only)
...	

...

**FEES (SPECIAL PROJECT FEE FOR RESTRUCTURING) (AMENDMENT)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in or under:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 99 (Fees);
 - (b) section 101 (Part 6 rules: general provisions);
 - (c) section 156 (General supplementary powers);
 - (d) section 157(1) (Guidance); and
 - (e) paragraph 17(1) (Fees) of Schedule 1 (The Financial Services Authority); and
 - (2) the following provisions of the Payment Services Regulations 2009 (SI 2009/209):
 - (a) regulation 82 (Reporting requirements);
 - (b) regulation 92 (Costs of supervision); and
 - (c) regulation 93 (Guidance).
- B. The rule-making powers listed above are specified for the purposes of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 July 2010.

Amendments to the Handbook

- D. The Fees manual (FEES) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Fees (Special Project Fee for Restructuring) (Amendment) Instrument 2010.

By order of the Board
24 June 2010

Annex

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1.1 Application and Purpose

...

Application

1.1.2 R This manual applies in the following way:

- (1) FEES 1, 2 and 3 apply to: the fee payers listed in column 1 of the Table of application, notification and vetting fees in FEES 3.2.7R.
 - (a) every applicant for *Part IV permission* (including an *incoming firm applying for top-up permission*);
 - (b) every *Treaty firm* that wishes to exercise a *Treaty right* to qualify for *authorisation* under Schedule 4 to the *Act* (Treaty rights), except those providing *cross border services only*, in respect of *regulated activities* for which it does not have an *EEA right*;
 - (c) every applicant for a certificate under article 54 of the *Regulated Activities Order*;
 - (d) every applicant for an *authorisation order* for, or for recognition of, a *collective investment scheme*;
 - (e) every operator of a scheme making a notification under section 264 or section 270 of the *Act*;
 - (f) every *person* seeking to become a *designated professional body*;
 - (g) every applicant for recognition as a *recognised body* under Part XVIII of the *Act* (Recognised investment exchanges and clearing houses);
 - (h) every applicant for *listing* (under the *listing rules*);
 - (i) every applicant for approval as a *sponsor* (under the *listing rules*);
 - (j) every *issuer* (under the *listing rules*) of tranches from debt issuance programmes and *securitised derivative* tranches;

- (k) every *issuer* (under the *listing rules*) involved in specific events or transactions during the year where documentation is subject to transaction vetting by the *FSA*;
- (l) under the *prospectus rules* every *issuer, offeror or person* requesting approval or vetting of the documents arising in relation to specific events or transactions that it might be involved in during the year;
- (m) every applicant to be listed as a *designated investment exchange*;
- (n) every *firm* applying for variation of its *Part IV permission*;
- (o) every *firm* applying for or being concerned in an application for permission to use an *advanced prudential calculation approach or guidance* on the availability of such a permission (including any future proposed amendments to those approaches);
- (p) every *firm or person* referred to in category (u) of Column 1 of *FEES 3.2.7R*;
- (q) every applicant applying for authorisation as an *authorised payment institution* or registration as a *small payment institution* under the *Payment Services Regulations*;
- (r) every applicant for variation of its authorisation or registration under the *Payment Services Regulations*; and
- (s) every *insurer* applying for a *ceding insurer's waiver*.

...

...

3.2.7 R Table of application, notification and vetting fees

(1) Fee payer	(2) Fee payable	Due date
...		
(ze) Any <i>firm</i> in any one or more of the A fee blocks defined in <i>FEES 4 Annex 1R Part 1</i> , except fee block <i>A.16 person to which the Special Project Fee for restructuring applies under FEES 3 Annex 9</i> .	Special Project Fee for restructuring in accordance with <i>FEES 3 Annex 9</i>.	...
...		

...

3 Annex 9R**Special Project Fee for restructuring**

- (1) R The Special Project Fee for restructuring (“the SPFR”) is only payable by a ~~firm~~ person ~~if~~ in one of the following categories:
- (a) ~~if it falls within~~ is in any of the A fee-blocks (as defined in Part 1 of *FEES* 4 Annex 1R), except if it is in fee-block A.16 only; or
 - (b) ~~it engages in, or prepares to engage in, the activity set out in (2); and~~ if it is in fee-block G.3 (as defined in FEES 4 Annex 11R); or
 - (c) ~~none of the circumstances in (3) apply~~ if it is a recognised investment exchange; or
 - (d) if it is a recognised clearing house; or
 - (e) if it is in any of the B fee-blocks (as defined in Part 1 of FEES 4 Annex 1R).
- (2) R ~~The activity referred to in (1)(b) involves the firm undertaking or making arrangements with a view to either~~ The SPFR becomes payable by a person falling into (1)(a) or (b) if it engages in, or prepares to engage in, activity which involves it undertaking or making arrangements with a view to any of the following:
- (a) raising additional capital; or
 - (b) a significant restructuring of the *firm* or the *group* to which it belongs, including:
 - (i) mergers or acquisitions;
 - (ii) reorganising the *firm*’s *group* structure; and
 - (iii) *retribution*.
- (3) R ~~No SPFR is payable where:~~ under (2) if the transaction only involves the firm seeking to raise capital within the group to which it belongs.
- (a) ~~the amount calculated in accordance with (6) totals less than £50,000; or~~
 - (b) ~~the FSA has given any guidance to the firm in relation to the same matter and charged for it; or~~
 - (c) ~~the transaction only involves the firm seeking to raise capital within the group to which it belongs.~~

- (4) R Where the transaction in (2) involves raising capital outside the *group* to which the *firm* belongs, any SPFR in relation to that transaction is only payable by the largest *firm* in that *group*. The largest *firm* is the one that pays the highest periodic fee in the *FSA* financial year (the 12 months ending 31 March) in which the bill is raised. For the purpose of the calculation in (9), all time spent and fees and disbursements incurred in relation to the group are added together.
- (5) R The definition of *group* is limited for the purposes of calculating the SPFR to *parent undertakings* and their *subsidiary undertakings*.
- (6) R ~~The SPFR is calculated as follows:~~
- (a) ~~Determine the number of hours, or part of an hour, taken by the *FSA* in relation to regulatory work conducted as a consequence of the activities referred to in (2).~~
 - (b) ~~Next, multiply the applicable rate in the table at (8) by the number of hours or part hours obtained under (a).~~
 - (c) ~~Then add any fees and disbursements invoiced to the *FSA* by any *person* in respect of services performed by that *person* for the *FSA* in relation to assisting the *FSA* in performing the regulatory work referred to in (a).~~
 - (d) ~~The resulting figure is the fee.~~
 - (e) ~~The number of hours or part hours referred to in (a) are the number of hours or part hours as recorded on the *FSA*'s systems in relation to the regulatory work referred to in (a).~~

The SPFR also becomes payable by any *person* falling into (1) if any of the following circumstances apply to it:

- (a) an *insolvency order* is in effect as respects the *person* or the *person* is being voluntarily wound up or steps are being taken for the making of an *insolvency order* or voluntary winding up of, or with respect to, the *person* by someone entitled to take such steps; or
 - (b) the Bank of England or the Treasury have exercised a stabilisation power in respect of the *person* under the Banking Act 2009.
- (7) R ~~The first column in the table at (8) sets out the relevant pay grades of those employed by the *FSA* and the second column sets out the hourly rates chargeable in respect of those pay grades. In (6):~~
- (a) references to an *insolvency order* or winding up include the equivalent process in any jurisdiction outside the *United Kingdom*; and

(b) references to an *insolvency order* include such an order made under the Banking Act 2009.

(8) R Table of hourly rates:

FSA pay grade	Hourly rate (£)
Administrator	25
Associate	50
Technical Specialist	85
Manager	90
Any other person employed by the FSA	135

No SPFR is payable:

- (a) if the amount calculated in accordance with (9) totals less than £50,000; or
- (b) for time spent giving *guidance* to the *person* in relation to the same matter if the *FSA* has charged that *person* for that *guidance*.

(9) R The SPFR is calculated as follows:

- (a) Determine the number of hours, or part of an hour, taken by the *FSA* in relation to regulatory work conducted as a consequence of the activities referred to in (2) or (6).
- (b) Next, multiply the applicable rate in the table at (11) by the number of hours or part hours obtained under (a).
- (c) Then add any fees and disbursements invoiced to the *FSA* by any *person* in respect of services performed by that *person* for the *FSA* in relation to assisting the *FSA* in performing the regulatory work referred to in (a).
- (d) The resulting figure is the fee.
- (e) The number of hours or part hours referred to in (a) are the number of hours or part hours as recorded on the *FSA's* systems in relation to the regulatory work referred to in (a).

(10) R The first column in the table at (11) sets out the relevant pay grades of those employed by the *FSA* and the second column sets out the hourly rates chargeable in respect of those pay grades.

- (11) R Table of hourly rates:

<u>FSA pay grade</u>	<u>Hourly rate (£)</u>
<u>Administrator</u>	<u>25</u>
<u>Associate</u>	<u>50</u>
<u>Technical Specialist</u>	<u>85</u>
<u>Manager</u>	<u>90</u>
<u>Any other person employed by the FSA</u>	<u>135</u>

- (12) G The obligation to pay the SPFR is ongoing. Accordingly, there is no limitation on the number of times that the FSA may invoice a person for the SPFR in relation to the same events or circumstances referred to in (2) or (6). If the FSA does so, there is a single floor under (8)(a) and not a separate one for each instalment. Therefore, for example, if a person is subject to an administration order, the FSA may invoice the person on a periodic basis for all the related regulatory work, but may only do so once the total fee (including disbursements) equals £50,000.
- (13) G If the SPFR is payable, the full amount calculated under (9) is payable not just the excess over £50,000.
- (14) G The SPFR is a single fee. Therefore the SPFR may be payable under both (2) and (6). If it is payable under both, there is only a single floor under (8)(a), not two separate ones.

TP 5 Transitional Provisions relating to the Special Project Fee for Restructuring

5.1 Special Project Fee for Restructuring applicable to circumstances before 1 July 2010

- 5.1.1 R This rule relates to the changes to FEES 3 Annex 9 (Special Project Fee for restructuring) made by the Fees (Special Project Fee For Restructuring) (Amendment) Instrument 2010. It deals with a trigger event that occurred or started before 1 July 2010 (an “old trigger event”) but which was of a type that was only brought into the definition of trigger event by that instrument. A trigger event means a circumstance or event of a type set out in paragraphs (2) or (6) of that Annex (events or circumstances that trigger liability for the Special Project Fee for restructuring).

- 5.1.2 R An old trigger event is still a trigger event and thus triggers liability for the fee. However any regulatory work conducted before 1 July 2010 as a consequence of an old trigger event is not taken into account for the purposes of the calculation of the fee (including the floor in paragraph (8)(a) of FEES 3 Annex 9). Likewise any fees and disbursements invoiced to the FSA in respect of services performed for the FSA in relation to assisting the FSA in performing such regulatory work are not included to the extent that the invoice relates to the period before 1 July 2010.
- 5.1.3 G For example, say that a *firm* goes into administration before 1 July 2010. Say that the administration did not come within the list of events that triggered liability for the fee before 1 July 2010. The fee is still potentially payable. However the fee will not cover work carried out by the FSA before 1 July 2010. The same applies even if the administration started before 1 June 2009, when the fee first came into force.

**RETAIL DISTRIBUTION REVIEW (CORPORATE PENSIONS) INSTRUMENT
2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 145 (Financial promotion rules);
 - (c) section 149 (Evidential provisions);
 - (d) section 156 (General supplementary powers); and
 - (e) section 157(1) (Guidance); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 31 December 2012.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Conduct of Business sourcebook (COBS) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Retail Distribution Review (Corporate Pensions) Instrument 2010.

By order of the Board
24 June 2010

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>consultancy charge</i>	any charge payable by or on behalf of an employee to a <i>firm</i> or other intermediary (whether or not that intermediary is an <i>employee benefit consultant</i>) in respect of advice given, or services provided, by the <i>firm</i> or intermediary to the employer or employee in connection with a <i>group personal pension scheme</i> or <i>group stakeholder pension scheme</i> , where those charges have been agreed between the <i>firm</i> or intermediary and the employer in accordance with the <i>rules</i> on consultancy charging and remuneration (<i>COBS 6.1C</i>).
<i>employee benefit consultant</i>	a <i>person</i> that gives advice, or provides services to, an employer in connection with a <i>group personal pension scheme</i> or <i>group stakeholder pension scheme</i> provided, or to be provided, by the employer for the benefit of its employees.
<i>group stakeholder pension scheme</i>	a <i>stakeholder pension scheme</i> which is available to employees of the same employer or of employers within a <i>group</i> .

Amend the following definitions as shown.

<i>adviser charge</i>	any form of charge payable by or on behalf of a <i>retail client</i> to a <i>firm</i> in relation to the provision of a <i>personal recommendation</i> by the <i>firm</i> in respect of a <i>retail investment product</i> (or any related service provided by the <i>firm</i>) which: <ul style="list-style-type: none"> (a) is agreed between that <i>firm</i> and the <i>retail client</i> in accordance with the <i>rules</i> on adviser charging and remuneration (<i>COBS 6.1A</i>); and (b) <u>is not a <i>consultancy charge</i>.</u>
<i>combined initial disclosure document</i>	information about the breadth of <i>advice</i> , <i>scope of advice</i> or <i>scope of basic advice</i> and the nature and costs of the services offered by a <i>firm</i> in relation to two or more of the following: <ul style="list-style-type: none"> (a) <u><i>packaged products</i> or, for <i>basic advice</i>, <i>stakeholder products</i> that are not a <i>group personal pension scheme</i> or a <i>group stakeholder pension scheme</i> (but only if a <i>consultancy charge</i> will be made);</u>

...

which contains the keyfacts logo, headings and text in the order shown in, and in accordance with the notes in, *COBS 6 Annex 2*.

*group
personal
pension
scheme*

a *personal pension scheme* (including a group *SIPP*) which is available to employees of the same employer or of employers within a *group*.

*retail
investment
product*

...

(c) a *stakeholder pension scheme* (including a group *stakeholder pension scheme*); or

(d) a *personal pension scheme* (including a group *personal pension scheme*); or

...

whether or not any of (a) to (h) are held within an *ISA* or a *CTF*.

Annex B

Amendments to the Conduct of Business sourcebook (COBS)

In this Annex, underlining indicates new text and striking through indicates deleted text unless otherwise stated.

Interpretation

- 2.3.-1 R In this section ‘giving advice, or providing services, to an employer in connection with a *group personal pension scheme* or *group stakeholder pension scheme*’ includes:
- (1) giving advice or assistance to an employer on the operation of such a scheme;
 - (2) taking, or helping the employer to take, the steps that must be taken to enable an employee to become a member of such a *scheme*; and
 - (3) giving advice to an employee, pursuant to an agreement between the employer and the adviser, about the benefits that are, or might be, available to the employee as an actual or potential member of such a scheme.

Rule on inducements

- 2.3.1 R A *firm* must not pay or accept any fee or commission, or provide or receive any non-monetary benefit, in relation to *designated investment business* or, in the case of its *MiFID or equivalent third country business*, another *ancillary service*, carried on for a *client* other than:
- (1) ...
 - (2) a fee, commission or non-monetary benefit paid or provided to or by a third party or a *person* acting on behalf of a third party, if:
 - (a) ...
 - (b) the existence, nature and amount of the fee, commission or benefit, or, where the amount cannot be ascertained, the method of calculating that amount, is clearly disclosed to the *client*, in a manner that is comprehensive, accurate and understandable, before the provision of the service;
 - (i) this requirement only applies to business other than *MiFID or equivalent third country business* if it includes giving a *personal recommendation* in relation to a *retail investment product*, or giving advice, or providing services, to an employer in connection with a *group personal pension scheme* or *group stakeholder pension scheme*;

- ...
- ...
- ...
- ...
- 2.3.6A G *COBS* 6.1A (Adviser charging and remuneration) ~~and~~ *COBS* 6.1B (Retail investment product provider requirements relating to adviser charging and remuneration), *COBS* 6.1C (Consultancy charging and remuneration) and *COBS* 6.1D (Product provider requirements relating to consultancy charging and remuneration) set out specific requirements as to when it is acceptable for a *firm* to pay or receive commissions, fees or other benefits:
- (1) relating to the provision of a *personal recommendation on retail investment products*; or
 - (2) for giving advice, or providing services, to an employer in connection with a group personal pension scheme or group stakeholder pension scheme.
- ...
- 2.3.12 E (1) ...
- (2) A *retail investment product* provider should not take any step which would result in it:
- (a) ...
 - (b) providing *credit* to a *firm* in (1) (other than continuing to facilitate the payment of an *adviser charge* or consultancy charge where it is no longer payable by the *retail client*, as described in *COBS* 6.1A.5G or *COBS* 6.1C.6G);
- unless all the conditions in (4) are satisfied. A *retail investment product* provider should also take reasonable steps to ensure that its *associates* do not take any step which would result in it having a holding as in (a) or providing *credit* as in (b).
- (3)
- (4) The conditions referred to in (2) and (3) are that:
- ...
- (d) the *retail investment product* provider is not able, and none of its *associates* is able, because of the holding or *credit*, to exercise any influence over the *personal recommendations* made in relation to *retail investment products* given by the *firm* or the advice given, or services provided to, an employer

in connection with a group personal pension scheme or group stakeholder pension scheme.

...

- 2.3.12A G Where a *retail investment product* provider, or its *associate*, provides *credit* to a *retail client* of a *firm* making *personal recommendations* in relation to *retail investment products* or giving advice, or providing services, to an employer in connection with a group personal pension scheme or group stakeholder pension scheme, this may create an indirect benefit for the *firm* and, to the extent that this is relevant, the provider of *retail investment products* may need to consider the examples in COBS 2.3.12E as if it had provided the *credit* to the *firm*.

...

- 2.3.14 G (1)
- (2) The *guidance* in the table on reasonable non-monetary benefits is not relevant to non-monetary benefits which may be given by a *retail investment product* provider or its *associate* to its own *representatives*. The *guidance* in this provision does not apply directly to non-monetary benefits provided by a *firm* to another *firm* that is in the same *immediate group*. In this situation, the *rules* on *commission equivalent* (COBS 6.4.3R) ~~or~~ the requirements on a *retail investment product* provider making a *personal recommendation* in respect of its own *retail investment products* (COBS 6.1A.9R) or the requirements on a firm giving advice, or providing services, to an employer in connection with a group personal pension scheme or group stakeholder pension scheme produced by the *firm* (COBS 6.1C.8R) will apply.

...

- 2.3.16 G In interpreting the table of reasonable non-monetary benefits, *retail investment product* providers should be aware that where a benefit is made available to one *firm* and not another, this is more likely to impair compliance with the *client's best interests rule* and that, where any benefits of substantial size or value (such as adviser training programmes or significant software) are made available to *firms* that are subject to the *rules* on adviser charging and remuneration (COBS 6.1A) or consultancy charging and remuneration (COBS 6.1C), these benefits should be made available equally across those *firms* if they are provided at all.

- 2.3.16A G In interpreting the table of reasonable non-monetary benefits, a *firm* that provides a *personal recommendation* in relation to a *retail investment product* to a *retail client* or gives advice, or provides a service, to an employer in connection with a group personal pension scheme or a group stakeholder pension scheme should be aware that acceptance of benefits on which the *firm* will have to rely for a period of time is more likely to impair compliance with the *client's best interests rule*. For example, accepting

services which provide access to another *firm's* systems or software on which the *firm* will need to rely to gain access to the *firm's client* data in the future, would be likely to conflict with the *rule* on inducements (COBS 2.3.1R).

...

6.1A Adviser charging and remuneration

Application – Who? What?

6.1A.1 R (1) This section applies to a *firm* which makes a *personal recommendation* to a *retail client* in relation to a *retail investment product*.

(2) This section does not apply to a *firm* giving advice, or providing services, to an employer in connection with a *group personal pension scheme* or *group stakeholder pension scheme*.

...

6.1B Retail investment product provider requirements relating to adviser charging and remuneration

Application – Who? What?

6.1B.1 R (1) This section applies to a *firm* which is a *retail investment product* provider in circumstances where a *retail client* receives a *personal recommendation* in relation to the *firm's retail investment product*.

(2) This section does not apply to a *retail investment product* provider in circumstances where a *firm* gives advice or provides services to an employer in connection with a *group personal pension scheme* or *group stakeholder pension scheme*.

After COBS 6.1A and COBS 6.1B insert the following new sections. The text is not underlined.

6.1C Consultancy charging and remuneration

Application – Who? What?

6.1C.1 R (1) This section applies to a *firm* that gives advice, or provides services, to an employer in connection with a *group personal pension scheme* or *group stakeholder pension scheme*.

(2) Without prejudice to (1), this section does not apply to a *firm* that makes a *personal recommendation* to a *retail client* in relation to a *retail investment product*.

Application – Where?

- 6.1C.2 R This section does not apply if the employer is outside the *United Kingdom*.

Interpretation

- 6.1C.3 R In this section ‘giving advice, or providing services, to an employer in connection with a *group personal pension scheme* or *group stakeholder pension scheme*’ includes:
- (1) giving advice or assistance to an employer on the operation of such a scheme;
 - (2) taking, or helping the employer to take, the steps that must be taken to enable an employee of the employer to become a member of such a *scheme*; and
 - (3) giving advice to an employee, pursuant to an agreement between the employer and the adviser, about the benefits that are, or might be, available to the employee if he is, or if he becomes, a member of such a scheme.

Requirement to be paid through consultancy charges

- 6.1C.4 G *COBS* 6.1C.1R (Application – Who? What?) and *COBS* 6.1C.3R (Interpretation) mean (for example) that the cost of any advice given to an employee pursuant to an agreement between the employer and the adviser about the benefits that are, or might be, available to the employee if he is, or if he becomes, a member of a *group personal pension scheme* or *group stakeholder pension scheme* are subject to the *rules* in this section, not the *rules* on *adviser charging* (*COBS* 6.1A).
- 6.1C.5 R A *firm* must:
- (1) only be remunerated for giving advice, or providing services, to an employer in connection with a *group personal pension scheme* or *group stakeholder pension scheme* by *consultancy charges* or by a fee payable by the employer;
 - (2) not solicit or accept (and ensure that none of its *associates* solicits or accepts) any other commissions, remuneration or benefit of any kind in relation to that advice, or those services, regardless of whether it intends to refund the payments or pass the benefits on to the *group personal pension scheme* or *group stakeholder pension scheme*; and
 - (3) not solicit or accept (and ensure that none of its *associates* solicits or accepts) *consultancy charges* which are paid out or advanced by another party over a materially different time period, or on a materially different basis, from that in or on which the *consultancy charges* are recovered from the relevant *group personal pension scheme* or *group stakeholder pension scheme*.

- 6.1C.6 G A *firm* may receive a *consultancy charge* that is no longer payable (for example, after the service it is received in payment for has been amended or terminated) provided the *firm* passes any such payments to the relevant *group personal pension scheme* or *group stakeholder pension scheme*.
- 6.1C.7 G The requirement to be paid through *consultancy charges* does not prevent a *firm* from making use of any facility for the payment of *consultancy charges* provided by another *firm* or other third parties provided that the facility complies with the requirements of COBS 6.1D.9R
- 6.1C.8 G Examples of payments and benefits that should not be accepted under the requirement only to be paid through *consultancy charges* include:
- (1) a share of the charges applied to a *group personal pension scheme*, *group stakeholder pension scheme* or the scheme provider's revenues or profits (except if the *firm* providing the advice to an employer in relation to such a scheme is the scheme provider); and
 - (2) a commission set and payable by a *retail investment product* provider in any jurisdiction.

Requirements on a product provider giving advice to an employer in respect of the product provider's own group personal pension scheme or group stakeholder pension scheme products

- 6.1C.9 R If the *firm* or its *associate* is the *group personal pension scheme* or *group stakeholder pension scheme* provider, the *firm* must ensure that the level of its *consultancy charges* is at least reasonably representative of the cost associated with giving the advice to the employer in relation to the relevant scheme.
- 6.1C.10 G A *consultancy charge* is likely to be reasonably representative of the services associated with giving advice, or providing services, to an employer in connection with a *group personal pension scheme* or *group stakeholder pension scheme* if:
- (1) the expected long term costs associated with advising the employer in relation to the *group personal pension scheme* or *group stakeholder pension scheme* do not include the costs associated with establishing and operating that scheme;
 - (2) the allocation of costs and profits to *consultancy charges* and product charges is such that any cross-subsidisation between the different activities is not significant in the long term; and
 - (3) (were the services to be provided by an unconnected *firm*), the level of *consultancy charges* would be appropriate in the context of the service being provided by the *firm*.

Requirement to use a charging structure

- 6.1C.11 R A *firm* must determine and use an appropriate charging structure for calculating its *consultancy charge* for each employer.
- 6.1C.12 G A *firm* can use a standard charging structure.
- 6.1C.13 G (1) In determining its charging structure and *consultancy charges* a *firm* should have regard to the best interests of the employer and the employer's employees.
- (2) A *firm* may not be acting in the best interests of the employer and the employer's employees if it:
- (a) varies its *consultancy charges* inappropriately according to product provider; or
- (b) allows the availability or limitation of services offered by third parties to facilitate the payment of *consultancy charges* to influence inappropriately its charging structure or *consultancy charges*.
- (3) *Firms* are reminded that the *client's best interests rule* may also apply.
- 6.1C.14 R A *firm* must not use a charging structure which conceals the amount or purpose of any of its *consultancy charges* from an employer or an employee.
- 6.1C.15 G A *firm* is likely to be viewed as operating a charging structure that conceals the amount or purpose of its *consultancy charges* if, for example, it makes arrangements for amounts in excess of its *consultancy charges* to be deducted from an employee's investments from the outset, in order to be able to provide a cash payment to the employer or employee later.

Initial information for clients on the cost of consultancy services

- 6.1C.16 R A *firm* must disclose its charging structure to an employer in writing, in good time before giving advice, or providing services, to the employer in connection with a *group personal pension scheme* or *group stakeholder pension scheme*.
- 6.1C.17 G A *firm* should ensure that the disclosure of its charging structure is in clear and plain language and, as far as is practicable, uses cash terms. If a *firm's* charging structure is in non-cash terms, examples in cash terms should be used to illustrate how the charging structure will be applied in practice.

Disclosure of total consultancy charges payable

- 6.1C.18 R (1) A *firm* must agree with and disclose to an employer the total *consultancy charge* payable to it or any of its *associates*.

- (2) A disclosure under (1) must:
- (a) be in cash terms (or convert non-cash terms into illustrative cash equivalents);
 - (b) be made as early as practicable and, in any event, before the employer:
 - (i) selects a particular *group personal pension scheme* or *group stakeholder pension scheme* for the benefit of its employees; or
 - (ii) if applicable, reviews its *group personal pension scheme* or *group stakeholder pension scheme* arrangements;
 - (c) be in a *durable medium* or through a website (if it does not constitute a *durable medium*) if the *website conditions* are satisfied;
 - (d) if there are payments over a period of time, include:
 - (i) the amount and frequency of each payment due; and
 - (ii) the period over which the *consultancy charge* is payable;
 - (iii) an explanation of the implications for the employer and its employees if an employee leaves the employer's service; and
 - (iv) an explanation of the implications for the employer and its employees if contributions to the *group personal pension scheme* or *group stakeholder pension scheme* are cancelled before the *consultancy charge* is fully paid.

6.1C.19 G To comply with the *rule* on disclosure of total *consultancy charges* payable (COBS 6.1C.18R) and the *fair, clear and not misleading rule*, a *firm's* disclosure of the total *consultancy charge* should:

- (1) provide information to the employer as to which particular service a *consultancy charge* applies;
- (2) include information as to when payment of the *consultancy charge* is due;
- (3) if an ongoing *consultancy charge* is expressed as a percentage of funds under management, clearly reflect in the disclosure how that *consultancy charge* may increase as the fund grows, for example by illustrating the *consultancy charge* assuming a fund growth rate

which is consistent with an *intermediate rate of return*.

Requirement not to make a consultancy charge in certain circumstances

- 6.1C.20 R When an employer asks a *firm* to provide advice to the employer's employees, the *firm*:
- (1) may make a *consultancy charge* for the cost of preparing and giving advice to each employee who chooses to accept his employer's offer of advice;
 - (2) must not make a *consultancy charge* for the cost of preparing or giving advice to an employee who chooses not to accept the offer of advice;
 - (3) (if the *firm* prepares generic advice to be given to more than one employee) must not make more than one *consultancy charge* for preparing that advice.

Record-keeping

- 6.1C.21 R A *firm* must keep a record of:
- (1) its charging structure;
 - (2) the *consultancy charges* payable by each employer and each of the employer's employees; and
 - (3) if the *consultancy charge* for a particular service has varied materially from that indicated in the *firm's* charging structure, the reasons for that difference.

6.1D Product provider requirements relating to consultancy charging and remuneration

Application – Who? What?

- 6.1D.1 R This section applies to a *firm* that is a *group personal pension scheme* or *group stakeholder pension scheme* provider, but only if the *firm* providing the relevant scheme (or another *firm*) gives advice, or provides services, to an employer in connection with that scheme.

Application – Where?

- 6.1D.2 R This section does not apply if the employer is outside the *United Kingdom*.

Interpretation

- 6.1D.3 R In this section 'giving advice, or providing services, to an employer in connection with a *group personal pension scheme* or *group stakeholder*

pension scheme includes:

- (1) giving advice or assistance to an employer on the operation of such a scheme;
- (2) taking, or helping the employer to take, the steps that must be taken to enable an employee of the employer to become a member of such a *scheme*; and
- (3) giving advice to an employee, pursuant to an agreement between the employer and the advisor, about the benefits that are, or might be, available to the employee if he is, or if he becomes, a member of such a scheme.

Requirement not to offer commission, provide factoring or offer credit to a third party

- 6.1D.4 R (1) A *firm* must not offer or pay (and must ensure that none of its *associates* offers or pays) any commissions, remuneration or benefit of any kind to another *firm*, an *employee benefit consultant* or to any other third party for the benefit of that *firm*, *employee benefit consultant* or third party in relation to the sale or purchase of:
- (a) a *group personal pension scheme* or *group stakeholder pension scheme*, whether or not that sale or purchase is accompanied or facilitated by advice given to the purchasing employer or the employer's employees; or
 - (b) an *investment*, if that sale or purchase is, or was, for the benefit of an *occupational pension scheme* established as an alternative to a *group personal pension scheme* or *group stakeholder pension scheme*.
- (2) Paragraph (1)(a) does not prevent a *firm* from making a payment to a third party that has facilitated the payment of a *consultancy charge* from a *group personal pension scheme* or *group stakeholder pension scheme*, provided that that payment is only in respect of that facilitation.
- (3) For the purposes of (1)(b) only, an *occupational pension scheme* will be established as an alternative to a *group personal pension scheme* or *group stakeholder pension scheme* if, in order to meet the most material of its objectives, an employer could reasonably have chosen to establish an *occupational pension scheme* on the one hand, or a *group personal pension scheme* or *group stakeholder pension scheme* on the other, and it chose to establish an *occupational pension scheme*.
- 6.1D.5 G The requirement not to offer or pay commission does not prevent a *firm* from making a payment to a third party in respect of administration or other charges incurred, for example a payment to a fund supermarket or a third

party administrator.

- 6.1D.6 R A *firm* that produces a *group personal pension scheme* or *group stakeholder pension scheme* must not offer or make any credit available out of its own funds, and to or for the benefit of another *firm*, an *employee benefit consultant* or another third party.

Distinguishing product charges from consultancy charges

- 6.1D.7 R A *firm* must:
- (1) take reasonable steps to ensure that its *group personal pension scheme* and *group stakeholder pension scheme* charges are not structured so that they could mislead or conceal from an employer the distinction between those charges and any *consultancy charges* payable in respect of the scheme; and
 - (2) not include in any marketing materials in respect of its *group personal pension schemes* or *group stakeholder pension schemes* any statements about the appropriateness of levels of *consultancy charges* that a *firm* could charge in giving advice to an employer in relation to a such a scheme.
- 6.1D.8 G A *firm* should not offer to invest more than 100% of the *retail client's* contribution to a *group personal pension scheme* or *group stakeholder pension scheme*.

Requirements on firms facilitating the payment of consultancy charges

- 6.1D.9 R A *firm* that offers to facilitate, directly or through a third party, the payment of *consultancy charges* from an employee's investment in a *group personal pension scheme* or *group stakeholder pension scheme* must:
- (1) obtain and validate instructions from the relevant employer in relation to the *consultancy charge*;
 - (2) offer sufficient flexibility in terms of the *consultancy charges* it facilitates;
 - (3) not pay out or advance *consultancy charges* to the *firm* to which the *consultancy charge* is owed over a materially different time period, or on a materially different basis to that in which it recovers the *consultancy charges* from the employee (including paying any *consultancy charges* to the *firm* that it cannot recover from the employee); and
 - (4) ensure that the *consultancy charges* levied do not exceed those agreed between the employee's employer and the relevant adviser (unless the prior written consent of the employee is obtained).
- 6.1D.10 G A *firm* should consider whether the flexibility in levels of *consultancy charges* it offers to facilitate is sufficient so as not to unduly influence or

restrict the charging structure and *consultancy charges* that the *firm* providing advice to an employer in relation to a *group personal pension scheme* or *group stakeholder pension scheme* can use.

Disclosure of total consultancy charges payable

- 6.1D.11 R A *firm* must, in good time, provide an employee with sufficient information on the total *consultancy charge* payable by the employee.
- 6.1D.12 G To comply with COBS 6.1A11R, a *firm's* disclosure should be in cash terms (or convert non-cash terms into illustrative cash equivalents) and should:
- (1) include information as to the period over which the *consultancy charge* is payable;
 - (2) provide information on the implications for the employee if the employee leaves the employer's service or their contributions to the *group personal pension scheme* or *group stakeholder pension scheme* are cancelled before the *consultancy charge* is fully paid.
- 6.1D.13 G A *firm* may provide the disclosure in COBS 6.1D.11R at the same time as it provides a *key features document*.

Amend the following as shown.

- 6.2A.1 R (1) This section applies to a *firm* that either:
- ~~(1)(a)~~ makes a *personal recommendation* to a *retail client* in relation to a *retail investment product*; or
 - ~~(2)(b)~~ provides *basic advice* to a *retail client*.
- (2) This section does not apply to a *firm* when it makes a *personal recommendation* or provides *basic advice* to an employee, if that recommendation or advice is provided under the terms of an agreement between the *firm* and that employee's employer which is subject to the *rules on consultancy charges (COBS 6.1C)*.

...

- 6.3.21 R A *firm* must take reasonable steps to ensure that its *representatives*, when making contact with an employee with a view to giving a *personal recommendation* on his employer's *group personal pension scheme* or *group stakeholder pension scheme*, inform the ~~employer~~ employee:
- (1) that the *firm* will be providing a *personal recommendation* on a ~~group personal pension schemes~~ scheme and/or a ~~group stakeholder pension schemes~~ scheme provided by the employer;
 - (2) whether the employee will be provided with a *personal*

recommendation that is restricted to the *group person pension scheme* or *group stakeholder pension scheme* provided by the employer or the recommendation will also cover other products;

- (3) [deleted]
- (4) that the employee will have to pay an *adviser charge* (if applicable) unless the *representative* is making contact pursuant to an agreement made between the *firm* and the employer which is subject to *consultancy charging* (COBS 6.1C (Consultancy charging and remuneration)).

TP 2 Other Transitional provisions

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provisions: coming into force
	...				
<u>2.2B-1</u>	<u>COBS 6.1C (Consultancy charging and remuneration) and COBS 6.1D (Product provider requirements relating to consultancy charging and remuneration)</u>	<u>R</u>	<u>COBS 6.1C (Consultancy charging and remuneration) and COBS 6.1D (Product provider requirements relating to consultancy charging and remuneration) do not prohibit a <i>firm</i> or its <i>associates</i> from offering or paying a commission, remuneration or benefit to another <i>firm</i>, an <i>employee benefit consultant</i> or another third party for the benefit of that <i>firm</i>, <i>employee benefit consultant</i> or third party in relation to a <i>group personal pension</i></u>	<u>From 31 December 2012</u>	<u>31 December 2012</u>

			<p><u>scheme or group stakeholder pension scheme if:</u></p> <p>(1) <u>the employer's part of the relevant scheme was established on or before;</u> <u>and</u></p> <p>(2) <u>the relevant offer or payment was permitted by the rules in force on;</u> <u>30 December 2012.</u></p>		
2.2B	...				

Sch 1 Record keeping requirements

...

1.3G

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
...				
<u>COBS 6.1C.21R</u>	<u>Consultancy charging and remuneration</u>	<p>(1) <u>the firm's charging structure;</u></p> <p>(2) <u>the total consultancy charge payable by each employer.</u></p> <p>(3) <u>if the total consultancy charge for a particular service has varied materially from that indicated in the firm's charging structure, the reasons for that difference.</u></p>	<p>(1) <u>when the charging structure is first used;</u></p> <p>(2) <u>from the date of disclosure;</u></p>	<u>See COBS 6.1C.21R</u>
...				

MORTGAGE ARREARS INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 149 (Evidential provisions);
 - (3) section 156 (General supplementary powers); and
 - (4) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purposes of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 25 June 2010.

Amendments to the Handbook

- D. The Mortgages and Home Finance: Conduct of Business sourcebook (MCOB) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Mortgage Arrears Instrument 2010.

By order of the Board
24 June 2010

Annex

**Amendments to the Mortgages and Home Finance: Conduct of Business sourcebook
(MCOB)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

MCOB 12.4.1R, which has not changed, has been included to aid the reader.

4.7.4 R For the purposes of *MCOB* 4.7.2R:

...

- (3) if a *firm* is dealing with an existing *customer* in *arrears* and has concluded that there is no suitable *regulated mortgage contract* for the purposes of *MCOB* 4.7.2R, the *firm* must nonetheless have regard to *MCOB* ~~13.3.2E(1)(a), (e) and (f)~~ 13.3.2AR(1), (5) and (6) (see also *MCOB* ~~13.3.4G(1)(a) and (b)~~ 13.3.4AR(1)(a) and (b)).

12.4 Arrears charges: regulated mortgage contracts

12.4.1 R (1) A *firm* must ensure that any *regulated mortgage contract* that it *enters into* does not impose, and cannot be used to impose, a charge for *arrears* on a *customer* except where that charge is a reasonable estimate of the cost of the additional administration required as a result of the *customer* being in *arrears*.

- (2) Paragraph (1) does not prevent a *firm* from *entering into a regulated mortgage contract* with a *customer* under which the *firm* may change the rate of interest charged to the *customer* from a fixed or discounted rate of interest to the *firm's* standard variable rate if the *customer* goes into *arrears*, providing that this standard variable rate is not a rate created especially for *customers* in *arrears*.

12.4.1A E The imposition of a charge for *arrears* on a *customer* who is adhering to an arrangement under which the *customer* and the *firm* agree that the *customer* will make payments of a set amount per month (or other agreed period) on agreed dates may be relied upon as tending to show contravention of *MCOB* 12.4.1R (1).

12.4.1B R When a *customer* has a payment shortfall in respect of a *regulated mortgage contract*, a *firm* must ensure that any payments received from the *customer* are allocated first towards paying off the balance of the shortfall (excluding any interest or charges on that balance).

...

13.3 Dealing fairly with customers in arrears: policy and procedures

13.3.1 R ...

- (2) A *firm* must put in place, and operate in accordance with, a written policy (agreed by its respective *governing body*) and procedures for complying with (1). Such policy and procedures must reflect the requirements of MCOB 13.3.2AR and MCOB 13.3.4AR.

~~Policy and procedures: content~~

- 13.3.2 E (1) ~~A *firm* should ensure that its written policy and procedures include:~~
- ~~(a) using reasonable efforts to reach an agreement with a *customer* over the method of repaying any payment shortfall or *sale shortfall*, in the case of the former having regard to the desirability of agreeing with the *customer* an alternative to taking possession of the property;~~
 - ~~(b) liaising, if the *customer* makes arrangements for this, with a third party source of advice regarding the payment shortfall or *sale shortfall*;~~
 - ~~(c) adopting a reasonable approach to the time over which the payment shortfall or *sale shortfall* should be repaid, having particular regard to the need to establish, where feasible, a payment plan which is practical in terms of the circumstances of the *customer*;~~
 - ~~(d) granting, unless it has good reason not to do so, a *customer's* request for a change to:

 - ~~(i) the date on which the payment is due (providing it is within the same payment period); or~~
 - ~~(ii) the method by which payment is made;~~~~and giving the *customer* a written explanation of its reasons if it refuses the request;~~~~
 - ~~(e) giving consideration, where no reasonable payment arrangement can be made, to the *customer* being allowed to remain in possession to effect a sale; and~~
 - ~~(f) *repossessing* the property only where all other reasonable attempts to resolve the position have failed. [deleted]~~
- (2) ~~Contravention of (1) may be relied on as tending to show contravention of MCOB 13.3.1R(2). [deleted]~~

13.3.2A R A firm must, when dealing with any customer in payment difficulties:

- (1) make reasonable efforts to reach an agreement with a customer over the method of repaying any payment shortfall or sale shortfall, in the case of the former having regard to the desirability of agreeing with the customer an alternative to taking possession of the property;
- (2) liaise, if the customer makes arrangements for this, with a third party source of advice regarding the payment shortfall or sale shortfall;
- (3) allow a reasonable time over which the payment shortfall or sale shortfall should be repaid, having particular regard to the need to establish, where feasible, a payment plan which is practical in terms of the circumstances of the customer;
- (4) grant, unless it has good reason not to do so, a customer's request for a change to:
 - (a) the date on which the payment is due (providing it is within the same payment period); or
 - (b) the method by which payment is made;and give the customer a written explanation of its reasons if it refuses the request;
- (5) where no reasonable payment arrangement can be made, allow the customer to remain in possession for a reasonable period to effect a sale; and
- (6) not repossess the property unless all other reasonable attempts to resolve the position have failed.

...

13.3.3A R In complying with MCOB 13.3.2AR, a firm must give a customer a reasonable period of time to consider any proposals for dealing with the payment difficulties.

13.3.4 G In relation to using reasonable efforts to reach an agreement with a customer over the method of repaying any payment shortfall or sale shortfall, customers:

- (1) should be given a reasonable period of time to consider any proposals for payment that are put to them; in addition, and depending on the individual circumstances, a firm may wish to do one or more of the following in relation to the regulated mortgage contract or home purchase plan with the agreement of the customer:
 - (a) extend its term; or

- (b) ~~change its type; or~~
 - (c) ~~defer payment of interest due on the *regulated mortgage contract* or of sums due under the *home purchase plan* (including, in either case, on any *sale shortfall*); or~~
 - (d) ~~treat the payment shortfall as if it was part of the original amount provided; [deleted]~~
- (2) ~~should be given adequate information to understand the implications of any proposed arrangement; one approach may be to provide information on the new terms in line with the *annual statement provisions*. [deleted]~~

13.3.4A R In complying with MCOB 13.3.2AR(6):

- (1) a firm must consider whether, given the individual circumstances of the customer, it is appropriate to do one or more of the following in relation to the *regulated mortgage contract* or *home purchase plan* with the agreement of the customer:
- (a) extend its term; or
 - (b) change its type; or
 - (c) defer payment of interest due on the *regulated mortgage contract* or of sums due under the *home purchase plan* (including, in either case, on any *sale shortfall*); or
 - (d) treat the payment shortfall as if it was part of the original amount provided (but a firm must not automatically capitalise a payment shortfall); or
 - (e) make use of any Government forbearance initiatives in which the firm chooses to participate;
- (2) a firm must give customers adequate information to understand the implications of any proposed arrangement; one approach may be to provide information on the new terms in line with the *annual statement provisions*.

13.3.4B R A firm must make customers aware of the existence of any applicable Government schemes to assist borrowers in payment difficulties in relation to *regulated mortgage contracts*.

13.3.4C G Firms should note that the list of options to consider set out at MCOB 13.3.4AR(1) is not exhaustive. The FSA would expect firms to be able to justify a decision to offer a particular option.

13.3.4D G In the FSA's view, in order to comply with Principle 6, firms should not agree to capitalise a payment shortfall save where no other option is realistically

available to assist the *customer*.

- 13.3.5 G ~~In relation to using reasonable efforts to reach an agreement with a *customer* over the method of repaying any payment shortfall or *sale shortfall*, a *mortgage lender* should not automatically capitalise *arrears*. [deleted]~~

...

Record keeping: arrears and repossessions

- 13.3.9 R (1) A *mortgage lender* or *administrator* must make and retain an adequate record of its dealings with a *customer* whose account is in *arrears* or who has a *sale shortfall*, which will enable the *firm* to show its compliance with this chapter. That record must include a recording of all telephone conversations between the *firm* and the *customer* which discuss the sums due.

- (2) A *mortgage lender* or *administrator* must retain the record required by (1) for ~~a year~~ three years from the date ~~on which the relevant payment shortfall or *sale shortfall* was cleared~~ of the dealing.

- 13.3.10 G The record referred to in *MCOB* 13.3.9R should contain, or provide reference to, matters such as:

- (1) the date of first communication with the *customer* after the account was identified as being in *arrears*;
- (2) in relation to correspondence issued to a *customer* in *arrears*, the name and contact number of the employee dealing with that correspondence, where known;
- (3) the basis for issuing tailored information in accordance with *MCOB* 13.7.1R;
- (4) information relating to any new payment arrangements proposed;
- (5) the date of issue of any legal documents;
- (6) the arrangements made for sale after the *repossession* (whether legal or voluntary); and
- (7) the date of any communication summarising the *customer's* outstanding debt after sale of the *repossessed* property;
- (8) the date and time of each call for the purposes of *MCOB* 13.3.9R(1).

...

Transitional Provisions

TP 1.1 Transitional Provisions

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
13	<u>MCOB 13.3.9R</u>	<u>R</u>	<u>A firm which complies with MCOB 13.3.9R as it applied on 24 June 2010 need not comply with MCOB 13.3.9R as it applies from 25 June 2010.</u>	<u>25 June 2010 to 25 December 2010</u>	<u>25 June 2010</u>

...

Schedule 1 Record keeping requirements

...

Sch 1.3 G

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
...				
<u>MCOB 13.3.9R</u>	Dealings with <i>customers in arrears</i> or with a <i>mortgage shortfall debt</i>	Details of all communication <u>dealings (including a recording of all telephone conversations)</u> with the <i>customer</i> ; information relating to any repayment plan; date of issue of any legal proceedings; arrangements made for sale of a <i>repossessed</i> property; and the basis of any tailored information where the loan is for a business purpose.	The date on which the customer's account first falls into arrears <u>The date of the dealing</u>	One year <u>Three years</u> from the date on which the record is made relevant payment shortfall or mortgage shortfall debt is cleared

SALE AND RENT BACK (REGULATORY REPORTING) INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 156 (General supplementary powers); and
 - (3) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purposes of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 30 June 2010.

Amendments to the Handbook

- D. The Supervision manual (SUP) is amended in accordance with Annex A to this instrument.
- E. The Dispute Resolution: Complaints sourcebook (DISP) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Sale and Rent Back (Regulatory Reporting) Instrument 2010.

By order of the Board
24 June 2010

Annex A

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

- 16.11.2 G (1) The purpose of this section is to set out the requirements for *firms* in the retail mortgage, investment, and *pure protection contract* markets specified in SUP 16.11.1R to report individual product sales data to the FSA. In the case of *firms* in the sale and rent back market, there is a requirement to record, but not to submit, the data. ~~The requirement applies~~ These requirements apply whether the *regulated activity* has been carried out by the *firm*, or through an intermediary which has dealt directly with the *firm*.

Reporting requirement

- 16.11.3 R (1) A *firm* must submit a report (the ‘data report’) containing the information required by SUP 16.11.5R quarterly, within 20 *business days* of the end of the quarter, unless (3) or (4) applies.

...

- (3) A *firm* need not submit a data report if no relevant sales have occurred in the quarter.

- (4) *A SRB agreement provider* must compile, and keep for at least five years from the end of the relevant quarter, a data report containing the information required by SUP 16.11.5R, but is not subject to the requirement in (1) to submit a data report (or to the requirement in SUP 16.11.9R).

...

Content of the report

- 16.11.5 R The data report must contain sales data in respect of the following products:

...

- (4) *home purchase plans*; ~~and~~

- (5) *home reversion plans*; and

- (6) *regulated sale and rent back agreements*.

...

- 16.12.4 R Table of applicable rules containing *data items*, frequency and submission
-

periods

(1)		(2)	(3)	(4)
RAG number	Regulated Activities	Provisions containing:		
		applicable data items	reporting frequency/ period	Due date
...				
RAG 9	<ul style="list-style-type: none"> • mortgage mediation activity <u>home finance mediation activity</u> • insurance mediation activity (non-investment insurance contracts) 	<i>SUP</i> 16.12.28 <u>AR</u>	<i>SUP</i> 16.12.28 <u>AR</u>	<i>SUP</i> 16.12.28 <u>AR</u>
...				

...

- 16.12.18A R The applicable *data items*, reporting frequencies and submission deadlines referred to in *SUP* 16.12.4R are set out in the table below. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period.

Description of data item <u>data item</u>	Data item <u>Data item</u> (note 1)	Frequency	Submission deadline
...			
Fees and levies	Section J MLAR	Annually	30 <i>business days</i>
<u>Sale and rent back</u>	<u>Section K MLAR</u>	<u>Annually</u>	<u>30 <i>business days</i></u>
Note 1	When submitting the completed <i>data item</i> required, a <i>firm</i> must use the format of the <i>data item</i> set out in <i>SUP</i> 16 Annex 19AR. Guidance notes for the completion of the data items <u>data items</u> is set out in <i>SUP</i> 16 Annex		

	19BG.
...	

...

16 Annex 18BG Notes for Completion of the Retail Mediation Activities Return ('RMAR')

...

NOTES FOR COMPLETION OF THE RMAR

...

Section B: Profit & Loss Account

...

Note: *Home purchase, ~~and reversion~~ and regulated sale and rent back activity* should be included under the existing mortgage headings in this section of the RMAR.

...

Section C: Client Money and assets

Note: *Home purchase, ~~and reversion~~ and regulated sale and rent back activity* should be included under the existing mortgage headings in this section of the RMAR.

...

Section D: Regulatory Capital

Note: *Home purchase, ~~and reversion~~ and regulated sale and rent back activity* should be included under the existing mortgage headings in this section of the RMAR.

...

Section E: Professional Indemnity Insurance

Note: *Home purchase, ~~and reversion~~ and regulated sale and rent back activity* should be included under the existing mortgage headings in this section of the RMAR.

...

Section E: guide for completion of individual fields

...

Part 2

At this point, if the *firm* has PII policy details to report, it should do so by clicking on the ‘add PII policy’ button in the summary screen. This will then prompt you to name the sub-section, e.g. ‘policy1’. You may also add further sub-sections if the *firm* has two or more policies (up to a maximum of ten).

What activities are covered by the policy(ies)?	You should indicate which <i>regulated activities</i> are covered by the <i>firm</i> ’s PII policy or policies.
If your policy excludes all business activities carried on prior to a particular date (i.e. a retroactive start date), then insert the date here, if not please insert ‘n/a’	Required terms of PII are set out for <i>personal investment firms</i> in IPRU(INV) 13.1.5R and for <i>mortgage home finance intermediaries</i> and <i>insurance intermediaries</i> in MIPRU 3.2.4R. ...
...	
Annual income as stated on the most recent proposal form	This should be the income as stated on the <i>firm</i> ’s most recent PII proposal form. For a <i>personal investment firm</i> , this is relevant income arising from all of the <i>firm</i> ’s activities for the last accounting year before the policy began or was renewed (IPRU(INV) 13.1.8R). For <i>insurance intermediaries</i> and <i>mortgage home finance intermediaries</i> this is the annual income given in the <i>firm</i> ’s most recent annual financial statement from the relevant <i>regulated activity</i> or activities (MIPRU 4.3.1R to 4.3.3R).
...	

...

Section F: the *threshold conditions*

...

Sub-heading: ~~approved persons~~

~~The approved persons regime is one of the ways in which the FSA satisfies itself that firms are operating in accordance with *threshold conditions* 4 (adequate resources) and 5 (suitability).~~

~~An “approved person” is a *person* in relation to whom the FSA has given its approval under the Act for the performance of a *controlled function*. In broad terms, the individuals the FSA approves fall into the following categories:~~

- ~~• individuals exerting significant influence over the *firm*’s *regulated activities*;~~
- ~~• individuals dealing directly with *customers*; and~~

~~• individuals dealing with the property of customers.~~

~~For retail investment firms, all individuals undertaking controlled functions in relation to the above categories are subject to the approved persons regime.~~

~~For firms carrying on home finance mediation activity and/or insurance mediation activity relating to non-investment insurance contracts, the ‘significant influence’ category is subject to the approved persons regime, but not the ‘customer functions’.~~

~~See, generally, SUP 10.4 for specification of significant influence functions and customer functions.~~

...

Section G: Training & Competence (‘T&C’)

Note: ~~Home purchase~~, ~~and reversion~~ and regulated sale and rent back activity should be included under the existing mortgage headings in this section of the RMAR.

...

Section G: guide for completion of individual fields

...	
Number of advisers that have passed appropriate examinations	<p>This is a subset of the total in ‘number of staff that give advice’ above.</p> <p>In the case of certain activities, TC 2 imposes requirements on firms in relation to their employees and passing examinations. See, for example, requirements relating to employees engaged in <i>advising a customer on a home finance transaction other than a home finance transaction that the firm has concluded solely for a business purpose</i> (Table TC 2.1.4R (1)(p)) <u>regulated mortgage contract for a non-business purpose</u> (TC Appendix 1.1.1(20)), and requirements relating to employees engaged in <i>advising on investments which are packaged products</i> (Table TC 2.1.4R (1)(f)) (TC Appendix 1.1.1(4)).</p> <p>...</p>
...	

...

Section H: Conduct of Business (‘COBS’) Data

Note: ~~Home purchase~~ ~~and reversion activity~~ should be included under the existing mortgage headings in this section of the RMAR.

...

Section I: supplementary product sales data

...

Sub-heading: (iii) ~~Dealing as agent for non-investment insurance contracts~~

This section captures transactions with *retail customers* by *firms* with delegated authority (e.g. where the *firm* can bind risks on behalf of the *insurance undertaking* without further reference to the *insurance undertaking*). *Firms* are required to submit aggregate volumes and value of this business, and to indicate which products they have dealt in.

Firms are also required to indicate whether this business is significant. 'Significant', in this context, is where the premium collected in relation to business where the *firm* dealt as agent amounts to (a) more than 40% of premium collected for all non investment insurance business, or (b) more than 40% of premium collected for all business in a particular product). Again, this enables us to ascertain the importance of this business to the *firm* and to target thematic work in this area.

Sub-heading: (iv) ~~claims handling~~

The activity of '~~assisting in the administration and performance of a contract of insurance~~' encompasses claims handling on behalf of *customers*, and this section aims to capture information on claims handling that is not collected from product providers as part of PSD.

This enables us to ascertain the importance of this activity to the *firm* and to target thematic work in this area. *Firms* should note that where claims are handled on behalf of an *insurer* only, this does not constitute a *regulated activity*.

Sub-heading: (v) ~~Lloyd's brokers — product sales data~~

This information is required because data on business placed through Lloyd's is not collected as part of product sales data. To fill the gap, this section requires Lloyd's brokers to submit data on the percentage of revenue earned through their *regulated activities* that is derived from retail, commercial and reinsurance business. This information is used alongside the product sales data to inform our thematic supervision work.

...

Section J: data required for calculation of fees

Note: *Home purchase*, ~~and reversion~~ and regulated sale and rent back activity should be included under the existing mortgage headings in this section of the RMAR.

...

After the existing section J, insert the following new section. The text is not underlined.

K SALE & RENT BACK (SRB) BUSINESS		Regulated Number	Amount
K1	Overall business summary (opening & closing stocks with key transactions)		
K1.1	SRB agreements at start of quarter	_____	_____
K1.2	New sales in quarter	_____	_____
K1.3	Disposals in quarter	_____	_____
K1.4	Business transfer: acquisitions	_____	_____
K1.5	Business transfer: sales	_____	_____
K1.6	Other	_____	_____
K1.7	SRB agreements at end of quarter	_____	_____
K1.8	SRB agreements arranged for unauthorised person	_____	_____

K SALE & RENT BACK (SRB) BUSINESS

		Regulated Number	Amount
K2	New business in Quarter		
Sales : analysed by discount on open market value (OMV)			
K2.1	0% – 30%	_____	_____
K2.2	30% – 40%	_____	_____
K2.3	> 40%	_____	_____
K2.4	Weighted average of all sales	<input type="text"/>	<input type="text"/>
Sales : analysed by provider fees charged			
K2.5	Over £1000	_____	_____
K2.6	Under £1000	_____	_____
K2.7	Weighted average fees charged	<input type="text"/>	<input type="text"/>
Sales : analysed by annual rent as % sale value			
K2.8	Average annual rent per month	_____	_____
K2.9	Average rental yield	_____	_____

SALE & RENT BACK (SRB) BUSINESS

K3 SRB agreements terminated or transferred in the quarter:

		Agreements Terminated by Firm	Agreements Terminated by Seller
K3.1	< 12 Months	_____	_____
K3.2	12 - 36 Months	_____	_____
K3.3	36 - 60 Months	_____	_____
K3.4	60 - 72 Months	_____	_____
K3.5	> 72 Months	_____	_____
K3.6	Avg Duration of Agreement		

Total Sales (Transfers & Disposals)		Transfers Number	Amount	Disposals	
				Number	Amount
K3.7	Original SRB values	_____	_____	_____	_____
K3.8	Current SRB book values	_____	_____	_____	_____
K3.9	Actual disposal/transfer values	_____	_____	_____	_____

SALE & RENT BACK (SRB) BUSINESS

K4 SRB agreements at end of quarter: cases 10% or more in arrears

		<u>Regulated</u>		
		Cases in arrears at end quarter		
Arrears categorisation		Number	Amount of arrears	Annual rentals
K4.1	10 < 20 %	_____	_____	_____
K4.2	20 < 30 %	_____	_____	_____
K4.3	30 < 40 %	_____	_____	_____
K4.4	40 < 50 %	_____	_____	_____
K4.5	50 < 75 %	_____	_____	_____
K4.6	75% or more	_____	_____	_____
K4.7	All cases	<input type="text"/>	<input type="text"/>	<input type="text"/>

SALE & RENT BACK (SRB) BUSINESS

**SRB
administrators**

K5

K5.1 Regulated SRB agreements administered

K5.2 Number of SRB agreements administered

K5.3 Number of SRB agreements administered for other firms

Number of SRB agreements administered for other firms - top 5 firms

	Firm Ref Number (FRN)	Number of SRB agreements administered
K5.4	1: _____	1: _____
K5.5	2: _____	2: _____
K5.6	3: _____	3: _____
K5.7	4: _____	4: _____
K5.8	5: _____	5: _____

Amend the following as shown.

16 Annex 19BG Notes for Completion of the Mortgage Lending and Administration Return ('MLAR')

NOTES FOR COMPLETION OF THE MORTGAGE LENDING & ADMINISTRATION RETURN ('MLAR')

Contents

...

Section J Fee tariff measures

Section K Sale and rent back business

...

INTRODUCTION: GENERAL NOTES ON THE RETURN

1. Introduction

This section covers a number of points that have relevance across the return generally:

...

- *Home Reversion plans and Home Purchase plans*
- Sale and rent back business

...

2. Overview of reporting requirements

...

Because the *MLAR* is activity based, it sets out the reporting requirements for a number of different *firm* types. We expect *firms* to complete the requirements as follows:

...

- a *firm* carrying on *administering a home finance transaction*, but not also *home finance providing activity*, will need to complete sections A, B, C, G, H and J of the *MLAR*.
- *SRB agreement providers and SRB administrators* should complete sections A, B, C, J and K of the *MLAR*. (See section 4b for more information for *sale and rent back firms*.)

3. Purpose of reporting requirements

...

Table J provides information on fee tariff measures for *home finance providers* and *administrators*.

Table K provides the framework for the *FSA's monitoring of SRB agreement providers* and *SRB administrators*

...

4a. Home reversion and home purchase plans

...

...and hence such information should be excluded from section H.

4b. Sale and rent back business

Definitions

Regulated sale and rent back agreement.

This is defined in the Handbook as follows:

(in accordance with article 63J(3)(a) of the *Regulated Activities Order*) an arrangement comprised in one or more instruments or agreements, in relation to which the following conditions are met at the time it is entered into:

(a) the arrangement is one under which a *person* (an agreement provider) buys all or part of the *qualifying interest in land* in the *United Kingdom* from an individual or trustees (the "agreement seller"); and

(b) the agreement seller (if he is an individual) or an individual who is the beneficiary of the trust (if the agreement seller is a trustee), or a related person, is entitled under the arrangement to occupy at least 40% of the land in question as or in connection with a dwelling, and intends to do so;

but excluding any arrangement that is a regulated *home reversion plan*.

Guidance to sale and rent back (SRB) firms on the completion of the MLAR

This section explains how SRB *firms* should complete the *MLAR*.

SRB providers and administrators should complete the following sections of the *MLAR*:

- Section A (balance sheet);
- Section B (profit and loss account);
- Section C (capital);
- Section J (fees tariff measures); and
- Section K (sale and rent back business).

SRB firms should **not** complete sections D to H in respect of their SRB business.

It is recognised that SRB products are not loans. However, in order to use the MLAR as a vehicle for capturing data on these products, they are to be treated in **some** sections of the MLAR as if they were loan products. Therefore SRB providers should note the following in relation to their reporting of SRB agreements:

In section A

- Do **not** enter any information on SRB agreements in A1.6 ‘Loans to customers’.
- Report SRB assets in A1.11.
- Details of SRB agreements should be entered in A3.5 ‘Other loans’, in the ‘Unsecuritised balances’ section.

In Section B

- Where applicable, information on SRB agreements should be entered in B2.5 ‘Other loans’.

As a consequence the FSA will be able to capture key information on these products.

5. Accounting conventions

...

After SECTION J: FEE TARIFF MEASURES, insert the following new section. The text is not underlined.

SECTION K: SALE AND RENT BACK BUSINESS (SRB)

Introduction

This section must be completed as follows:

- *SRB agreement providers* must complete K1 to K5
- *SRB administrators* must complete K6
- *Firms* that are both *SRB agreement providers* and *SRB administrators* must complete K1 to K6.

K SRB: Residential sales by individuals

It is expected that *firms* will have the following to report:

- regulated SRB agreements: in respect of transactions entered into since SRB became a *regulated activity*, and
- non-regulated SRB agreements: in respect of transactions of a similar nature entered into before SRB became a *regulated activity*; and also any new contract that, while not meeting the precise conditions for a regulated contract, nonetheless has similar characteristics (for example cases where

the *firm* has purchased a property under value and rents an alternative property to the seller).

This approach means that all new and existing sale and rent back agreements – whether regulated or not, and whether transacted before or after SRB became a *regulated activity* – must be reported by the *firm* in section K.

K1 Overall business summary

This section looks at the *firm*'s SRB position at the start of the reporting quarter, at the various movements in the quarter, and at the end quarter position. Details required are:

- K1.1 **SRB agreements at start of quarter:** those agreements that existed at the end of the previous quarter. This line should normally agree with figures reported as at the previous quarter end.
- K1.2 **New sales in quarter:** new SRB agreements transacted in the quarter, where the *firm* has obtained title to the property and monies have been paid to the SRB seller. 'Amount' is the sale value (paid to seller) and should be reported gross, that is, before the deduction of any fees and charges.
- K1.3 **Disposals in quarter:** SRB agreements where the *firm* has sold the actual property. 'Amount' is the SRB value of the contract as used for the same contract reported in K1.1. Transfers or sales of SRB agreements should be reported under 'Business transfers-sales' below.
- K1.4 **Business transfer-acquisitions:** where the *firm* acquires one or more existing SRB agreements from another party or parties.
- K1.5 **Business transfer- sales:** where the *firm* sells one or more existing SRB agreements to another party or parties. Include also transfers of such agreements to any party.
- K1.6 **Other:** include any other amounts which affect the balances reported in K1.1 and K1.7, that is which reflect any change in the book value of any SRB agreements during the quarter.
- K1.7 **SRB agreements at end of quarter:** the number and book value of SRB contracts in existence at the end of the quarter.
- K1.8 **SRB agreements arranged for unauthorised persons:** The number of SRB agreements arranged where an unauthorised person has obtained title to the property and monies have been paid to the SRB seller. 'Amount' is the sale value (paid to seller) and should be reported gross, that is, before the deduction of any fees and charges.

NB: it is expected that figures in K1.7 will reconcile with those in other rows as follows:

- For 'Numbers': $K1.7 = K1.1 + K1.2 - K1.3 + K1.4 - K1.5$
- For 'Amounts': $K1.7 = K1.1 + K1.2 - K1.3 + K1.4 - K1.5 + K1.6$

K2 New business in the quarter

This section looks at various aspects of new business that has been transacted in the quarter: each is described below. For each aspect:

- The '**sale value**' means the gross amount paid to the seller before any fees and charges have been deducted.
- The 'All sales' line should agree with figures reported in K1.2.

K2.1 to 2.4 Sales: analysed by discount on open market value (OMV)

Here SRB transactions are classified into different bands, according to the amount of **discount** expressed as a percentage of the open market value of the property that is subject to the SRB contract. Discount is the open market value minus the sales value.

So for example, for those SRB agreements where the discount is 30% to under 40%, enter the total number of such sales and the total sales values of those agreements in the relevant boxes on the K2.2 line.

K2.5 to 2.7 Sales: analysed by provider fees charged

Here, SRB transactions are classified into two different bands, according to the amount of provider fees charged to the SRB agreement. Enter the total number of such sales and the total sales values of those agreements.

K2.8 to 2.9 Sales: analysed by annual rent as percent of sale value

Here the total number of new SRB agreements and the amount of average monthly rent being charged at the outset of the agreements is recorded. The average rental yield is calculated as the **total** annual rent for all new SRB agreements in the quarter divided by the total sales values.

K3 SRB agreements terminated or transferred in the quarter

This analyses SRB agreements terminated by either the provider or seller, and also those SRB agreements transferred to other parties.

K3.1 to K3.6 Agreements terminated:

By firm

This is where the seller has breached the terms and conditions of the SRB agreement and the provider has exercised the right to terminate the contract. Here, terminations are analysed according to the duration of the contract in

particular time bands. For each time band, enter the total number of such terminations

At the end of the quarter, some or possibly all of these agreements in K3.1 to K3.6 will also be included in end-quarter figures at K1.7. Those not included may already have been disposed of (reported at K1.3), or sold or transferred to third parties (reported at K1.5).

By seller

This is where the seller has exercised the right to buy back the property under the SRB agreement, or where the seller has terminated the tenancy agreement before the end of the fixed term. Here, redemptions are analysed according to the duration of the contract in particular time bands.

For each time band, enter the total number of such transactions and the total original sales values of those agreements.

In the supplementary analysis, provide summary totals for:

- original SRB values: the gross sales value paid to the seller
- current SRB values: the book value of the contract at time of re-sale
- actual resale values (i.e. the price at which either the property was sold back to the seller, or the seller left the property after giving notice) inclusive of any fees or charges levied as part of this resale transaction.

K3.7 to K3.9 **Transfers and Disposals**

Transfers

This covers SRB agreements which are sold or transferred to third parties, but where the contract itself remains in being.

The analysis looks into the status of each SRB agreement when it is sold or transferred, distinguishing between:

- agreements which are fully performing, and
- those where the seller is not currently meeting the terms and conditions of the contract.

For both types of contract, *firms* should report:

- original SRB values: the gross sales value paid to the seller;
- current SRB values: the book value of the contract at time of sale/transfer; and
- actual disposal/transfer values: the value of the contract as recognised in the agreement with the acquiring party.

Disposals

This covers disposals made during the normal course of business, and does not include business transfers. This is a further analysis of ‘disposals’ reported in K1.3.

Firms should report:

- original SRB values: the gross sales value paid to the seller;
- current SRB values: the book value of the contract at time of disposal; and
- actual disposal/transfer values: the price obtained on sale (before deducting any costs of sale).

K4 **SRB agreements at end of quarter: cases 10% or more in arrears**

Firms should report those SRB contacts where the total amount of arrears on rental payments is 10% or more of the annual rental amount. Cases should be allocated to the relevant arrears band according to the percentage in arrears.

For each arrears band, report the number of such cases, and the amount of arrears, and the amount of the expected annual rent on these cases.

K5 **SRB administrators**

Firms holding SRB administration permissions must complete the number of regulated SRB agreements that they administer, as well as the number of regulated SRB agreements that they administer for third parties.

The agreements administered for third parties must be further broken down by the number of SRB agreements administered for the largest five *firms* that they administer regulated SRB agreements for.

...

Amend the following as shown.

16 Annex 20G **Products covered by the reporting requirement in SUP 16.11**

Table 4 – OTHER HOME FINANCE TRANSACTIONS

Relevant products include:

Home reversion plans

Home purchase plans

Regulated sale and rent back agreements

...

Part 2: Supporting product definitions/guidance for product sales data reporting

...

Other home finance transactions

Finance Type	Description
<i>Home reversion plan</i>	Defined in the Handbook <i>Glossary</i>
<i>Home purchase plan</i>	Defined in the Handbook <i>Glossary</i>
<u>Regulated sale and rent back agreement</u>	<u>Defined in the Handbook <i>Glossary</i></u>

SUP 16 Annex 21R

REPORTING FIELDS

...

2 SPECIFIC REPORTING FIELDS

...

d) Other home finance transactions

...

iii) Sale and rent back agreements

The following data reporting fields must be completed, where applicable, for all *regulated sale and rent back agreements*.

<u>Data reporting field</u>	<u>Code (where applicable)</u>	<u>Notes</u>
<u>Unique identifier</u>		<u>Use code that enables the sale and rent back provider to identify the individual sale and rent back agreement.</u>
<u>Date of sale and rent back agreement</u>	<u>DD/MM/YYYY</u>	<u>Date the sale and rent back agreement was entered into.</u>
<u>Market value of the property</u>	<u>Numeric £</u>	<u>Indicate the market value of the property according to the independent valuation carried out in accordance with <i>MCOB 6.9.2R</i>.</u>
<u>Purchase price</u>	<u>Numeric £</u>	<u>Purchase price of the</u>

		<u>property.</u>
<u>Net amount paid to the sale and rent back seller</u>	<u>Numeric £</u>	<u>Net amount paid to the sale and rent back seller, following the deduction of fees and any other expenses.</u>
<u>Monthly rent</u>	<u>Numeric £</u>	<u>Monthly rent as agreed at the outset of the tenancy agreement.</u>
<u>Term of tenancy agreement</u>	<u>Months</u>	<u>Length of the initial fixed term as stated in the tenancy agreement.</u>
<u>Postcode of property</u>	<u>XX45 6XX</u>	
<u>Income basis</u>	<u>S = single, J= joint</u>	<u>Use code to indicate whether the affordability assessment has been made on a single or joint basis.</u>
<u>Main sale and rent back seller employment status</u>	<u>E = employed, S = self employed, B = benefits, R = retired, 0 = other</u>	<u>Applies to main sale and rent back seller only.</u>
<u>Total net disposable income</u>	<u>Numeric £</u>	<u>The total net disposable income for all parties to the sale and rent back agreement used in the affordability assessment.</u>
<u>Date of birth of main sale and rent back seller</u>	<u>DD/MM/YYYY</u>	<u>Report the age of the main sale and rent back seller only.</u>
<u>Product incentives</u>	<u>CB = cash back, BB = buy back option, SA = share of appreciation</u>	<p><u>Use code to indicate incentives that form part of the sale and rent back agreement, if applicable.</u></p> <p><u>Where more than one code applies, report all.</u></p> <p><u>‘Cash back’ is the promise of a future payment to the sale and rent back seller, for example a portion of the original discount.</u></p> <p><u>‘Buy back’ is where the</u></p>

		<p><u>sale and rent back seller is offered the option to buy the property back.</u></p> <p><u>'Share of appreciation' is where the sale and rent back seller is promised a share in the appreciation of the property value.</u></p>
<u>Funding source for sale and rent back agreement</u>	<p><u>C = commercial funding,</u></p> <p><u>B = BTL mortgage,</u></p> <p><u>O = other</u></p>	<u>Use code to indicate the source of funding used for the sale and rent back agreement.</u>
<u>Fees charged to customer</u>	<u>Numeric £</u>	<u>This is the fee charged by the provider to the customer. It includes administration and legal fees.</u>

...

Annex B

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

In this Annex, underlining indicates new text.

TP 1 Transitional provisions

TP 1.1 Transitional Provisions table

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
<u>27</u>	<u>DISP 1.10.5R</u>	<u>R</u>	<p><u>In respect of complaints which relate to a <i>firm's</i> activities in respect of <i>regulated sale and rent back agreements</i> DISP 1.10.5R is disapplied and is replaced by the following:</u></p> <p><u>“Reports are to be submitted to the <i>FSA</i> within <i>30 business days</i> of the end of the relevant reporting periods either in hard copy form or by email, to dmt.inbox@fsa.gov.uk.”</u></p>	<u>From 30 June 2010 to 29 June 2011</u>	<u>30 June 2010</u>

**ONLINE SUBMISSION AND MANDATORY FORMS (NO 2)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the powers in:
- (1) the following provisions in or under the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 51 (Applications under this Part);
 - (b) section 60 (Applications for approval);
 - (c) section 138 (General rule-making power);
 - (d) section 148(3) (Modification or waiver of rules);
 - (e) section 156 (General supplementary powers);
 - (f) section 157(1) (Guidance);
 - (g) section 250 (Modification or waiver of rules);
 - (h) section 294 (Modification or waiver of rules); and
 - (i) paragraphs 19 (Establishment) and 20 (Services) of Schedule 3 (EEA Passport Rights); and
 - (2) regulation 7 (Modification or waiver of FSA rules) of the Open-Ended Investment Companies Regulations 2001.
- B. The rule-making powers listed above are specified for the purposes of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 4 October 2010.

Amendments to the Handbook

- D. The Supervision manual (SUP) is amended in accordance with the Annex to this instrument.

Notes

- E. In the Annex to this instrument the notes (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- F. This instrument may be cited as the Online Submission and Mandatory Forms (No 2) Instrument 2010.

By order of the Board
24 June 2010

Annex

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

The following unchanged SUP provisions have been included to aid the reader: 12.7.1R, 15.5.1R, 15.5.4R and 15.5.7R, and 15.7.4R to 15.7.9G.

6 Applications to vary and cancel Part IV permission

...

6.3 Applications for variation of permission

...

The application for variation of permission

- 6.3.15 D (1) ~~If a firm wishes to apply for a variation of Part IV permission, it must complete and submit to the FSA the form in SUP 6 Ann 5D D (Variation of permission application form). A firm other than a credit union wishing to vary its Part IV permission must apply online at www.fsa.gov.uk using the form specified on the FSA's ONA system.~~
- (2) ~~A firm's application for variation of Part IV permission must be given or addressed, and delivered in the way set out in SUP 15.7.4R to SUP 15.7.6G (Form and method of notification). A credit union wishing to vary its Part IV permission must apply using the form in SUP 6 Annex 5D and submit its application in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).~~
- (3) Until the application has been determined, a firm which submits an application for variation of Part IV permission must inform the FSA of any significant change to the information given in the application immediately it becomes aware of the change.
- (4) Where a firm is obliged to submit any form, notice or application online under (1), if the FSA's information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored a firm must submit any form, notice or application by using the form in SUP 6 Annex 5D and submitting it in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).
- 6.3.15A G (1) If the FSA's information technology systems fail and online submission is unavailable for 24 hours or more, the FSA will endeavour to publish a notice on its website confirming that online

submission is unavailable and that the alternative methods of submission set out in SUP 6.3.15D(4) and SUP 15.7.4R to SUP 15.7.9G (Form and method of notification) should be used.

- (2) Where SUP 6.3.15D(4) applies to a firm, GEN 1.3.2R (Emergency) does not apply.

...

6.4 Applications for cancellation of permission

...

The application for cancellation of permission

- 6.4.5 D (1) ~~If a firm other than a credit union wishes~~ wishing to cancel its Part IV permission, it must complete and submit to the FSA the form in SUP 6 Annex 6D D (Cancellation of permission application form) must apply online at www.fsa.gov.uk using the form specified on the FSA's ONA system.
- (2) ~~A firm's application for cancellation of Part IV permission must be:~~
- (a) ~~given to a member of, or addressed for the attention of, the Cancellations Team at the FSA; and~~
- (b) ~~delivered to the FSA by one of the methods in SUP 15.7.5R (Form and method of notification).~~ A credit union wishing to cancel its Part IV permission must apply using the form in SUP 6 Annex 6D and submit its application in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification). The application must be addressed for the attention of the Cancellations Team at the FSA.
- (3) [deleted]
- (4) Until the application has been determined, a firm which submits an application for cancellation of Part IV permission must inform the FSA of any significant change to the information given in the application immediately it becomes aware of the change.
- (5) Where a firm is obliged to submit any form, notice or application online under (1), if the FSA's information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored a firm must submit any form, notice or application by using the form in SUP 6 Annex 6D, and submitting it in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).
- 6.4.5A G (1) If the FSA's information technology systems fail and online submission is unavailable for 24 hours or more, the FSA will endeavour to publish a notice on its website confirming that online

submission is unavailable and that the alternative methods of submission set out in SUP 6.4.5D(5) and SUP 15.7.4R to SUP 15.7.9G (Form and method of notification) should be used.

- (2) Where SUP 6.4.5D(5) applies to a firm, GEN 1.3.2R (Emergency) does not apply.

8 Waiver and modification of rules

...

8.3 Applying for a waiver

...

Form and method of application

- 8.3.3 D ~~If a firm wishes to apply for a waiver, it must complete and submit the form in SUP 8 Annex 2D (Application form for a waiver or modification) The application must be given or addressed, and delivered, in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).~~

- (1) ~~{Deleted}~~ A firm other than a credit union wishing to apply for a waiver must apply online at www.fsa.gov.uk using the form specified on the FSA's ONA system.
- (2) ~~{Deleted}~~ A credit union wishing to apply for a waiver must complete the application form in SUP 8 Annex 2D and submit it in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).
- (3) ~~{Deleted}~~ Where a firm is obliged to submit an application online under (1), if the FSA's information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored a firm must use the form in SUP 8 Annex 2D and submit it in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).

...

- 8.3.3A G (1) ~~The FSA's preferred method of submission for waiver applications is by e-mail or by online submission at www.fsa.gov.uk. If the FSA's information technology systems fail and online submission is unavailable for 24 hours or more, the FSA will endeavour to publish a notice on its website confirming that online submission is unavailable and that the alternative methods of submission set out in SUP 8.3.3D(3) and SUP 15.7.4R to SUP 15.7.9G (Form and method of notification) should be used.~~

- (2) ~~The form is available on the FSA's website (see www.fsa.gov.uk/pubs/waivers/application_form/w_form.doc).~~
 Where *SUP* 8.3.3D(3) applies to a *firm*, *GEN* 1.3.2R (Emergency) does not apply.

10 Approved persons

...

10.11 Procedures relating to approved persons

Forms

...

10.11.2 G Approved persons forms

<u>Form</u>		<u>Purpose</u>	<u>Handbook requirement</u>
the relevant Form A	<u>The relevant online form on the FSA's ONA system or the form in SUP 10 Ann 4D (See Note)</u>	Application to perform controlled functions under the approved persons regime	<u>SUP 10.12.2D</u>
Form B	<i>SUP</i> 10 Ann 5R	Notice to withdraw an application to perform controlled functions under the approved persons regime	<u>SUP 10.12.13R</u>
Form C	<i>SUP</i> 10 Ann 6R	Notice of ceasing to perform controlled functions	<u>SUP 10.13.6R</u>
Form D	<i>SUP</i> 10 Ann 7R	Notification of changes in personal information or application details	<u>SUP 10.13.14R</u>
Form E	<u>The relevant online form on the</u>	Internal transfer of an approved person	<u>SUP 10.13.3D</u>

	<u>FSA's ONA system or the form in SUP 10 Annex 8GD (See Note)</u>		
<p><u>Note: The form in the SUP annex shown is to be used by credit unions, and by other firms only in the event of a failure of the FSA's information technology systems. See the relevant "Handbook requirement".</u></p>			

- 10.11.3 G A summary of the forms and their purposes is in SUP 10 Annex 2G. A summary of FSA procedures is in SUP 10 Annex 3. For the method of notification to the FSA, see SUP 15.7 (Form and method of notification).

...

- 10.11.6 G Copies of Forms A, B, C, D and E may be obtained from the FSA website, or Credit unions can obtain copies from the Individuals, Mutuals and Policy Department by email at iva@fsa.gov.uk or from the FSA's Firm Contact Centre. To contact the Individuals, Mutuals and Policy Department for general enquiries:

...

...

10.12 Application for approval and withdrawing an application for approval

...

How to apply for approval

- 10.12.2 D An application by a firm for the FSA's approval under section 59 of the Act (Approval for particular arrangements) must be made by completing the Form A which relates to the particular type of firm, that is, a UK firm, overseas firm or incoming EEA firm.

- (1) An application by a firm other than a credit union must be made by submitting Form A online at www.fsa.gov.uk using the form specified on the FSA's ONA system.
- (2) An application by a credit union must be made using the form in SUP 10 Annex 4D and must be submitted in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).
- (3) Where a firm is obliged to submit an application online under (1), if the FSA's information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored a firm must use the form in SUP 10 Annex 4D and submit it in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).

[Note: See SUP 10.13.5G for the circumstances in which a shortened Form A may be used.]

- 10.12.2A G (1) If the FSA's information technology systems fail and online submission is unavailable for 24 hours or more, the FSA will endeavour to publish a notice on its website confirming that online submission is unavailable and that the alternative methods of submission set out in SUP 10.12.2D(3) and SUP 15.7.4R to SUP 15.7.9G (Form and method of notification) should be used.
- (2) Where SUP 10.12.2D(3) applies to a firm, GEN 1.3.2R (Emergency) does not apply.

...

Withdrawing an application for approval

- 10.12.13 R A firm applying to withdraw an application for approval must notify the FSA using Form B, in the form set out in SUP 10 Annex 5R.

10.13 Changes to an approved person's details

Moving within a firm

...

- 10.13.2 G ~~The relevant Form A must be used to apply for~~ SUP 10.12.2D applies where an *individual* individual is to perform further *controlled functions* for a firm for which he already performs a *controlled function* as an *approved person* (see SUP 10.12.2D). It is not mandatory to complete all parts of the form. See the notes relevant to each form for full details.
- 10.13.3 D A firm must use Form E where an *approved person* is both ceasing to perform one or more *controlled functions* and needs to be approved in relation to one or more new *controlled functions* within the same firm or group.
- (1) A firm other than a credit union must submit Form E online at www.fsa.gov.uk using the form specified on the FSA's ONA system.
- (2) A credit union must submit Form E using the form in SUP 10 Annex 8D and in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).
- (3) Where a firm is obliged to submit an application online under (1), if the FSA's information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored, a firm must submit Form E using the form in SUP 10 Annex 8D and in the way set out

in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).

[**Note:** See SUP 10.13.21G to SUP 10.13.22G regarding notification in the event of online failure.]

Moving between firms

...

- 10.13.5 G In certain circumstances, when the *FSA* already has the information it would usually require, a shortened version of the relevant Form A may be completed. See the notes relevant to each form for full details; see also SUP 10.12.2D for the method of submission of this form.

Ceasing to perform a controlled function

- 10.13.6 R *A firm* must submit to the *FSA* a completed Form C, in the form set out in SUP 10 Annex 6R, no later than seven *business days* after an *approved person* ceases to perform a *controlled function*.

- (1) *A firm* other than a *credit union* must submit Form C online at www.fsa.gov.uk using the *FSA*'s ONA system.
- (2) *A credit union* must submit Form C in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).
- (3) Where a *firm* is obliged to submit an application online under (1), if the *FSA*'s information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored, a *firm* must submit Form C in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).

[**Note:** See SUP 10.13.21G to SUP 10.13.22G regarding notification in the event of online failure.]

...

Changes to an approved person's personal details

- 10.13.14 R If an *approved person*'s title, name or national insurance number changes, the *firm* for which the *person* performs a *controlled function* must notify the *FSA* on Form D, in the form set out in SUP 10 Annex 7R, of that change within seven *business days* of the *firm* becoming aware of the matter.

...

- (1) *A firm* other than a *credit union* must submit Form D online at www.fsa.gov.uk using the *FSA*'s ONA system.
- (2) *A credit union* must submit Form D in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).

- (3) Where a *firm* is obliged to submit an application online under (1), if the *FSA*'s information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored, a *firm* must submit Form D in the form set out in SUP 10 Annex 7R and in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).

[Note: See SUP 10.13.21G to SUP 10.13.22G regarding notification in the event of online failure.]

...

- 10.13.16 R (1) If a *firm* becomes aware of information which would reasonably be material to the assessment of an *approved person*'s, or a *candidate*'s, fitness and propriety (see *FIT*), it must inform the *FSA* on Form D, or (if it is more practical to do so and with the prior agreement of the *FSA*) by fax or e-mail, as soon as practicable.
- (2) SUP 10.13.14R applies to the submission of Form D.

...

- 10.13.18 R (1) If, in relation to a *firm* which has completed the relevant Form A (SUP 10 Annex 4D), any of the details relating to ~~in section 3.01~~ (~~Arrangements~~ arrangements and controlled functions) are to change, the *firm* must notify the *FSA* on Form D (SUP 10 Annex 7R), ~~or (if it is more practical to do so and with the prior agreement of the *FSA*) by fax or e-mail.~~
- (2) The notification under (1) must be made as soon as reasonably practicable after the *firm* becomes aware of the proposed change.
- (3) Paragraphs (1) and (2) also apply to a *firm* in respect of an *approved person*, to whom the grandfathering arrangements applied as if the *firm* had completed the relevant Form A for that *person*.
- (4) SUP 10.13.14R applies to the submission of Form D.

...

Submission in the event of failure of FSA information technology systems

- 10.13.21 G If the *FSA*'s information technology systems fail and online submission is unavailable for 24 hours or more, the *FSA* will endeavour to publish a notice on its website confirming that online submission is unavailable and that the alternative methods of submission set out in SUP 10.13.3D(3), SUP 10.13.6R(3) and SUP 10.13.14R(3) (as appropriate), and SUP 15.7.4R to SUP 15.7.9G (Form and method of notification) should be used.

10.13.22 G Where *SUP* 10.13.3D(3), *SUP* 10.13.6R(3) or *SUP* 10.13.14R(3) applies to a *firm*, *GEN* 1.3.2R (Emergency) does not apply.

...

10 Annex 1G

Frequently asked questions

	Question	Answer
...		
16	How can we <i>credit unions</i> get a supply of application forms (Form <u>Forms A to F</u>)?	These can either be ordered through the Individuals, Mutuels and Policy Department <u>by email to iva@fsa.gov.uk</u> or <u>from the FSA's Firm Contact Centre obtained from the FSA website at www.fsa.gov.uk</u> . There is no charge for an application form.
...		

Delete each of the following forms (except for the Notes which relate to them) and replace them with the attached new version. The text is not underlined.

10 Annex 6R **Form C: Notice of ceasing to perform controlled functions**

10 Annex 7R **Form D: Notification of changes in personal information or application**

Amend the following as shown.

12 **Appointed representatives**

...

12.7 **Notification requirements**

Notification of appointment of an appointed representative

- 12.7.1 R (1) This *rule* applies to a *firm* which intends to appoint:
- (a) an *appointed representative* to carry on *insurance mediation activities*; or
 - (b) a *tied agent*.
- (2) This *rule* also applies to a *firm* which has appointed an *appointed*

representative.

- (3) A *firm* in (1) must complete and submit the form in SUP 12 Annex 3R before the appointment.
- (4) A *firm* in (2) must complete and submit the form in SUP 12 Annex 3R within ten *business days* after the commencement of activities.

- 12.7.1A R (1) A *firm* other than a *credit union* must submit the form in SUP 12 Annex 3R online at www.fsa.gov.uk using the FSA's ONA system.
- (2) A *credit union* must submit the form in SUP 12 Annex 3R in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).
- (3) Where a *firm* is obliged to submit an application online under (1), if the FSA's information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored, a *firm* must submit the form in SUP 12 Annex 3R in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).

[Note: See SUP 12.7.10G to SUP 12.7.11G regarding notification in the event of online failure.]

...

Notification of changes in information given to the FSA

...

- 12.7.7 R (1) If:
- (a) (i) the scope of appointment of an *appointed representative* is extended to cover *insurance mediation activities* for the first time; and
 - (ii) the *appointed representative* is not included on the *Register* as carrying on *insurance mediation activities* in another capacity; or
 - (b) the scope of appointment of an *appointed representative* ceases to include *insurance mediation activity*;

the *appointed representative's* principal must give written notice to the FSA of that change before the *appointed representative* begins to carry on *insurance mediation activities* under the contract (see SUP 12.4) or as soon as the scope of appointment of the *appointed representative* ceases to include *insurance mediation activity activities*.

- (1A) If:

- (a) (i) the scope of appointment changes such that the *appointed representative* acts as a *tied agent* for the first time; and
- (ii) the *appointed representative* is not included on the *Register*; or
- (b) the *appointed representative* ceases to act as a *tied agent*;

the *appointed representative's* principal must give written notice to the *FSA* of that change before the *appointed representative* begins to act as a *tied agent* (see *SUP* 12.4) or as soon as the *appointed representative* ceases to act as a *tied agent*.

- (2) Where there is a change in any of the information provided to the *FSA* under *SUP* 12.7.1R or *SUP* 12.7.7R(1A), a *firm* must complete and submit to the *FSA* the form in *SUP* 12 Annex 4R (Appointed representative notification form) ~~in accordance with the instructions on the form and~~ within ten *business days* of that change being made or, if later, as soon as the *firm* becomes aware of the change. The Appointed representative notification form must state that the information has changed.
- (3) ~~A *firm's* notification under (1) and (2) must be given to a member of or addressed for the attention of the Monitoring and Notifications Department at the address given in *SUP* 12.7.5G. [deleted]~~

[Note: See *SUP* 12.7.8AR regarding the method of submission for the form in *SUP* 12 Annex 4R.]

Notification of changes in conditions of appointment

- 12.7.8 R (1) As soon as a *firm* has reasonable grounds to believe that any of the conditions in *SUP* 12.4.2R, *SUP* 12.4.6R or *SUP* 12.4.8AR (as applicable) are not satisfied, or are likely not to be satisfied, in relation to any of its *appointed representatives*, it must complete and submit to the *FSA* the form in *SUP* 12 Annex 4R (Appointed representative notification form), in accordance with the instructions on the form.
- (2) In its notification under *SUP* 12.7.8R(1), the *firm* must state either:
- (a) the steps it proposes to take to rectify the matter; or
 - (b) the date of termination of its contract with the *appointed representative* (see *SUP* 12.8).
- (3) [deleted]

Method of submission of the form in *SUP* 12 Annex 4R

- 12.7.8A R (1) A firm other than a credit union must submit the form as set out in SUP 12 Annex 4R online at www.fsa.gov.uk using the FSA's ONA system.
- (2) A credit union must submit the form in SUP 12 Annex 4R in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).
- (3) Where a firm is obliged to submit an application online under (1), if the FSA's information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored, a firm must submit the form in SUP 12 Annex 4R in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).

[Note: See SUP 12.7.10G to SUP 12.7.11G regarding notification in the event of online failure.]

...

Submission in the event of failure of FSA information technology systems

- 12.7.10 G If the FSA's information technology systems fail and online submission is unavailable for 24 hours or more, the FSA will endeavour to publish a notice on its website confirming that online submission is unavailable and that firms, other than credit unions, should use the alternative methods of submission set out in SUP 12.7.1AR(3) and SUP 12.7.8AR(3) (as appropriate), and SUP 15.7.4R to SUP 15.7.9G, addressing applications for the attention of the Individuals and Mutuels Team.
- 12.7.11 G Where SUP 12.7.1AR(3) or SUP 12.7.8AR(3) apply to a firm, GEN 1.3.2R (Emergency) does not apply.

12.8 Termination of a relationship with an appointed representative or EEA tied agent

Notification of termination or prohibited amendment of the contract

- 12.8.1 R If either the *firm* or the *appointed representative* notifies the other that it proposes to terminate the contract of appointment or to amend it so that it no longer meets the requirements contained or referred to in SUP 12.5 (Contracts: required terms), the *firm* must:
- (1) complete and submit to the FSA the form in SUP 12 Annex 5R (Appointed representative termination form) in accordance with the instructions on the form and no more than ten *business days* after the date of the decision to terminate or so amend the contract or, if later, as soon as it becomes aware that the contract is to be or has been terminated or amended.

...

- 12.8.1A R (1) A firm other than a credit union must submit any notification under SUP 12.8.1R(1) in the form set out in SUP 12 Annex 5R, online at www.fsa.gov.uk using the FSA's ONA system.
- (2) A credit union must submit any notification under SUP 12.8.1R(1) in the form set out in SUP 12 Annex 5R and in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).
- (3) Where a firm is obliged to submit a notification online under (1), if the FSA's information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored, a firm must submit any notification in the form set out in SUP 12 Annex 5R and in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).
- 12.8.1B G If the FSA's information technology systems fail and online submission is unavailable for 24 hours or more, the FSA will endeavour to publish a notice on its website confirming that online submission is unavailable and that the alternative methods of submission set out in SUP 12.8.1AR(3) and SUP 15.7.4R to SUP 15.7.9G (Form and method of notification) should be used.
- 12.8.1C G Where SUP 12.8.1AR(3) applies to a firm, GEN 1.3.2R (Emergency) does not apply.

Delete each of the following forms and replace them with the attached new version. The text is not underlined.

- 12 Annex 3R** **Appointed representative appointment form**
- 12 Annex 4R** **Appointed representative notification form**
- 12 Annex 5R** **Appointed representative termination form**

Amend the following as shown.

13 **Exercise of passport rights by UK firms**

...

13.5 **Notices of intention**

Specified contents: notice of intention to establish a branch

- 13.5.1 R A UK firm, other than a UK pure reinsurer, wishing to establish a branch in a particular EEA State for the first time under an EEA right must ~~include~~

~~in its~~ submit a notice of intention given to the FSA: in the form set out in SUP 13 Annex 1R.

- (1) (a) ~~the information specified in SUP 13 Annex 1R; and~~
- (b) ~~if the UK firm is passporting under the Insurance Directives, the information specified in SUP 13 Annex 2; or~~
- (2) ~~if the UK firm is passporting under the Insurance Mediation Directive, only a statement that it intends to carry on insurance mediation in the State by establishing a branch.~~

13.5.1A R A UK pure reinsurer establishing a branch in a particular EEA state for the first time under the Reinsurance Directive must ~~notify the FSA~~ submit a notice in the form set out in SUP 13 Annex 1R. Whenever possible, this notification must be made as soon as the information specified in ~~SUP 13 Annex 1R~~ that form is known by the firm.

...

Specified contents: notice of intention to provide cross border services

13.5.2 R A UK firm wishing to provide *cross border services* into a particular EEA State for the first time under an EEA right must ~~include, in its notice of intention given to the FSA~~ submit a notice in the form set out in:

- (1) SUP 13 Annex 2R if the UK firm is passporting under MiFID ~~or the Insurance Directives, the information specified in SUP 13 Annex 3;~~
or
- (1A) SUP 13 Annex 3R if the UK firm is passporting under the *Insurance Directives*; or
- (2) SUP 13 Annex 4R if the UK firm is passporting under the *Banking Consolidation Directive*, ~~the activities which it intends to carry on;~~
or
- (3) SUP 13 Annex 5R if the UK firm is passporting under the *Insurance Mediation Directive*, ~~only a statement that it intends to carry on insurance mediation in that State by provision of cross border services.~~

...

Method of submission of notices

13.5.3 R (1) A UK firm, other than a credit union, must submit any notice under SUP 13.5.1R(1), SUP 13.5.1AR or SUP 13.5.2R online at www.fsa.gov.uk using the FSA's ONA system. The notice of intention under SUP 13.5.1R and SUP 13.5.2R, and the notice required under SUP 13.5.1AR, must be:

- (a) ~~given to a member of, or addressed for the attention of, the Authorisation and Approvals Department (Authorisation teams), if submitted with an application for *Part IV permission*, or the Passport Notifications Unit in any other circumstances; and~~
- (b) ~~delivered to the FSA by one of the methods in (2).~~
- (2) ~~A credit union must submit any notice under SUP 13.5.1R(1), SUP 13.5.1AR or SUP 13.5.2R in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification). The notice of intention or notice required under SUP 13.5.1AR may be delivered by:~~
- (a) ~~post to the address in (3); or~~
- (b) ~~leaving the application at the address in (3) and obtaining a time stamped receipt; or~~
- (c) ~~hand delivery to a member of the Authorisation department (if submitted with an application for *Part IV permission*) or to the Passport Notification Unit; or~~
- (d) ~~electronic mail to the address in (4) if not submitted with an application for *Part IV permission* and obtaining an electronic confirmation of receipt; or~~
- (e) ~~fax to the Passport Notifications Unit on 020 7066 9798 (if not submitted with an application for *Part IV permission*) provided that the FSA receives a copy by one of the methods (a) to (d) above within five *business days* after the date of the faxed notification ; or~~
- (f) ~~online submission via the FSA's website at www.fsa.gov.uk (when available).~~
- (3) ~~The address for notices referred to in (2) is: The Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS. Where a firm is obliged to submit a notice in accordance with (1), if the FSA's information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored, a firm must submit that notice in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).~~
- (4) ~~Email: passport.notifications@fsa.gov.uk [deleted]~~
- 13.5.4 G A standard form of *notice of intention* that a UK firm may wish to use is available from the Passport Notifications Unit (see SUP 13.12 (Sources of further information)).

- (1) If the FSA's information technology systems fail and online submission is unavailable for 24 hours or more, the FSA will endeavour to publish a notice on its website confirming that online submission is unavailable and that the alternative methods of submission set out in SUP 13.5.3R(3) and SUP 15.7.4R to SUP 15.7.9G (Form and method of notification) should be used.
- (2) Where SUP 13.5.3R(3) applies to a firm, GEN 1.3.2R (Emergency) does not apply.

13.5.4A G ~~A UK pure reinsurer giving notice as required under SUP 13.5.1AR may wish to use the passporting notification form available on the FSA website (http://www.fsa.gov.uk/pubs/forms/passporting/branch_eea.doc), adapted as appropriate to reflect the information required by SUP 13 Annex 1R paragraph 4. [deleted]~~

...

13.8 Changes of details: provision of notices to the FSA

- 13.8.1 R (1) ~~A~~ Where a firm is required to submit a notice of a change to a branch referred to in SUP 13.6.5G(1), SUP 13.6.5BG(1), SUP 13.6.7G(1), SUP 13.6.8G, SUP 13.6.9BR and SUP 13.6.10G(1) or and a notice of a change to cross border services referred to in SUP 13.7.3G(1), SUP 13.7.3AG(1), SUP 13.7.5G(1) and SUP 13.7.6G must be: it must complete and submit that notice in accordance with the procedures set out in SUP 13.5 for notifying the establishing of a branch or the provision of cross border services.
- ~~(a) given to a member of, or addressed for the attention of, the Passport Notifications Unit; and~~
 - ~~(b) delivered to the FSA by one of the methods in (2).~~
- (2) ~~The notice may be delivered by:~~
- ~~(a) post to the address in (3); or~~
 - ~~(b) leaving the application at the address in (3) and obtaining a time-stamped receipt; or~~
 - ~~(c) hand delivery to a member of the Passport Notifications Unit; or~~
 - ~~(d) electronic mail to the address in (4) and obtaining an electronic confirmation of receipt; or~~
 - ~~(e) fax to the Passport Notifications Unit on 020 7066 9798 provided that the FSA receives a copy by one of the methods~~

(a) to (d) above within five *business days* after the date of the faxed notification ; or

(f) ~~online submission via the FSA's website at www.fsa.gov.uk (when available).~~ [deleted]

(3) ~~The address for notices is: The Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS.~~ [deleted]

(4) ~~Email: passport.notifications@fsa.gov.uk~~ [deleted]

13.8.1A G The effect of SUP 13.8.1R(1) is that a *firm* should submit any form, notice or application under SUP 13.8.1R(1) in the following ways:

(1) *A UK firm, other than a credit union, should submit it online at www.fsa.gov.uk using the FSA's ONA system.*

(2) *If the FSA's information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored, a firm should submit it in the way set out in SUP 13.5.3R(3) and SUP 15.7.4R to SUP 15.7.9G (Form and method of notification). GEN 1.3.2R (Emergency) does not apply in these circumstances.*

(3) *If the FSA's information technology systems fail and online submission is unavailable for 24 hours or more, the FSA will endeavour to publish a notice on its website confirming that online submission is unavailable and that the alternative methods of submission should be used.*

(4) *A credit union should submit it in the way set out in SUP 13.5.3R(3) and SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).*

...

13.12 Sources of further information

...

13.12.2 G To contact the Passport Notifications Unit, ~~from which a standard form of notice of intention can be obtained:~~

(1) telephone on 020 7066 1000; fax on 020 7066 9798 ; or

(2) write to: The Passport Notifications Unit, The Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS; or

(3) Email: passport.notifications@fsa.gov.uk

...

Delete the following forms. The text of the deleted forms is not shown.

- 13 Annex 1R** **Requisite details: branches**
- 13 Annex 2R** **Relevant UK details: branches of insurance undertakings**
- 13 Annex 3R** **Specified information: Cross Border Services**

Insert the following new forms. The text is not shown underlined.

- 13 Annex 1R** **Passporting: Notification of intention to establish a branch in another EEA state**
- 13 Annex 2R** **Passporting: Markets in Financial Instruments Directive**
- 13 Annex 3R** **Passporting: Consolidated Life Directive and Third Non-Life Directive**
- 13 Annex 4R** **Passporting: Banking Consolidation Directive**
- 13 Annex 5R** **Passporting: Insurance Mediation Directive**

Amend the following as shown

15 **Notifications to the FSA**

...

15.4 **Notified persons**

- 15.4.1 R (1) *An overseas firm, which is not an incoming firm, must notify the FSA within 30 business days of any person taking up or ceasing to hold the following positions:*
- (a) *the firm's worldwide chief executive (that is, the person who, alone or jointly with one or more others, is responsible under the immediate authority of the directors for the whole of its business) if the person is based outside the United Kingdom;*
 - (b) *the person within the overseas firm with a purely strategic responsibility for UK operations (see SUP 10.7.4G);*
 - (c) *for a bank or an ELMI: the two or more persons who effectively direct its business in accordance with SYSC 4.2.2R and ELM 5.3.1R, respectively;*

(d) for an *insurer*: the *authorised UK representative*.

- (2) The notification in (1) must be submitted using in the form set out in Form F (SUP 15 Ann 2R). However, if the person is an *approved person*, notification giving details of his name, the *approved person's FSA* individual reference number and the position to which the notification relates, is sufficient.

...

- 15.4.3 G (1) Copies of Form F may be obtained from the FSA website at www.fsa.gov.uk, or from the Individual Vetting and Approval department. See SUP 10.11.6G for contact details. A *firm* other than a *credit union* must submit the form in SUP 15 Annex 2R online at www.fsa.gov.uk using the FSA's ONA system.
- R
- (2) A *credit union* must submit the form in SUP 15 Annex 2R in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).
- (3) Where a *firm* is obliged to submit an application online under (1), if the FSA's information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored, a *firm* must submit the form in SUP 15 Annex 2R, in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).

- 15.4.3A G (1) If the FSA's information technology systems fail and online submission is unavailable for 24 hours or more, the FSA will endeavour to publish a notice on its website confirming that online submission is unavailable and that the alternative methods of submission set out in SUP 15.4.3R(3) and SUP 15.7.4R to SUP 15.7.9G (Form and method of notification) should be used.
- R
- (2) Where SUP 15.4.3R(3) applies to a *firm*, GEN 1.3.2R (Emergency) does not apply.

...

15.5 Core information requirements

Change in name

- 15.5.1 R A *firm* must give the FSA reasonable advance notice of a change in:
- (1) the *firm's* name (which is the registered name if the *firm* is a *body corporate*);
- (2) any business name under which the *firm* carries on a *regulated activity* or *ancillary activity* either from an establishment in the United Kingdom or with or for clients in the United Kingdom.

...

Change in address

- 15.5.4 R A *firm* must give the *FSA* reasonable advance notice of a change in any of the following addresses, and give details of the new address and the date of the change:
- (1) the *firm's* principal place of business in the *United Kingdom*;
 - (2) in the case of an *overseas firm*, its registered office (or head office) address.

...

Other regulators

- 15.5.7 R A *firm* must notify the *FSA* immediately if it becomes subject to or ceases to be subject to the supervision of any *overseas regulator* (including a *Home State regulator*).

...

Submitting notifications to the FSA

- 15.5.9 R (1) A *firm* other than a *credit union* must submit any notice under SUP 15.5.1R, SUP 15.5.4R and SUP 15.5.7R by submitting the form in SUP 15 Annex 3R online at www.fsa.gov.uk.
- (2) A *credit union* must submit any notice under SUP 15.5.1R, SUP 15.5.4R and SUP 15.5.7R by submitting the form in SUP 15 Annex 3R in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).
- (3) Where a *firm* is obliged to submit a notice online under (1), if the *FSA's* information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored, a *firm* must submit any notice under SUP 15.5.1R, SUP 15.5.4R and SUP 15.5.7R in the form in SUP 15 Annex 3R and in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).
- 15.5.10 G (1) If the *FSA's* information technology systems fail and online submission is unavailable for 24 hours or more, the *FSA* will endeavour to publish a notice on its website confirming that online submission is unavailable and that the alternative methods of submission set out in SUP 15.5.9R(3) and SUP 15.7.4R to SUP 15.7.9G (Form and method of notification) should be used.
- (2) Where SUP 15.5.9R(3) applies to a *firm*, GEN 1.3.2R (Emergency) does not apply.

...

15.7 Form and method of notification

...

Method of notification

15.7.4 R Unless stated in the *notification rule*, or on the relevant form (if specified), a written notification required from a *firm* under any *notification rule* must be:

- (1) given to or addressed for the attention of the *firm's* usual supervisory contact at the *FSA*; and
- (2) delivered to the *FSA* by one of the methods in *SUP 15.7.5R*.

15.7.5 R Methods of notification

Method of delivery	
1.	<i>Post</i> to the appropriate address in <i>SUP 15.7.6G</i>
2.	Leaving the notification at the appropriate address in <i>SUP 15.7.6G</i> and obtaining a time-stamped receipt
3.	Electronic mail to an address for the <i>firm's</i> usual supervisory contact at the <i>FSA</i> and obtaining an electronic confirmation of receipt
4.	Hand delivery to the <i>firm's</i> usual supervisory contact at the <i>FSA</i>
5.	Fax to a fax number for the <i>firm's</i> usual supervisory contact at the <i>FSA</i> and receiving a successful transmission report for all pages of the notification
6.	Online submission via the <i>FSA's</i> website at www.fsa.gov.uk

15.7.6 G The current published address of the *FSA* for postal submission or hand delivery of notifications is:

- (1) The Financial Services Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

if the *firm's* usual supervisory contact at the *FSA* is based in London, or

- (2) The Financial Services Authority
Quayside House
127 Fountainbridge

Edinburgh
EH3 8DJ

if the *firm's* usual supervisory contact at the *FSA* is based in Edinburgh.

- 15.7.7 G If the *firm* or its *group* is subject to lead supervision arrangements by the *FSA*, the *firm* or *group* may give or address a notice under *SUP* 15.7.4R(1) to the supervisory contact at the *FSA*, designated as lead supervisor, if the *firm* has chosen to make use of the lead supervisor as a central point of contact (see *SUP* 1.5).
- 15.7.8 G If a *firm* is a member of a *group* which includes more than one *firm*, any one *undertaking* in the *group* may notify the *FSA* on behalf of all *firms* in the *group* to which the notification applies. In this way, that *undertaking* may satisfy the obligation of all relevant *firms* in the *group* to notify the *FSA*. Nevertheless, the obligation to make the notification remains the responsibility of the individual *firm* itself. See also *SUP* 15.7.3G
- 15.7.9 G *Firms* wishing to communicate with the *FSA* by electronic mail or fax should obtain the appropriate address or number from the *FSA*.

Delete *SUP* 15 Annex 2R (except for the Notes) and 15 Annex 3R and replace with the following new versions. The text is not underlined.

15 Annex 2R **Form F: Changes in notified persons**

15 Annex 3R **Standing data**

...

16.3 **General provisions on reporting**

...

- 16.3.17 R (1) A *firm* must notify the *FSA* if it changes its *accounting reference date*.
- (2) When a *firm* extends its accounting period, it must make the notification in (1) before the previous *accounting reference date*.
- (3) When a *firm* shortens its accounting period, it must make the notification in (1) before the new *accounting reference date*.
- (4) *SUP* 16.10.4AR to *SUP* 16.10.4CG (Method of reporting Requirement to check the accuracy of standing data and to report changes to the *FSA* changes in standing data) apply to any

notification made under (1).

...

16.10 Verification of standing data

...

16.10.4 R (1) Within 30 *business days* of its *accounting reference date*, a *firm* must check the accuracy of its *standing data* through the relevant section of the *FSA* website.

(2) [paragraph suspended by FSA 2004/79]

(3) If any *standing data* is incorrect, the *firm* must ~~give~~ submit the corrected *standing data* to the *FSA*, using the form ~~submitted in accordance with instructions on that form~~ set out in SUP 15 Annex 3R and in accordance with SUP 16.10.4AR.

16.10.4A R (1) A *firm* other than a *credit union* must submit any corrected *standing data* under SUP 16.10.4R(3) online at www.fsa.gov.uk using the *FSA*'s ONA system.

(2) A *credit union* must submit any corrected *standing data* under SUP 16.10.4R(3) in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).

(3) Where a *firm* is obliged to submit corrected *standing data* online under (1), if the *FSA*'s information technology systems fail and online submission is unavailable for 24 hours or more, until such time as facilities for online submission are restored, a *firm* must submit its corrected *standing data* in the way set out in SUP 15.7.4R to SUP 15.7.9G (Form and method of notification).

16.10.4B G If the *FSA*'s information technology systems fail and online submission is unavailable for 24 hours or more, the *FSA* will endeavour to publish a notice on its website confirming that online submission is unavailable and that the alternative methods of submission set out in SUP 16.10.4AR(3) and SUP 15.7.4R to SUP 15.7.9G (Form and method of notification) should be used.

16.10.4C G Where SUP 16.10.4AR(3) applies to a *firm*, GEN 1.3.2R (Emergency) does not apply.

...

16.10.7 G ~~For the purpose of SUP 16.10.4R(3), the appropriate form will be determined by the *standing data* to be corrected. Appropriate forms will include (but are not limited to) the form in SUP 15 Ann 3R (standing~~

~~data form) and the form in SUP 15 Ann 4R (notification form). [deleted]~~

16 Annex 16AR Standing data (see SUP 16.10.4R)

- A. Communications with a *firm*
 - 1. Name of the *firm*
 - 2. Trading name(s) of the *firm*
 - 3.
 - 4. Registered office
 - 5. Principal place of business
 - 6. Website address
 - 7. ~~Telephone number~~ Complaints contact and complaints officer
 - 8. The name and email address of the ~~principal~~ primary compliance contact

- B. Information about a ~~firm~~ firm on the *FSA Register*
 - 9. ~~Regulated activities for which a firm has permission~~
 - 10. ~~Whether the firm holds client money~~
 - 11.

- C. Other information about a *firm*
 - 12.
 - 13.
 - 14. Name and address of *firm's* auditor
 - 15. ~~Legal status~~
 - 16. *Accounting reference date*
 - 17. Locum

...

Schedule 4 Powers exercised

4.1G

The following powers and related provisions in or under the <i>Act</i> have been exercised by the <i>FSA</i> to make the rules in <i>SUP</i> :	
	...
	Paragraph 17(1) (Fees) of Schedule 1 ...
	<u>Paragraphs 19 (Establishment) and 20 (Services) of Schedule 3 (EEA Passport Rights)</u>
	...

...

4.3G

The following powers and related provisions in or under the <i>Act</i> have been exercised by the <i>FSA</i> in <i>SUP</i> to direct or require:	
	...
	Section 250(4) and (5) ...
	<u>Section 294 (Modification or waiver of rules)</u>
	...

Editor's Note:

The following pages of this instrument contain the new forms, and replaced versions of existing forms, referred to earlier. These are as follows:

10 Annex 6R	Form C: Notice of ceasing to perform controlled functions
10 Annex 7R	Form D: Notification of changes in personal information or application
12 Annex 3R	Appointed representative appointment form
12 Annex 4R	Appointed representative notification form
12 Annex 5R	Appointed representative termination form
13 Annex 1R	Passporting: Notification of intention to establish a branch in another EEA state
13 Annex 2R	Passporting: Markets in Financial Instruments Directive
13 Annex 3R	Passporting: Consolidated Life Directive and Third Non-Life Directive
13 Annex 4R	Passporting: Banking Consolidation Directive
13 Annex 5R	Passporting: Insurance Mediation Directive
15 Annex 2R	Form F: Changes in notified persons
15 Annex 3R	Standing data

continued

Application number
(for FSA use only)

The FSA has produced notes which will assist both the applicant and the approved person in answering the questions in this form. Please read these notes, which are available on the FSA's website at http://fsahandbook.info/FSA/docs/notes/imap_formc_notes.doc Both the applicant and the approved person will be treated by the FSA as having taken these notes into consideration when completing their answers to the questions in this form.

Form C

Notice of ceasing to perform controlled functions

FSA Handbook Reference: SUP 10 Annex 6R (Notification under SUP 10.13.6R)

Name of *approved person*[†]
(to be completed by applicant)

Name of *firm*[†]

The Financial Services Authority
Permissions, Decisions & Reporting Division
25 The North Colonnade
Canary Wharf
London E14 5HS
United Kingdom
Telephone +44 (0) 845 606 9966
Facsimile +44 (0) 207 066 0017
E-mail iva@fsa.gov.uk
Website <http://www.fsa.gov.uk>




Registered as a Limited Company in England and Wales No 1920623. Registered Office as above

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Personal identification details

Section 1

1.01	FSA Individual Reference Number (IRN) †	
1.02	Title† (e.g. Mr, Mrs, Ms, etc)	
1.03	Surname†	
1.04	ALL forenames†	
1.05	Date of birth†	/ /
1.06	National Insurance number†	
1.07	Approved person's private address†	

 I have supplied further information related to this page in Section 4† YES NO

Firm identification details

Section 2

2.01	Name of firm *	
2.02	FSA Firm Reference Number (FRN) *	
2.03 a	Who should the FSA contact at the firm in relation to this notice? †	
b	Business address†	
c	Position†	
d	Telephone†	
e	Mobile†	

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

f

Fax[†]

g

E-mail[†]



[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

3.01 List all *controlled functions* which the *approved person* is ceasing to perform. The effective date is the date the *person* will cease to perform the functions.

If the reason for ceasing to perform the *controlled function* is indicated in column B, the *FSA* should be notified in accordance with *SUP 10.13.7R* and *SUP 10.13.8G* (that is, within one *business day*, by telephone, fax or email) that this Form will be submitted

	FRN [†]	Name of firm [†]	Controlled function [†]	Effective date [†]	Reason [†]	
					A	B Full explanation in 4.02
a				/ /	Internal movement of staff <input type="checkbox"/> Resignation <input type="checkbox"/> Redundancy <input type="checkbox"/> Retirement <input type="checkbox"/> End of contract <input type="checkbox"/>	Dismissal/ termination of employment or contract <input type="checkbox"/> Suspension <input type="checkbox"/> Other <input type="checkbox"/> (specify in 4.02)
b				/ /	Internal movement of staff <input type="checkbox"/> Resignation <input type="checkbox"/> Redundancy <input type="checkbox"/> Retirement <input type="checkbox"/> End of contract <input type="checkbox"/>	Dismissal/ termination of employment or contract <input type="checkbox"/> Suspension <input type="checkbox"/> Other <input type="checkbox"/> (specify in 4.02)
c				/ /	Internal movement of staff <input type="checkbox"/> Resignation <input type="checkbox"/> Redundancy <input type="checkbox"/> Retirement <input type="checkbox"/> End of contract <input type="checkbox"/>	Dismissal/ termination of employment or contract <input type="checkbox"/> Suspension <input type="checkbox"/> Other <input type="checkbox"/> (specify in 4.02)
d				/ /	Internal movement of staff <input type="checkbox"/> Resignation <input type="checkbox"/> Redundancy <input type="checkbox"/> Retirement <input type="checkbox"/> End of contract <input type="checkbox"/>	Dismissal/ termination of employment or contract <input type="checkbox"/> Suspension <input type="checkbox"/> Other <input type="checkbox"/> (specify in 4.02)
e				/ /	Internal movement of staff <input type="checkbox"/> Resignation <input type="checkbox"/> Redundancy <input type="checkbox"/> Retirement <input type="checkbox"/> End of contract <input type="checkbox"/>	Dismissal/ termination of employment or contract <input type="checkbox"/> Suspension <input type="checkbox"/> Other <input type="checkbox"/> (specify in 4.02)

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7



I have supplied further information related to this page in Section 4[†] YES NO



[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

4.01 Is there any other information the approved person or the firm considers to be relevant to the application? †

Please provide full details†

4.02 Please indicate clearly which question the supplementary information relates to. †

Question	Information

4.03 How many additional sheets are being submitted? †

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Supporting Documents

Indicate the required supporting documents to accompany this form[†]

Documents	Mode (by email, fax or post)

Other information (please specify)[†]

--



[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Warning[†]

Knowingly or recklessly giving the Financial Services Authority (FSA) information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). SUP 15.6.1R and 15.6.4R require an authorised person to take reasonable steps to ensure the accuracy and completeness of information given to the FSA and to notify the FSA immediately if materially inaccurate information has been provided. APER 4.4.6E provides that, where an approved person is responsible for reporting matters to the FSA, failure to inform the FSA of materially significant information of which he is aware is a breach of Statement of Principle 4. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the FSA. It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If there is any doubt about the relevance of information, it should be included.

Data Protection[†]

For the purpose of complying with the Data Protection Act, the personal information in this Form may be used by the FSA to discharge its statutory functions under the Financial Services and Markets Act 2000 and other relevant legislation and will not be disclosed for any other purpose without the permission of the applicant.

I confirm that a permanent copy of this application, signed by the firm, will be retained for an appropriate period, for inspection at the FSA's request. Confirm that you have read and understood the declaration:

I confirm that the information in this Form is accurate and complete to the best of my knowledge and belief and that I have read the explanatory relating to the Form.

Tick here to confirm you have read and understood this declaration:[∞]

First name of the person signing on behalf of the firm[†]

Surname of the person signing on behalf of the firm[†]

Date[†]

Signature^{*}

Job title[†]

Name of firm[†]

[∞] These questions should only be completed if submission of this form is online. It should not be completed if the form is being submitted in one of the other ways set out in SUP 15.7.

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

^{*} These questions should only be completed if the form is being submitted in one of the ways set out in SUP 15.7 other than online submission. It should not be completed if the submission of this form is online.



Application number
(for FSA use only)

The FSA has produced notes which will assist both the applicant and the approved person in answering the questions in this form. Please read these notes, which are available on the FSA's website at http://fsahandbook.info/FSA/docs/notes/imap_formd_notes.doc. Both the applicant and the approved person will be treated by the FSA as having taken these notes into consideration when completing their answers to the questions in this form.

Form D

Notification of changes in personal information or application details

FSA Handbook Reference: SUP 10 Annex 7R (Notification under SUP 10.13.18R)

Name of individual
(to be completed by applicant)[†]

Name of firm[†]

The Financial Services Authority
Permissions, Decisions & Reporting Division
25 The North Colonnade
Canary Wharf
London E14 5HS
United Kingdom
Telephone +44 (0) 845 606 9966
Facsimile +44 (0) 207 066 0017
E-mail iva@fsa.gov.uk
Website <http://www.fsa.gov.uk>

Registered as a Limited Company in England and Wales No 1920623. Registered Office as above

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Contact Details

Contact for this notification

	Title [†]	
	First Name [†]	
	Surname [†]	
	Job Title [†]	
	Business address [†]	
	Post code [†]	
	Phone number (including STD code) [†]	
	Email address [†]	
	Mobile No [†]	
	Fax No. [†]	



[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

If any of the details have changed please provide new details below

1.01 Approved person *FSA Individual Reference Number (IRN)*[†]

DETAILS TO BE CHANGED

1.02 Title (e.g. Mr, Mrs, Ms, etc)[†]

1.03 Surname[†]

1.04 ALL forenames[†]

1.05 Date of birth[†]

1.06 National Insurance number[†]

1.07 Nationality[†]

1.08 Passport number[†]

1.09 Other changes in application details and matters relating to fitness and propriety[†]

1.10 Effective date of change[†]

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

1.11

Reason for change[†]



I have supplied further information related to this page in Section 3[†]

YES

NO



[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Do you want to notify us of a change of arrangement between the approved person and the firm? †

Does the change in arrangement relate to an appointed representative? †

Current appointed representative details? †

AR FRN	Firm Name

Do you want to add an appointed representative? †

Do you want to remove an appointed representative? †

As a result of this removal you will need to consider whether to submit a withdrawal of a CF and/or an Appointed Representative termination

Please select the appointed representative to remove †

AR FRN	Firm Name	Remove

Effective Date †



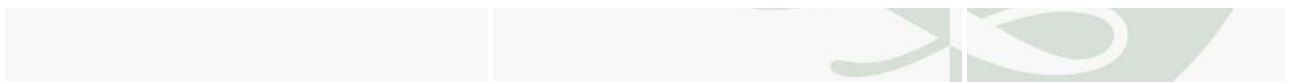
† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

2.01 Name of *firm*

2.02 FSA Firm Reference Number (FRN)*

2.03 Other *firms* for whom the individual performs *controlled functions*[†]

	FSA FRN	Name of <i>firm</i>	Controlled function
a	<input type="text"/>	<input type="text"/>	<input type="text"/>
b	<input type="text"/>	<input type="text"/>	<input type="text"/>
c	<input type="text"/>	<input type="text"/>	<input type="text"/>
d	<input type="text"/>	<input type="text"/>	<input type="text"/>
e	<input type="text"/>	<input type="text"/>	<input type="text"/>



I have supplied further information related to this page in Section 3[†] YES NO



[†] These questions should only be completed if the form is being submitted in one of the ways set out in SUP 15.7 other than online submission. It should not be completed if the submission of this form is online

Fitness and Propriety[†]

Do you want to notify us of a change to the approved person's fitness and propriety?

1. Has the approved person ever been convicted of any offence (whether spent or not and whether or not in the United Kingdom):, (i) involving fraud, theft, false accounting, offences against the administration of public justice (such as perjury, perverting the course of justice and intimidation of witnesses or jurors), serious tax offences and/or other dishonesty; or (ii) relating to companies, building societies, industrial and provident societies, credit unions, friendly societies, insurance, banking or other financial services, insolvency, consumer credit or consumer protection, money laundering, market manipulations and/or insider dealing?

Enter full details in this section

2. Is the approved person the subject of any current criminal proceedings?

Enter full details in this section

3. Has the approved person ever been given a caution in relation to any criminal offence?

Enter full details in this section

4. Has the approved person any convictions for any offences other than those listed above, whether or not in the United Kingdom (excluding traffic offences unless these traffic offences resulted in a ban from driving or involved driving without insurance)?

Enter full details in this section

5. Has the approved person ever had a County Court Judgement (CCJ) or other judgement debt, whether satisfied or not and whether discharged or not, in the United Kingdom or elsewhere?

Enter full details in this section

6. Has the approved person had more than two CCJs or judgement debts?

Enter full details in this section

7. Has the approved person had more than £1,000 in total of CCJs or judgement debts?

Enter full details in this section

8. Is the approved person aware of:

a). any proceedings that have begun, or anybody's intention to begin proceedings, against the approved person for a CCJ or other judgement debt?

Enter full details in this section

b). more than one set of proceedings, or anybody's intention to begin more than one set of proceedings, that may lead to a CCJ or other judgement debt?

Enter full details in this section

c). anybody's intention to claim more than £1,000 of CCJs or judgement debts in total from the approved person?

Enter full details in this section

9. Does the approved person have any current judgement debts (including CCJs) made under a court order still outstanding, whether in full or in part?

Enter full details in this section

10. Has the approved person ever failed to satisfy any such judgement debts within one year of the order being made?

Enter full details in this section

11. Is the approved person or has the approved person ever been the subject of any bankruptcy proceedings, or proceedings for the sequestration of the approved person's estate?

Enter full details in this section

12. Has the approved person ever entered into, or is in the process of entering into, an agreement in favour of the approved person's creditors, for example a deed of arrangement or an individual voluntary arrangement (or in Scotland a trust deed)?

Enter full details in this section

13. Does the approved person have any outstanding financial obligations arising from regulated activities, which the approved person has carried out in the past, in the United Kingdom or overseas? (In the case of advisers, this will include any outstanding liabilities arising from commissions paid for the sale of packaged products that have lapsed).

Enter full details in this section

14. Has the approved person ever been found guilty of carrying on any unauthorised regulated activities or been investigated for possible carrying on of unauthorised regulated activities?

Enter full details in this section

15. Is the approved person, or has the approved person, ever been the subject of an investigation into allegations of misconduct or malpractice in connection with any business activity?

Enter full details in this section

16. Has the approved person ever, either in the United Kingdom or elsewhere:
- a). been refused entry to, or been dismissed, suspended or asked to resign from, any profession, vocation, office or employment, or from any fiduciary office or position of trust, whether or not remunerated?

Enter full details in this section

- b). been refused, restricted in or had suspended, the right to carry on any trade, business, or profession for which specific licence, authorisation, registration, membership or other permission is required?

Enter full details in this section

c). been disqualified from acting as a director of a company or from acting in a management capacity or conducting the affairs of any company, partnership or unincorporated association?

Enter full details in this section

d). been the subject of a disqualification direction under section 59 of the Financial Services Act 1986; a prohibition order under section 56 of the Financial Services and Markets Act 2000; or received a warning notice that such a direction or order be made?

Enter full details in this section

17. In relation to activities regulated by the FSA or any other regulatory body, has:

- i. the approved person, or
- ii. any company, partnership or unincorporated association of which the approved person is or has been a controller, director, senior manager, partner or company secretary, during the approved person's association with that entity and for a period of three years after the approved person ceased to be association with it, ever:

a). been refused, had revoked, restricted or terminated, any licence, authorisation, registration, notification, membership, or other permission granted by any such body?

Enter full details in this section

b). been criticised, censured, disciplined, suspended, expelled, fined, or been the subject of any other disciplinary action by any such body?

Enter full details in this section

c). resigned while under investigation by, or been required to resign from any such body?

Enter full details in this section

d). decided, after making an application for any licence, authorisation, registration, notification, membership, other permission granted by any such body, not to proceed with it?

Enter full details in this section

e). been the subject of any civil action which has resulted in a finding against the approved person or it by a court?

Enter full details in this section

18. Has any company, partnership, or unincorporated association of which the approved person is or has been a controller, director, senior manager, partner, or company secretary, in the United Kingdom or elsewhere, at any time during the approved person's involvement or within one year of such an involvement:

a) been put into liquidation, wound up, ceased trading, had a receiver or administrator appointed or entered into any voluntary arrangement with its creditors?

Enter full details in this section

b) been adjudged by a court liable for any fraud, misfeasance, wrongful trading or other misconduct?

Enter full details in this section

c) been investigated or been involved in an investigation by an inspector appointed under companies or any other legislation, or required to produce documents to the Secretary of State, or any other authority, under any such legislation?

Enter full details in this section

d) been convicted of any criminal offence, censured, disciplined or publicly criticised by any inquiry, by the Takeover Panel or any governmental or statutory authority or any other regulatory body (other than as already indicated under 17(b) above)?

Enter full details in this section

19. Is the approved person aware of any business interests, employment obligations, or any other situations which may conflict with the performance of the controlled functions for which approval is now sought?

Enter full details in this section

Enter Date of change:



3.01 Is there any other information the approved person or the firm considers to be relevant to the application? †

Please provide full details†

3.02 Please indicate clearly which question the supplementary information relates to. †

Question	Information

3.03 How many additional sheets are being submitted? †

Supporting Documents[†]

Indicate the required supporting documents to accompany this form.

Documents	Mode (by email, fax, post)



DECLARATION OF APPROVED PERSON[†]

The *firm* must ask the individual to make the declaration only where the firm becomes aware of information that would reasonably be material to the assessment of the *approved person's* continuing fitness and propriety.

Knowingly or recklessly giving the *FSA* information which is false or misleading in a material particular may be a criminal offence (section 398 of the Financial Services and Markets Act 2000).

It should not be assumed that information is known to the *FSA* merely because it is in the public domain or has previously been disclosed to the *FSA* or another regulatory body. If there is any doubt about the relevance of information, it should be included.

Data Protection[†]

For the purpose of complying with the Data Protection Act, the personal information in this Form will be used by the *FSA* to discharge its statutory functions under the Financial Services and Markets Act 2000 and other relevant legislation. It will not be disclosed for any other purposes without the permission of the applicant.

I confirm that the information in this Form is accurate and complete to the best of my knowledge and belief and that I have read the explanatory notes relating to this Form.

The *FSA* may seek to verify the information given in this Form including answers pertaining to fitness and propriety. **I authorise the *FSA* to make such enquiries and seek such further information as it thinks appropriate in the course of verifying the information given in this Form. I also understand that the results of these checks may be disclosed to my employer.**

4.01 Full name of *approved person*
i.e. Title, forenames, SURNAME[†]

4.02 Signature^{*}

Date[†] / /

Tick here to confirm you have read and understood this declaration: [∞]

DECLARATION OF FIRM[†]

Knowingly or recklessly giving the *FSA* information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). *SUP* 15.6.1R and *SUP* 15.6.4R require an *authorised person* to take reasonable steps to ensure the accuracy and completeness of information given to the *FSA* and to notify the *FSA* immediately if materially inaccurate information has been provided. *APER* 4.4.6E provides that, where an *approved person* is responsible for reporting matters to the *FSA*, failure to inform the *FSA* of materially significant information of which he is aware is a breach of *Statement of Principle 4*. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the *FSA*. It should not be assumed that information is known to the *FSA* merely because it is in the public domain or has previously been disclosed to the *FSA* or another regulatory body. If there is any doubt about the relevance of information, it should be included.

I confirm that the information in this Form is accurate and complete to the best of my knowledge and belief and that I have read the explanatory notes relating to this Form.

* These questions should only be completed if the form is being submitted in one of the ways set out in *SUP* 15.7 other than online submission. It should not be completed if the submission of this form is online

[∞] These questions should only be completed if submission of this form is online. It should not be completed if the form is being submitted in one of the other ways set out in *SUP* 15.7.

4.03 Name of the *firm*[†]

4.04 Name of *person* signing on behalf of the *firm*[†]

4.05 Position[†]

4.06 Signature*

Date[†] / /

Tick here to confirm you have read and understood this declaration: [∞]



[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

[∞] These questions should only be completed if submission of this form is online. It should not be completed if the form is being submitted in one of the other ways set out in SUP 15.7.



Add an appointed representative or tied agent form

Notification under SUP 12.7.1R (i.e. the form in SUP 12 Ann 3R)

Firm name (i.e. the principal firm) †

12123 ("the firm")

Firm reference number^{§*}

Address^{§*}

Please return the form to:

The Financial Services Authority
Individuals Mutuals and Policy Department

25 The North Colonnade
Canary Wharf

London E14 5HS
United Kingdom

Telephone Firm Contact Centre
Facsimile

0845 606 9966
+44 (0) 20 7066 0017

Registered as a Limited Company in England and Wales No 1920623. Registered Office as above.

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

* These questions should only be completed if the form is being submitted in one of the ways set out in SUP 15.7 other than online submission. It should not be completed if the submission of this form is online

§ Denotes a mandatory field

NOTES

This form should be used to notify the FSA of a new appointed representative or tied agent. It is the form required by SUP 12.7.1R which is set out in SUP 12 Ann 3R.

For the purposes of this form, references to 'appointed representative' include 'tied agent' unless the context otherwise requires.

Personal Details

Section A

1 Contact name for this form (this is not necessarily the same person making the declaration at the end of the form)[†]

§

2 Contact's details:

a position in the *firm*[†]

§

b daytime telephone number[†]

§

c e-mail address[†]

d individual reference number (IRN), if applicable*

e business address[†]

f post code[†]

g mobile phone[†]

h fax number[†]

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

* These questions should only be completed if the form is being submitted in one of the ways set out in SUP 15.7 other than online submission. It should not be completed if the submission of this form is online

§ Denotes a mandatory field

1 Name of the appointed representative[†] §

Appointed Representative FRN (if known) *

2 Address of the appointed representative[†] §

Postcode:

3 Trading name(s) of the appointed representative, if different to the name given in question 1 above[†]

4 Telephone number of the appointed representative[†]

5 Fax number of the appointed representative[†]

6 Email address of the appointed representative[†]

7 Website address of the appointed representative[†]

8 Legal status of the appointed representative[†] §

Private limited company

Public limited company

Partnership

Limited partnership

Limited liability partnership

Unincorporated association

Sole trader

Other, please specify below

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

* These questions should only be completed if the form is being submitted in one of the ways set out in SUP 15.7 other than online submission. It should not be completed if the submission of this form is online

§ Denotes a mandatory field

[Redacted area]

9 Date of appointment (if an appointed representative carrying on insurance mediation activities or a tied agent) or commencement of activities (if any other kind of appointed representative) † §

/ /

Yes No

10 Is the appointed representative an introducer appointed representative? § †

11 Will the appointed representative undertake designated investment business? † §

12 Will the appointed representative undertake home finance activities? † §

13 Is the application in respect of: † §

(1) an appointed representative who will carry on insurance mediation activities?

If question 13(1) is answered “yes”, you must complete the 3 fields immediately below:

Name of main contact for FSA register: Title †

Forename(s) †

Surname †

or

(2) a tied agent?

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

§ Denotes a mandatory field

Warning[†]

Knowingly or recklessly giving the FSA information, which is false or misleading in a material particular, may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000).

SUP 15.6.4R requires an authorised person to take reasonable steps to ensure the accuracy and completeness of information given to the FSA and to notify the FSA immediately if materially inaccurate information has been provided.

Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the FSA.

It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If you are not sure whether a piece of information is relevant, please include it anyway.

Data Protection[†]

For the purposes of complying with the Data Protection Act, the personal information in this form will be used by the FSA to discharge its statutory functions under the Financial Services and Markets Act 2000 and other relevant legislation. It will not be disclosed for any other purposes without the permission of the applicant.

Review and submission[†]

The ability to submit this form is given to an appropriate user or users by the firm's principal compliance contact.

Some questions do not require supporting evidence. However, the records, which demonstrate the applicant firm's compliance with the rules in relation to the questions, must be available to the FSA on request.

Declaration[†]

By submitting this notification

- **I/we confirm that this information is accurate and complete to the best of my knowledge and belief and that I have taken all reasonable steps to ensure that this is the case.**
- **I am/we are aware that it is a criminal offence knowingly or recklessly to give the FSA information that is false or misleading in a material particular.**
- **I/we will notify the FSA immediately if there is a significant change to the information given in the form. If I/we fail to do so, this may result in a delay in the application process or enforcement action.**

Signature *

Name of signatory †

Date †

/ /

Position in firm †

Tick here to confirm you have read and understood this declaration: [∞]

* These questions should only be completed if the form is being submitted in one of the ways set out in SUP 15.7 other than online submission. It should not be completed if the submission of this form is online.

[∞] These questions should only be completed if submission of this form is online. It should not be completed if the form is being submitted in one of the other ways set out in SUP 15.7.



Appointed representative or tied agent - change details – ONA Version

Notification under SUP 12.7.7R (i.e. the form in SUP 12 Ann 4R)

Firm name (i.e. the principal firm)[†]

("the firm")

Firm reference number*

Address*

Please return this form to:

The Financial Services Authority
Individuals, Mutuels and Policy Department
25 The North Colonnade
Canary Wharf
London E14 5HS
United Kingdom
Telephone +44 (0) 845 606 9966
Facsimile +44 (0) 20 7066 0017

Registered as a Limited Company in England and Wales No 1920623. Registered Office as above.

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

NOTES

This form should be used to change the details of an existing appointed representative or tied agent. It is the form required by SUP 12.7.7R which is set out in SUP 12 Ann 4R.

For the purposes of this form, references to 'appointed representative' include 'tied agent' unless the context otherwise requires.

N.B. if all the changes made on the form do not take effect from the same date, you should use more than one form for each set of changes that take effect on the same date.

Personal Details

Section A

1 Contact Name for this form (this is not necessarily the same person making the declaration at the end of the form)[†]

§

2 Contact's details:

a position in the *firm*[†]

§

b daytime telephone number[†]

§

c e-mail address[†]

d business address[†]

e post code[†]

f mobile phone number[†]

g fax number[†]

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

What is the name of the appointed representative whose details are to be amended? †

§

What is this appointed representative's Firm Reference Number? (If not known, this can be found on the FSA Register on our website at www.fsa.gov.uk) †

§

Yes

1 a. Do you wish to suspend the appointed representative? †

If 'Yes', please give the reasons for this: †

If you have any additional information to add to the reason above please attach it to this form †.

Yes

b. Do you wish to reinstate the appointed representative? †

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7



I have supplied further information
related to this page in Section 3[†]

YES

NO



[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

2 Do you wish to change the name of the appointed representative? † Yes

If 'Yes', what is the new name of the appointed representative? †

§

3a Do you wish to change the legal status of the appointed representative? † Yes

If 'Yes', what is the new legal status of the appointed representative? †

Private limited company Public limited company

Partnership Limited partnership

Limited liability partnership Unincorporated association

Sole trader Other, please specify below

§

Yes No N/A

3b Has the name change been approved by Companies House? †

N.B. If the appointed representative is a UK registered company or LLP, the name of the appointed representative can only be changed if the change has already been approved by Companies House.

Yes

4 Do you wish to change the address of the appointed representative? †

If 'Yes', please enter the new address: †

§

Postcode:

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Yes

- 5 Do you wish to change the trading name(s) of the appointed representative? [†]

If 'Yes', please provide details below. If you wish to amend a trading name please enter the name to be deleted in the box on the left and add the new one in the box on the right.

Please detail the trading name(s) to be deleted below: [†]

Please detail the trading name(s) to be added below: [†]

--	--

Yes

- 6 Do you wish to change the telephone number of the appointed representative? [†]

If 'Yes', please enter the new telephone number: [†]

§

Yes

- 7 Do you wish to change the fax number of the appointed representative? [†]

If 'Yes', please enter the new fax number: [†]

§

Yes

- 8 Do you wish to change the E-mail address of the appointed representative? [†]

If 'Yes', please enter the new e-mail address[†]

§

Yes

- 9 Do you wish to change the website address of the appointed representative? [†]

If 'Yes', please enter the new website address: [†]

§

Yes No

- 10 Is the appointed representative currently an introducer appointed representative? [†]

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Do you wish to change this? If 'Yes', please provide details below: †

[Redacted area]

11 Do you wish to change the details of the Main Contact for the FSA register for this appointed representative? † Yes No

If 'Yes', please give the new details: Title†

Forename(s) †

Surname†

12 Does the appointed representative undertake home finance activities? † Yes No

Do you wish to change this? If 'Yes', please provide details below: †

[Redacted area]

13 Does the appointed representative undertake designated investment business activities? † Yes No

Do you wish to change this? If 'Yes', please provide details below: †

[Redacted area]

14 Is the change in respect of an appointed representative who is carrying on or proposes to carry on insurance mediation activities or a tied agent? † Yes No

If so please provide details below: †

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

15 Please enter the date on which these changes take effect: †

§ / /




3.01 Is there any other information the approved person or the firm considers to be relevant to the application? †

Yes

No

If so, please provide full details†

3.02 Please indicate clearly which question the supplementary information relates to. †

Question	Information
	

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

3.03

How many additional sheets are being submitted? †

Supporting Documents

Indicate the required supporting documents to accompany this form[†].

Documents	Mode (Send by email, Post, or Fax)

Other information (please specify)[†]:

--



[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Warning[†]

Knowingly or recklessly giving the FSA information, which is false or misleading in a material particular, may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). SUP 15.6.4R requires an authorised person to take reasonable steps to ensure the accuracy and completeness of information given to the FSA and to notify the FSA immediately if materially inaccurate information has been provided. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the FSA. It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If you are not sure whether a piece of information is relevant, please include it anyway.

Data Protection[†]

For the purposes of complying with the Data Protection Act, the personal information in this form will be used by the FSA to discharge its statutory functions under the Financial Services and Markets Act 2000 and other relevant legislation. It will not be disclosed for any other purposes without the permission of the applicant.

Some questions do not require supporting evidence. However, the records, which demonstrate the applicant firm's compliance with the rules in relation to the questions, must be available to the FSA on request.

Declaration[†]**By submitting this notification:**

- **I/we confirm that this information is accurate and complete to the best of my knowledge and belief and that I have taken all reasonable steps to ensure that this is the case.**
- **I am/we are aware that it is a criminal offence knowingly or recklessly to give the FSA information that is false or misleading in a material particular.**
- **I/we will notify the FSA immediately if there is a significant change to the information given in the form. If I/we fail to do so, this may result in a delay in the application process or enforcement action.**

Signature^{*}Name of signatory[†].Date[†]

/ /

Position in *firm*[†]Individual Reference Number (if applicable)[†]
 Tick here to confirm you have read and understood this declaration: [∞]

* The above question(s) should only be completed if the form is being submitted in one of the ways set out in SUP 15.7 other than online submission. It should not be completed if the submission of this form is online

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

[∞] These questions should only be completed if submission of this form is online. It should not be completed if the form is being submitted in one of the other ways set out in SUP 15.7.



Appointed Representative - Termination

Notification under SUP 12.8.1R (i.e. the form in SUP 12 Ann 5R)

Firm name (i.e. the *principal firm*)[†]

("The firm")

Firm reference number*

Address*

Please return this form to :
The Financial Services Authority
Individuals, Mutuels and Policy Department
25 The North Colonnade
Canary Wharf
London E14 5HS
United Kingdom
Telephone +44 (0) 845 606 9966
Facsimile +44 (0) 20 7066 0017

Registered as a Limited Company in England and Wales No 1920623. Registered Office as above.

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

* These questions should only be completed if the form is being submitted in one of the ways set out in SUP 15.7 other than online submission. It should not be completed if the submission of this form is online

NOTES

This form should be used to notify the FSA of the termination of an existing appointed representative arrangement

Personal Details

Section A

1 Contact name for this form †

§

2 Contact's details:

a position in the *firm* †

§

b daytime telephone number †

§

c e-mail address †

d individual reference number (IRN), if applicable †

e business address †

f post code †

g mobile phone †

h fax number †

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

If you wish to terminate more than one of your appointed representatives **for the same reason and with effect from the same date** please complete this section, otherwise proceed to section B2.

Please list the names, FRNs and postcodes of the appointed representatives you wish to terminate below:

Appointed representative name[†]

FRN[†]

Postcode[†]



[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

--	--	--



Reason for Termination[†]:

- | | | | |
|--|--------------------------|---------------------------------------|--------------------------|
| Resignation/end of contract | <input type="checkbox"/> | Terminated by Principal | <input type="checkbox"/> |
| Deceased | <input type="checkbox"/> | Redundancy | <input type="checkbox"/> |
| Resignation whilst under investigation | <input type="checkbox"/> | Retirement | <input type="checkbox"/> |
| Suspension | <input type="checkbox"/> | Termination of Employment or Contract | <input type="checkbox"/> |

If the reason for termination is Terminated by Principal please give further details below[†]:

[Large grey rectangular area for providing further details]

If you have any additional information to add to the reason above please attach it to this form[†].

Date of Termination: [†]

/ /

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7



Please use this section if you wish to terminate one appointed representative. If you wish to terminate more than one appointed representative but for different reasons please copy this section as appropriate and attach to the form.

In order to terminate an appointed representative please complete the following details:

Please enter the name of the appointed representative[†]: §

Please enter the FRN of the appointed representative: [†] §

Please enter the postcode of the appointed representative: [†]

Reason for Termination: [†]

Resignation/end of contract Terminated by Principal

Deceased Redundancy

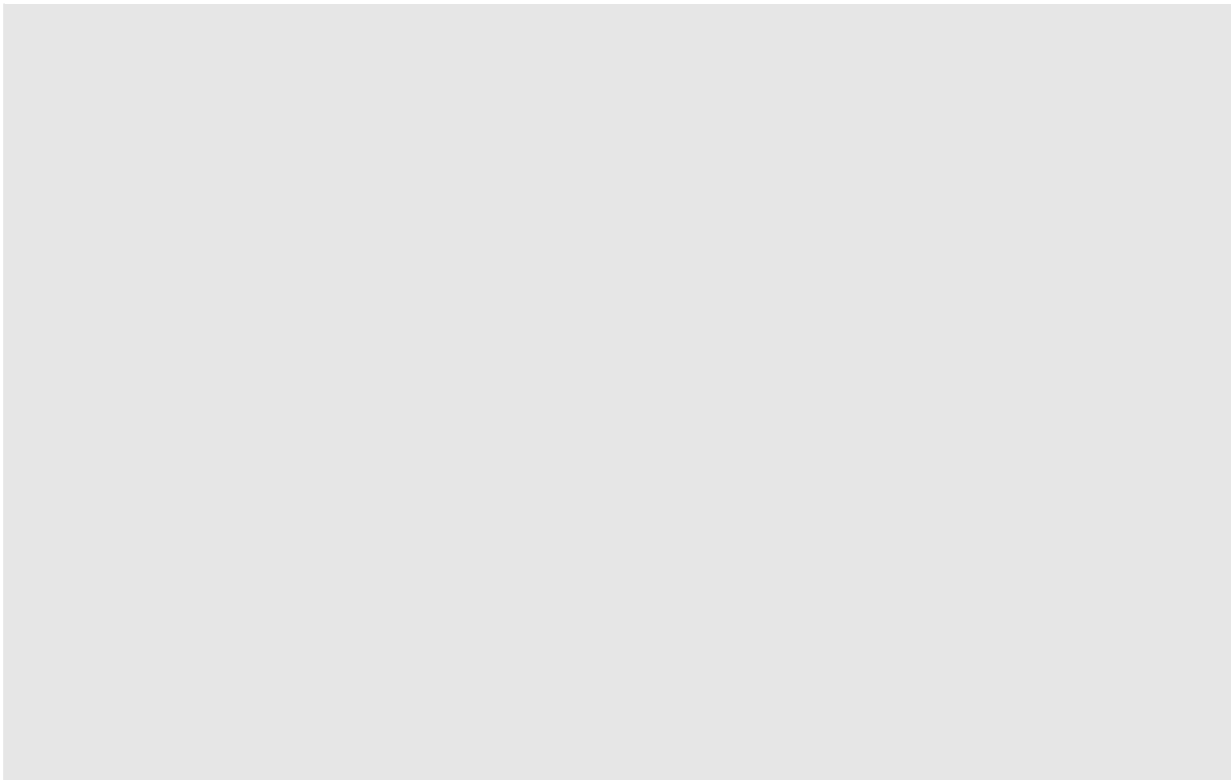
Resignation whilst under investigation Retirement

Suspension Termination of Employment or Contract

If the reason for termination is Terminated by Principal please give further details below: [†]



[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7



If you have any additional information to add to the reason above please attach it to this form. †

Date of Termination: †:

/ /



† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Warning[†]:

Knowingly or recklessly giving the FSA information, which is false or misleading in a material particular, may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). SUP 15.6.4R requires an authorised person to take reasonable steps to ensure the accuracy and completeness of information given to the FSA and to notify the FSA immediately if materially inaccurate information has been provided. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the FSA. It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If you are not sure whether a piece of information is relevant, please include it anyway.

Data Protection[†]

For the purposes of complying with the Data Protection Act, the personal information in this form will be used by the FSA to discharge its statutory functions under the Financial Services and Markets Act 2000 and other relevant legislation. It will not be disclosed for any other purposes without the permission of the applicant.

Review and submission[†]

The ability to submit this form is given to an appropriate user or users by the firm's principal compliance contact.

Some questions do not require supporting evidence. However, the records, which demonstrate the applicant firm's compliance with the rules in relation to the questions, must be available to the FSA on request.

Declaration[†]

By submitting this notification

- **I/we confirm that this information is accurate and complete to the best of my knowledge and belief and that I have taken all reasonable steps to ensure that this is the case.**
- **I am/we are aware that it is a criminal offence knowingly or recklessly to give the FSA information that is false or misleading in a material particular.**
- **I/we will notify the FSA immediately if there is a significant change to the information given in the form. If I/we fail to do so, this may result in a delay in the application process or enforcement action.**

Date[†]

/ /

Name of signatory[†]

Position in *firm*[†]

Individual Reference Number (if applicable)[†]

Signature^{*}

Tick here to confirm you have read and understood this declaration: [∞]

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

^{*} These questions should only be completed if the form is being submitted in one of the ways set out in SUP 15.7 other than online submission. It should not be completed if the submission of this form is online

[∞] The above question(s) appears on the electronic form submission only. It does not appear on a paper form submission.

Passporting

Notification of intention to establish a branch in another EEA state



(SUP 13 Annex 1R – Notification under SUP 13.5.1R)

Full name of firm [†]

Purpose of this form

You should complete this form if you are a *UK firm* that wishes to exercise a passport right to establish your first *branch* in a particular *EEA State*. You should also use this form if you are a *UK firm* that wishes to notify us – the *FSA* – of changes to the details of your current *branch*.

Important information you should read before completing this form

A *UK firm* can only use this form if it is entitled to establish a *branch* in another *EEA State* subject to the conditions of a relevant *single market directive* (see Schedule 3 of the Financial Services and Markets Act 2000 (FSMA)). By completing this form, you are confirming this is the case. *UK firms* should consult the legislation or take their own legal advice both in the *UK* and in the relevant *EEA State(s)* if they are in any doubt.

We give guidance on this in Chapter 13 of the Supervision manual (*SUP*). In particular, a *UK firm* that wants to exercise an *EEA right* must have the specific activity included in its Scope of Permission (unless the *UK firm* is a *subsidiary* of a *firm* which is a *credit institution* that meets the criteria set out in the *Banking Consolidation Directive*).

Filling in the Form

1. If you are using your computer to complete the form, use the TAB key to move from question to question and press SHIFT TAB to move back to the previous question. Once completed, print the relevant sections and sign the declaration in section 10.
2. If you are filling in the form by hand, use black ink, write clearly and, once you have completed the relevant sections, sign the declaration in section 10.
3. All firms should answer sections 1, 2 and 10. Sections 3-9 refer to specific directives and only relevant sections should be completed. However, please answer all questions in the sections relevant to you.
4. If there is not enough space on the form, you may need to use separate sheets of paper. Clearly mark each separate sheet of paper with the relevant question number.

1 Contact details

1.1 Details of the person we will contact about this application

FSA reference number †	
Title †	
Contact name †	
Address Line 1 †	
Address Line 2 †	
Postcode †	
Country †	
Telephone number †	
Fax number †	
Email address †	

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

2 Details about the branch

2.1 Please indicate the *EEA State* in which you wish to establish a *branch*.

EEA State †	
-------------	--

2.2 Please provide the address in the *EEA State* in which the *branch* will be established and from which we can get information about the business. †

Address: †	
Telephone number: † <input style="width: 40px;" type="text"/>	Fax number: † <input style="width: 40px;" type="text"/>

2.3 Please list the names of all *managers* of the *branch* (including main agents in respect of insurance applications). †

Title	Forenames	Surname
<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>
<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>
<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>
<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>
<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>
<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>
<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>

2.4 Tell us the proposed date for the business to start at the branch. †

Date	<input style="width: 60%;" type="text" value="dd/mm/yy"/>
------	---

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

3 Insurance Mediation Directive (IMD)

- 3.1 Please confirm that the *UK firm* wishes to passport under the IMD by ticking the box below. †

The <i>firm</i> intends to carry on <i>insurance mediation</i> in the <i>EEA State</i> identified in section 2 by establishing a <i>branch</i> .	<input type="checkbox"/>
--	--------------------------

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

4 Markets in Financial Instruments Directive ('MiFiD')

4.1 Please tick the appropriate boxes to show the *investment services* your firm will provide, together with the associated instruments. [†]

		EEA State														
		Investment services and activities								Ancillary services						
		1	2	3	4	5	6	7	8	1	2	3	4	5	6	7
Financial Instruments	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	7	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	8	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	9	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	10	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please refer to page 6 for a full description of MiFID Services and activities.

UK Firms that intend to use a Tied Agent established in the territory of another EEA state are required to complete Annex 1 at the end of this form and tick the appropriate boxes below to show the investment services to be provided by the tied Agent.

[§]Please refer to MiFID Article 23(1) for details of the activities that may be provided by a tied agent

		Tied Agent [§]														
		Investment services and activities								Ancillary services						
		1	2	3	4	5	6	7	8	1	2	3	4	5	6	7
Financial Instruments	1	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>								
	2	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>								
	3	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>								
	4	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>								
	5	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>								
	6	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>								
	7	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>								
	8	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>								
	9	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>								
	10	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>								

Investment services and activities

- (1) Reception and transmission of orders in relation to one or more financial instruments
- (2) Execution of orders on behalf of clients
- (3) Dealing on own account
- (4) Portfolio management
- (5) Investment advice
- (6) Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis
- (7) Placing of financial instruments without a firm commitment basis
- (8) Operation of Multilateral Trading Facilities

Ancillary services

- (1) Safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management
- (2) Granting credits or loans to an investor to allow him to carry out a transaction in one or more financial instruments, where the firm granting the credit or loan is involved in the transaction
- (3) Advice to undertakings on capital structure, industrial strategy and related matters and advice and services relating to mergers and the purchase of undertakings
- (4) Foreign exchange services where these are connected to the provision of investment services
- (5) Investment research and financial analysis or other forms of general recommendation relating to transactions in financial instruments
- (6) Services related to underwriting
- (7) Investment services and activities as well as ancillary services of the type included under Section A or B of Annex 1 related to the underlying of the derivatives included under Section C – 5, 6, 7 and 10 - where these are connected to the provision of investment or ancillary services

Financial Instruments

- (1) Transferable securities
- (2) Money-market instruments
- (3) Units in collective investment undertakings
- (4) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, or other derivatives instruments, financial indices or financial measures which may be settled physically or in cash
- (5) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event)
- (6) Options, futures, swaps, and any other derivative contract relating to commodities that can be physically settled provided that they are traded on a regulated market and/or an MTF
- (7) Options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned in C.6 and not being for commercial purposes, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are cleared and settled through recognised clearing houses or are subject to regular margin calls
- (8) Derivative instruments for the transfer of credit risk
- (9) Financial contracts for differences
- (10) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event), as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in this Section, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on a regulated market or an MTF, are cleared and settled through recognised clearing houses or are subject to regular margin calls





[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

4.2 Please give details of the firm's programme of operations. Describe the particular EEA activities your firm will carry on and the structural organisation of the branch[†]

(This summary should be completed in English. In some instances, where requested by the host Member State, we may ask you to provide an additional copy translated into the language of the host Member State, for onward transmission to the Competent Authority of that state).

Requirement	Response
<p><u>1. Corporate strategy</u>[†]</p> <p><i>a) How will the branch contribute to the strategy of the firm/group?</i></p> <p><i>b) What will the main functions of the branch be?</i></p>	
<p><u>2. Commercial Strategy</u>[†]</p> <p><i>a) Describe the types of customers/counterparties the branch will be dealing with</i></p> <p><i>b) Describe how the firm will obtain and deal with these clients</i></p>	
<p><u>3. Organisational structure</u>[†]</p> <p><i>a) Briefly describe how the branch fits into the corporate structure of the firm/group? (This may be facilitated by attaching an organisational chart)</i></p> <p><i>b) Set out the organisational structure of the branch, showing both functional and legal reporting lines</i></p> <p><i>c) Which individual will be responsible for the branch operations on a day to day basis?</i></p> <p><i>d) Which individual will be responsible for compliance at the branch?</i></p> <p><i>e) Which individual will be responsible for dealing with complaints in relation to the branch?</i></p> <p><i>f) How will the branch report to the head office?</i></p>	

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

<p><i>g) Detail any critical outsourcing arrangements [†]</i></p>	
<p>4. Tied Agents [†] <i>a) Will the branch use tied agents?</i></p> <p><i>b) If the information is available, what is the identity of the tied agents? (Annex 1)</i></p> <p><i>c) What investment services and activities will be provided by the tied agent?</i></p>	
<p>5. Systems & Controls [†] <i>Provide a brief summary of arrangements for:</i></p> <p><i>a) Safeguarding client money and assets</i></p> <p><i>b) Compliance with the conduct of business and other obligations that fall under the responsibility of the host state competent authority according to MiFID Article 32(7) and record keeping under Article 13(9)</i></p> <p><i>c) Code of Conduct, including personal account dealing</i></p> <p><i>d) Anti-money laundering</i></p> <p><i>e) Monitoring and control of critical outsourcing agreements (if applicable)</i></p>	
<p>6. Auditor details [†] <i>Details of the audit arrangements of the branch (including where applicable, details of the external auditor)</i></p>	
<p>7. Profit & loss forecast [†] <i>Attach a forecast statement for profit & loss and cashflow, both over a 12 month period.</i></p>	

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

5 Banking Directive

5.1 Please tick the appropriate boxes to show the activities to be provided. †

Note to Question

5.1

The box marked § should only be completed by UK credit institutions wishing to passport investment services and activities and ancillary services provided for by the extended scope of MiFID with effect from 1 November 2007.

Activity		
1	Acceptance of deposits and other repayable funds	<input type="checkbox"/>
2	Lending, including, inter alia, consumer credit, mortgage credit, factoring, with or without recourse, and financing of commercial transactions (including forfeiting)	<input type="checkbox"/>
3	Financial leasing	<input type="checkbox"/>
4	Payment services as defined in Article 4(3) of Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market	<input type="checkbox"/>
5	Issuing and administering other means of payment (e.g. travellers' cheques and bankers' drafts) insofar as this activity is not covered by point 4	<input type="checkbox"/>
6	Guarantees and commitments	<input type="checkbox"/>
7	Trading for own account or for account of customers in:	<input type="checkbox"/>
	(a) money market instruments (cheques, bills, certificates of deposits etc)	<input type="checkbox"/>
	(b) foreign exchange	<input type="checkbox"/>
	(c) financial futures and options	<input type="checkbox"/>
	(d) exchange and interest-rate instruments	<input type="checkbox"/>
	(e) transferable securities	<input type="checkbox"/>
8	Participation in securities issues and the provision of services related to such issues	<input type="checkbox"/>
9	Advice to undertakings on capital structure, industrial strategy, and related questions and advice and services relating to mergers and the purchase of undertakings	<input type="checkbox"/>
10	Money broking	<input type="checkbox"/>
11	Portfolio management and advice	<input type="checkbox"/>
12	Safekeeping and administration of securities	<input type="checkbox"/>
13	Credit reference services	<input type="checkbox"/>
14	Safe custody services	<input type="checkbox"/>
§	Additional MiFID services and activities subject to mutual recognition under the Banking Directive	<input type="checkbox"/>

§ See separate matrix on next page

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

		EEA State [†]														
		Investment services and activities								Ancillary services						
		1	2	3	4	5	6	7	8	1	2	3	4	5	6	7
Financial Instruments	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	7	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	8	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	9	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	10	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please refer to page 6 for a full description of MiFID investment services activities and instruments.

UK firms that intend to use a tied agent *established* in the territory of the host state are required to complete 'Annex 1' at the end of this form and tick the appropriate boxes below to show the investment services to be provided by the tied Agent.[§]

[§]Please refer to MiFID Article 23(1) for details of the activities that may be provided by a tied agent

		EEA State [§]														
		Investment services and activities								Ancillary services						
		1	2	3	4	5	6	7	8	1	2	3	4	5	6	7
Financial Instruments	1	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>								
	2	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>								
	3	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>								
	4	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>								
	5	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>								
	6	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>								
	7	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>								
	8	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>								
	9	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>								
	10	<input type="checkbox"/>				<input type="checkbox"/>		<input type="checkbox"/>								



[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

5.2 Please give details of the firm's programme of operations. Describe the particular EEA activities your firm will carry on and the structural organisation of the branch[†]

(This summary should be completed in English. In some instances, where requested by the host Member State, we may ask you to provide an additional copy translated into the language of the host Member State, for onward transmission to the Competent Authority of that state).

Requirement	Response
<p>1. Business Plan[†]</p> <p>a) <i>How will the branch contribute to the overall strategy of the institution/group?</i></p> <p>b) <i>What will be the main objectives and functions of the branch?</i></p> <p>c) <i>Describe the types of customers/counterparties the branch will be dealing with</i></p> <p>d) <i>Describe how the institution will obtain and deal with these customers/clients</i></p>	
<p>2. Organisational structure[†]</p> <p>a) <i>Briefly describe how the branch fits into the corporate structure of the group</i></p> <p>b) <i>Description of the administrative structure of the branch (number of business units/premises; number of employees; organisational chart, showing both functional and legal reporting lines)</i></p> <p>c) <i>Details of the branch manager(s) – CV(s) to be supplied</i></p> <p>d) <i>Details of any direct business relations (clients, partners, counterparties) and conditions under which they operate</i></p> <p>e) <i>Details of links with administrative and IT systems of the head office</i></p> <p>f) <i>Details of links with internal control system of the head office</i></p>	
<p>3. Systems & Controls[†]</p> <p>a) <i>Measures for supervising risk management procedures (includes credit/market/operational/liquidity)</i></p> <p>b) <i>Powers of the branch in respect of granting credit facilities</i></p> <p>c) <i>Details of the audit arrangements of the branch (including where applicable details of the external auditor)</i></p> <p>d) <i>anti-money laundering procedures (including the name of the AML compliance officer)</i></p> <p>e) <i>monitoring and control of critical outsourcing arrangements (if applicable)</i></p>	

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

<p><u>4. Financial information</u></p> <p><i>Attach a forecast for over at least a 12 months period, of material items of the Balance Sheet and Profit and Loss.</i></p>	
<p><u>5 Investment activities</u> (if applicable) †</p> <ul style="list-style-type: none"> • <i>Provide details of arrangements for:</i> <ul style="list-style-type: none"> • <i>safeguarding client money and assets</i> • <i>compliance with the conduct of business and other obligations that fall under the responsibility of the Competent Authority of the host Member State according to MiFID Article 32(7) and record keeping under MiFID Article 13(9)</i> • <i>code of conduct, including personal account dealing</i> • <i>Provide details of the individual who will be responsible for compliance of the branch</i> • <i>Provide details of the individual responsible for dealing with complaints in relation to the investment activities of the branch</i> 	

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

6 Consolidated Life Assurance Directive

Note to Question 6.1

For the purpose of this form, 'authorised agent' means an agent or employee of the *insurance undertaking* who has authority (a) to bind the *insurance undertaking* in its relations with third parties and (b) to represent the *insurance undertaking* in its relations with *overseas regulators* and courts in the *EEA State* of the *branch*.

6.1 Please provide the name of the UK firm's authorised agent. If the firm is a member of Lloyd's, please also confirm that the authorised agent has power to accept service of proceedings on behalf of Lloyd's. †

Name of agent †

If applicable, confirmation that agent has power to accept service of proceedings on behalf of Lloyd's †

6.2 Please tick the appropriate boxes to show the classes of business to be provided. †

Classes of Business		
I	Life and Annuity	<input type="checkbox"/>
II	Marriage and Birth	<input type="checkbox"/>
III	Linked Long Term	<input type="checkbox"/>
IV	Permanent Health	<input type="checkbox"/>
V	Tontines	<input type="checkbox"/>
VI	Capital redemption	<input type="checkbox"/>
VII	Pension Fund Management	<input type="checkbox"/>
VIII	Collective Insurance	<input type="checkbox"/>
IX	Social Insurance	<input type="checkbox"/>


6.3 Please give details of the nature of the commitments to be covered in the EEA State concerned. †

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

6.4 Please give details of the structural organisation of the *branch* (you may wish to attach an organisation chart).[†]



6.5 Please give details of the guiding principles for reinsurance of business carried on, or to be carried on, in the *EEA State* concerned. This should include the *firm's* maximum retention per risk or event after all reinsurance is ceded[†]



[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

6.6 Please confirm you have attached the following. †

i.	Estimates of the costs of installing administrative services and the organisation for securing business in the <i>EEA State</i> concerned.	Attached	<input type="checkbox"/>
ii.	Estimates of the resources available to cover the costs detailed in (i) above.	Attached	<input type="checkbox"/>
iii.	For each of the first three years following the establishment of the <i>branch</i> , estimates of the <i>firm's</i> margin of solvency and the margin of solvency required and the method of calculation.	Attached	<input type="checkbox"/>
iv.	For each of the first three years following the establishment of the <i>branch</i> , the details described below with regards to the business carried on in the <i>EEA State</i> concerned (this information should be provided on both optimistic and pessimistic bases, for each type of contract or treaty):		
	a) the number of contracts or treaties expected to be issued;	Attached	<input type="checkbox"/>
	b) the total premium income, both gross and net of reinsurance ceded; and	Attached	<input type="checkbox"/>
	c) the total sums assured or the total amounts payable each year by way of annuity.	Attached	<input type="checkbox"/>
v.	For each of the first three years following the establishment of the <i>branch</i> , the details described below with regards to the business carried on in the <i>EEA State</i> concerned:		
	a) a statement setting out, on both optimistic and pessimistic bases, detailed estimates of income and expenditure for direct business, reinsurance acceptances and reinsurance cessions; and	Attached	<input type="checkbox"/>
	b) a statement of estimates relating to the financial resources intended to cover underwriting liabilities.	Attached	<input type="checkbox"/>
vi.	Particulars of any associations that exist or are proposed to exist between:		
	a) the directors and controllers of the <i>UK firm</i> ; and	Attached	<input type="checkbox"/>
	b) any <i>person</i> who will act as an insurance broker, agent, loss adjuster or reinsurer for the <i>UK firm</i> in the <i>EEA State</i> concerned.	Attached	<input type="checkbox"/>
vii.	The names of the principal reinsurers of business to be carried on in the <i>EEA State</i> concerned.	Attached	<input type="checkbox"/>

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

viii The sources of business in the <i>EEA State</i> concerned (for example, insurance brokers, agents, own employees or direct selling) with the approximate percentage expected from each of those sources.	Attached	<input type="checkbox"/>
ix. Copies or drafts of: a) any separate reinsurance treaties covering business to be written in the <i>EEA State</i> concerned; b) any standard agreements which the <i>UK firm</i> will enter into with brokers or agents in the <i>EEA State</i> concerned; and c) any agreements which the <i>UK firm</i> will enter into with persons (other than employees of the <i>UK firm</i>) who will manage the business to be carried on in the <i>EEA State</i> concerned.		
a) any separate reinsurance treaties covering business to be written in the <i>EEA State</i> concerned;	Attached	<input type="checkbox"/>
b) any standard agreements which the <i>UK firm</i> will enter into with brokers or agents in the <i>EEA State</i> concerned; and	Attached	<input type="checkbox"/>
c) any agreements which the <i>UK firm</i> will enter into with persons (other than employees of the <i>UK firm</i>) who will manage the business to be carried on in the <i>EEA State</i> concerned.	Attached	<input type="checkbox"/>
x. The technical bases that the actuary appointed in accordance with <i>SUP 4.3.1R</i> proposes to use for each class of business to be carried on in the <i>EEA State</i> concerned, including the bases needed for calculating premium rates and mathematical reserves.	Attached	<input type="checkbox"/>
xi. A statement by the actuary so appointed as to whether:		
a) he considers that the premium rates that will be used in the <i>EEA State</i> concerned are suitable; and	Attached	<input type="checkbox"/>
b) he agrees with the information provided under sections 6.5 and 6.6 v (a) and (b).	Attached	<input type="checkbox"/>
xii. The technical bases used to calculate the statements and estimates referred to in sections 6.6 iv and v.	Attached	<input type="checkbox"/>

7 First, Second and Third Non-Life Insurance Directives

- 7.1 Please provide the name of *UK firm's* authorised agent. If the firm is a *member of Lloyd's*, please confirm that the authorised agent has power to accept service of proceedings on behalf of *Lloyd's*.[†]

Name of agent [†] █
If applicable, confirmation that agent has power to accept service of proceedings on behalf of <i>Lloyd's</i> [†] <input type="checkbox"/>

- 7.2 Please tick the appropriate boxes to show the classes of business to be carried out from the *branch*.[†]

Classes of Business		
1	Accident	<input type="checkbox"/>
2	Sickness	<input type="checkbox"/>
3	Land Vehicles	<input type="checkbox"/>
4	Railway Rolling Stock	<input type="checkbox"/>
5	Aircraft	<input type="checkbox"/>
6	Ships	<input type="checkbox"/>
7	Goods in Transit	<input type="checkbox"/>
8	Fire and Natural Forces	<input type="checkbox"/>
9	Damage to Property	<input type="checkbox"/>
10	Motor Vehicle Liability	<input type="checkbox"/>
11	Aircraft Liability	<input type="checkbox"/>
12	Liability for Ships	<input type="checkbox"/>
13	General Liability	<input type="checkbox"/>
14	Credit	<input type="checkbox"/>
15	Suretyship	<input type="checkbox"/>
16	Miscellaneous Financial Loss	<input type="checkbox"/>
17	Legal Expenses	<input type="checkbox"/>
18	Assistance	<input type="checkbox"/>

7.3 Please give details of the nature of the risks to be covered in the EEA State(s) concerned.[†]

Note to question

7.3

- i. If the *firm* covers, or intends to cover, relevant **motor vehicle risks**, please provide details of the *firm's* membership of the national bureau and the national guarantee fund in the *EEA State* concerned at question 7.3.

'Relevant motor risks' has the meaning given to *motor vehicle liability* in Schedule 1 to the *Regulated Activities Order*.

- ii. If the firm covers (or intends to cover) **health insurance**, please provide the technical bases used, or to be used, for calculating premiums in respect of such risks in question 7.3.

- iii. If the firm covers (or intends to cover) risks relating to **legal expenses insurance**, please state, in question 7.3, the option chosen from those described in Article 3(2) of Directive 87/344/EEC of 22 June 1987 on the coordination of laws, regulations and administrative provisions relating to legal expenses insurance.

7.4 Please give details of the structural organisation of the branch (UK firms may wish to attach an organisation chart).[†]

7.5 Please give details of the guiding principles as to reinsurance of business carried on, or to be carried on, in the EEA State concerned, including the firm's maximum retention per risk or event after all reinsurance ceded.[†]

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

7.6 Please confirm you have attached the following. †

i.	Estimates of the costs of installing administrative services and the organisation for securing business in the <i>EEA State</i> concerned.	Attached	<input type="checkbox"/>
ii.	Estimates of the resources available to cover the costs detailed in (i) above.	Attached	<input type="checkbox"/>
iii.	If contracts of a kind falling within paragraph 18 of Schedule 1 to the <i>Regulated Activities Order</i> (Assistance) are, or are to be, effected or carried out, the resources available for providing assistance.	Attached	<input type="checkbox"/>
iv.	For each of the first three years following the establishment of the <i>branch</i> , estimates of the <i>firm's</i> margin of solvency and the margin of solvency required and the method of calculation.	Attached	<input type="checkbox"/>
v.	For each of the first three years following the establishment of the <i>branch</i> , give the details described below about the business carried on in the <i>EEA State</i> concerned:		
		a) estimates relating to expenses of management (other than cost of installation) and, in particular, those relating to current general expenses and commissions;	Attached <input type="checkbox"/>
		b) estimates relating to premiums or contributions (both gross and net of all reinsurance ceded) and to claims (after all reinsurance recoveries); and	Attached <input type="checkbox"/>
		c) estimates relating to the financial resources intended to cover underwriting liabilities.	Attached <input type="checkbox"/>
vi.	Particulars of any associations that exist or are proposed to exist between:	Attached	<input type="checkbox"/>
	b) any <i>person</i> who will act as an insurance broker, agent, loss adjuster or reinsurer for the <i>UK firm</i> in the <i>EEA State</i> concerned.		
vii.	The names of the principal reinsurers of business to be carried on in the <i>EEA State</i> concerned.	Attached	<input type="checkbox"/>

Continued over

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

7.6 continued[†]

viii. The sources of business in the <i>EEA State</i> concerned (for example, insurance brokers, agents, own employees or direct selling) with the approximate percentage expected from each of these sources.	Attached	<input type="checkbox"/>
ix. Copies or drafts of: a) any separate reinsurance treaties covering business to be written in the <i>EEA State</i> concerned; b) any standard agreements which the <i>UK firm</i> will enter into with brokers or agents in the <i>EEA State</i> concerned; and c) any agreements which the <i>UK firm</i> will enter into with <i>persons</i> (other than employees of the <i>UK firm</i>) who will manage the business to be carried on in the <i>EEA State</i> concerned.		
	Attached	<input type="checkbox"/>
	Attached	<input type="checkbox"/>
	Attached	<input type="checkbox"/>
x. Copies or drafts of any agreements which the <i>UK firm</i> will have with main agents in the <i>EEA State</i> concerned.	Attached	<input type="checkbox"/>

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

8 Reinsurance Directive

- 8.1 Please confirm the type(s) of reinsurance activity to be carried out by the branch under the Reinsurance Directive by ticking one of the boxes below. †**

Life reinsurance business	<input type="checkbox"/>
Non-life reinsurance business	<input type="checkbox"/>

- 8.2 Please provide the name and powers of the authorised agent. Please note that the authorised agent should be located at the same address of branch. †**

<div style="background-color: #cccccc; height: 15px; width: 40px; margin-bottom: 5px;"></div>

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

9 Declaration

Note to Declaration

If you are submitting this notification electronically you do not need to provide a signature here. However, you still need to have the authority to make this notification on behalf of the *firm*.

It is a criminal offence to knowingly or recklessly give us information that is false or misleading. If necessary, please take appropriate professional advice before supplying information to us.

There will be a delay in processing the application if any information is inaccurate or incomplete. And failure to notify us immediately of any significant change to the information provided may result in a serious delay in the application process.

- **I understand it is a criminal offence knowingly or recklessly to give the FSA information that is false or misleading in a material particular.**
- **I confirm that the information in this form is accurate and complete to the best of my knowledge and belief.**
- **I confirm that I am authorised to sign on behalf of the *firm*.**

Name [†]	
Position [†]	
Signature*	
Date [†]	dd/mm/yy

*

I enclose the following sections (mark the appropriate section)

Section 1 – Contact Details (mandatory)	<input type="checkbox"/>
Section 2 – Details about the branch (mandatory)	<input type="checkbox"/>
Section 3 – Insurance Mediation Directive	<input type="checkbox"/>
Section 4 – Markets in Financial Instruments Directive	<input type="checkbox"/>
Section 5 – Banking Consolidation Directive	<input type="checkbox"/>
Section 6 – Consolidated Life Assurance Directive	<input type="checkbox"/>
Section 7 – First, Second and Third Non-Life Insurance Directives	<input type="checkbox"/>
Section 8 – Reinsurance directive	<input type="checkbox"/>
Section 9– Declaration (mandatory)	<input type="checkbox"/>

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

* These questions should only be completed if the form is being submitted in one of the ways set out in SUP 15.7 other than online submission. It should not be completed if the submission of this form is online

ANNEX 1 – Tied Agent Notification Form

This form should be used to notify FSA when a *UK firm* intends to use a *tied agent* established in the territory of another *EEA state*.

Tied Agent Details

1	Name of Tied Agent [†]	<input style="width: 95%; height: 25px;" type="text"/>
2	Address of Tied Agent [†]	<input style="width: 95%; height: 100px;" type="text"/>
3	Trading name(s) of Tied Agent, if different to the name given in question 1 above [†]	<input style="width: 95%; height: 25px;" type="text"/>
4	Telephone number of Tied Agent [†]	<input style="width: 95%; height: 25px;" type="text"/>
5	Fax number of Tied agent [†]	<input style="width: 95%; height: 25px;" type="text"/>
6	E-mail address of Tied Agent [†]	<input style="width: 95%; height: 25px;" type="text"/>
7	Website of Tied Agent [†]	<input style="width: 95%; height: 25px;" type="text"/>
8	Legal Status of Tied Agent [†] <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 45%;"> <input type="checkbox"/> Private Limited Company <input type="checkbox"/> Partnership <input type="checkbox"/> Limited Liability <input type="checkbox"/> Sole Trader </div> <div style="width: 45%;"> <input type="checkbox"/> Public Limited Company <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Unincorporated Association <input type="checkbox"/> Other, please specify below </div> </div>	<input style="width: 95%; height: 25px;" type="text"/>
9	Date of commencement of agreement With your firm [†]	<input style="width: 95%; height: 25px;" type="text"/>

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Passporting

Notification of intention to provide cross border services in another EEA state



MARKETS IN FINANCIAL INSTRUMENTS DIRECTIVE

Full name of firm[†]

(SUP 13 Annex 2R – Notice under SUP 13.5.2R)

Purpose of this form

You should complete this form if you are a *UK firm* that wishes to exercise a passport right to provide *cross border services* in another *EEA State* or a *Recognised Investment Exchange* that wishes to provide access arrangements in another EEA state under the Markets in Financial Instruments Directive ('MiFID').

You may also use this form if you are a *UK firm* that wishes to notify us (the *FSA*) of changes to the details of its current *cross border services*.

Important information you should read before completing this form

A *UK firm* can only use this form if it is entitled to provide *cross border services* into another *EEA State* subject to the conditions of MiFID (see Schedule 3 of the Financial Services and Markets Act 2000 (FSMA)). By completing this form, you are confirming this is the case. *UK firms* should consult the legislation or take legal advice both in the *UK* and in the relevant *EEA State(s)* if they are in any doubt.

We give guidance on this in Chapter 13 of the Supervision manual (*SUP*). In particular, a *UK firm* that wants to exercise an *EEA right* must have the specific activity included in its Scope of Permission.

Filling in the form

1. If you are using your computer to complete the form, use the TAB key to move from question to question and press SHIFT TAB to move back to the previous question. Once completed, print the relevant sections and sign the declaration in section 4.
2. If you are filling in the form by hand, use black ink, write clearly and, once you have completed the relevant sections, sign the declaration in section 4.
3. If there is not enough space on the form, you may need to use separate sheets of paper. Clearly, mark each separate sheet of paper with the relevant question number.

The Financial Services Authority
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E14 5HS
UK

Telephone: +44 (0)20 7066 1000

Fax: +44 (0)20 7066 9798

Website: www.fsa.gov.uk

Registered as a Limited Company in England and Wales No 1920623. Registered Office as above.

1 Contact details

1.1 Details of the person we will contact about this application

FSA reference number †	
Title †	
Contact name †	
Address Line 1 †	
Address Line 2 †	
Postcode †	
Country †	
Telephone number †	
Fax number †	
Email address †	

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

2 Details of the services to be provided

2.1 Please indicate the *EEA State(s)* into which services are to be provided. †

Note to Question 2.1

UK firms have the right to provide *cross border services* to Gibraltar. So, references in this form to an *EEA State* include references to Gibraltar (see the Financial Services and Markets Act (Gibraltar) Order 2001).

Recognised Investment Exchanges completing box 2.1 will be indicating the EEA states in which they intend to provide access arrangements.

States required	
Austria	<input type="checkbox"/>
Belgium	<input type="checkbox"/>
Bulgaria	<input type="checkbox"/>
Cyprus	<input type="checkbox"/>
Czech Republic	<input type="checkbox"/>
Denmark	<input type="checkbox"/>
Estonia	<input type="checkbox"/>
Finland	<input type="checkbox"/>
France	<input type="checkbox"/>
Germany	<input type="checkbox"/>
Gibraltar	<input type="checkbox"/>
Greece	<input type="checkbox"/>
Hungary	<input type="checkbox"/>
Iceland	<input type="checkbox"/>
Ireland	<input type="checkbox"/>
Italy	<input type="checkbox"/>
Latvia	<input type="checkbox"/>
Liechtenstein	<input type="checkbox"/>
Lithuania	<input type="checkbox"/>
Luxembourg	<input type="checkbox"/>
Malta	<input type="checkbox"/>
Netherlands	<input type="checkbox"/>
Norway	<input type="checkbox"/>
Poland	<input type="checkbox"/>
Portugal	<input type="checkbox"/>
Romania	<input type="checkbox"/>
Slovak Republic	<input type="checkbox"/>
Slovenia	<input type="checkbox"/>
Spain	<input type="checkbox"/>
Sweden	<input type="checkbox"/>
All States	<input type="checkbox"/>

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

2.2 If the *firm* intends to provide services into more than one *EEA State*, will these services vary for each State? †

Yes ▶

No ▶

2.3 Tell us the proposed date for the business to start. †

--	--

3 Markets in Financial Instruments Directive ('MiFiD')

3.1 Please tick the appropriate boxes to show the *investment services* to be provided, together with the associated instruments (if the answer to question 2.2 as 'Yes', please complete a separate matrix for each *EEA State*). Recognised Investment Exchanges should complete only box 3.2[†]

		EEA State														
		Investment services and activities								Ancillary services						
		1	2	3	4	5	6	7	8	1	2	3	4	5	6	7
Financial Instruments	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	7	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	8	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	9	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	10	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

UK firms that intend to use a tied agent to provide cross-border services in the territory of the host state are required to complete 'Annex 1' at the end of this form.

A full description of MiFID service activities and instruments can be found on the next page.

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Investment services and activities

- (1) Reception and transmission of orders in relation to one or more financial instruments
- (2) Execution of orders on behalf of clients
- (3) Dealing on own account
- (4) Portfolio management
- (5) Investment advice
- (6) Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis
- (7) Placing of financial instruments without a firm commitment basis
- (8) Operation of Multilateral Trading Facilities

Ancillary services

- (1) Safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management
- (2) Granting credits or loans to an investor to allow him to carry out a transaction in one or more financial instruments, where the firm granting the credit or loan is involved in the transaction
- (3) Advice to undertakings on capital structure, industrial strategy and related matters and advice and services relating to mergers and the purchase of undertakings
- (4) Foreign exchange services where these are connected to the provision of investment services
- (5) Investment research and financial analysis or other forms of general recommendation relating to transactions in financial instruments
- (6) Services related to underwriting
- (7) Investment services and activities as well as ancillary services of the type included under Section A or B of Annex 1 related to the underlying of the derivatives included under Section C – 5, 6, 7 and 10 - where these are connected to the provision of investment or ancillary services

Financial Instruments

- (1) Transferable securities
- (2) Money-market instruments
- (3) Units in collective investment undertakings
- (4) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, or other derivatives instruments, financial indices or financial measures which may be settled physically or in cash
- (5) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event)
- (6) Options, futures, swaps, and any other derivative contract relating to commodities that can be physically settled provided that they are traded on a regulated market and/or an MTF
- (7) Options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned in C.6 and not being for commercial purposes, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are cleared and settled through recognised clearing houses or are subject to regular margin calls
- (8) Derivative instruments for the transfer of credit risk
- (9) Financial contracts for differences
- (10) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event), as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in this Section, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on a regulated market or an MTF, are cleared and settled through recognised clearing houses or are subject to regular margin calls

3.2 Please give details of the *firm's* programme of operations, including a description of the particular EEA activities the firm will carry on.[†]

Note to Question

3.2

UK firms should consider the following points when preparing a programme of operations:

- details about the services to be provided into the other *EEA State(s)*, including a description of the way in which the proposed services will be conducted;
- details of any other business (i.e. non-investment business) which is currently being (or will be) provided into the other *EEA State(s)*;
- a description of the type of *client* or counterpart with whom the services will be conducted; and
- details of the systems of internal controls over the services to be provided into the other *EEA State(s)* that will be used by management in the *UK* to monitor such activities.

UK firms requiring specific information about the content and level of detail of information to be provided are encouraged to contact the Passport Notification Unit (contact details are given on page 16).

Recognised Investment Exchanges should state whether they are providing access arrangements in respects of a regulated market or MTF, or both.

Where a Recognised Investment Exchange intends to make access arrangements for different types of market in different EEA States, it should specify which arrangements it intends to make in each of those states.

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

4 Declaration

Note to Declaration

If you are submitting this notification electronically you do not need to provide a signature here. However, you still need to have the authority to make this notification on behalf of the firm.

It is a criminal offence to knowingly or recklessly give us information that is false or misleading. If necessary, please seek appropriate professional advice before supplying information to us.

There will be a delay in processing the application if any information is inaccurate or incomplete. And failure to notify us immediately of any significant change to the information provided may result in a serious delay in the application process.

- I understand it is a criminal offence knowingly or recklessly to give the FSA information that is false or misleading in a material particular.
- I confirm that the information in this form is accurate and complete to the best of my knowledge and belief.
- I confirm that I am authorised to sign on behalf of the firm/ Recognised Investment Exchange

Name [†]	
Position [†]	
Signature*	
Date [†]	dd/mm/yy

*

I enclose the following sections (mark the appropriate section)

Section 1 – Contact details (mandatory)	<input type="checkbox"/>
Section 2 – Details of the services (mandatory)	<input type="checkbox"/>
Section 3 – Markets in Financial Instruments Directive	<input type="checkbox"/>
Section 4 – Declaration (mandatory)	<input type="checkbox"/>
Annex 1 – Tied Agent Details	<input type="checkbox"/>

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

* These questions should only be completed if the form is being submitted in one of the ways set out in SUP 15.7 other than online submission. It should not be completed if the submission of this form is online

ANNEX 1 – Tied Agent Notification Form

This form should be used to notify the FSA when a *UK firm* intends to use a *tied agent* to provide cross-border services in the territory of another *EEA state*.

Tied Agent Details

1 Name of Tied Agent[†]

2 Address of Tied Agent[†]

3 Trading name(s) of Tied Agent, if different to the name given in question 1 above[†]

4 Telephone number of Tied Agent[†]

5 Fax number of Tied agent[†]

6 E-mail address of Tied Agent[†]

7 Website of Tied Agent[†]

8 Legal Status of Tied Agent[†]

<input type="checkbox"/> Private Limited Company	<input type="checkbox"/> Public Limited Company
<input type="checkbox"/> Partnership	<input type="checkbox"/> Limited Partnership
<input type="checkbox"/> Limited Liability	<input type="checkbox"/> Unincorporated Association
<input type="checkbox"/> Sole Trader	<input type="checkbox"/> Other, please specify below

9 Date of commencement of agreement with your firm[†]

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Warning

Knowingly or recklessly giving the FSA information, which is false or misleading in a material particular, may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). SUP 15.6.4R requires an authorised person to take reasonable steps to ensure the accuracy and completeness of information given to the FSA and to notify the FSA immediately if materially inaccurate information has been provided. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the FSA. It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If you are not sure whether a piece of information is relevant, please include it anyway.

Data Protection

For the purposes of complying with the Data Protection Act, the personal information in this form will be used by the Financial Services Authority to discharge its statutory functions under the Financial Services and Markets Act 2000 and other relevant legislation. It will not be disclosed for any other purposes without the permission of the applicant.

Some questions do not require supporting evidence. However, the records, which demonstrate the applicant firm's compliance with the rules in relation to the questions, must be available to the FSA on request.

Declaration**By submitting this notification**

- I/we confirm that this information is accurate and complete to the best of my knowledge and belief and that I have taken all reasonable steps to ensure that this is the case.
- I am/we are aware that it is a criminal offence knowingly or recklessly to give the FSA information that is false or misleading in a material particular.
- I/we will notify the FSA immediately if there is a significant change to the information given in the form. If I/we fail to do so, this may result in a delay in the application process or enforcement action.

Date[†]

Name of signatory[†]

Position in firm[†]

Individual Registration Number[†]
(if applicable)

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Passporting

Notification of intention to provide cross border services in another EEA state



CONSOLIDATED LIFE ASSURANCE DIRECTIVE and THIRD NON-LIFE INSURANCE DIRECTIVE

Full name of firm [†]

(SUP 13 Annex 3R – Notice under SUP 13.5.2R)

Purpose of this form

You should complete this form if you are a *UK firm* that wishes to exercise a passport right to provide *cross border services* in another *EEA State* under the *Consolidated Life Assurance Directive* and/or the *Third Non-Life Insurance Directive*.

You may also use this form if you are a *UK firm* that wishes to notify us (the *FSA*) of changes to the details of its current *cross border services*.

Important information you should read before completing this form

A *UK firm* can only use this form if it is entitled to provide *cross border services* into another *EEA State* subject to the conditions of the *Consolidated Life Assurance Directive* and/or the *Third Non-Life Insurance Directive* (see Schedule 3 of the Financial Services and Markets Act 2000 (FSMA)). By completing this form, you are confirming this is the case. *UK firms* should consult the legislation or take legal advice both in the *UK* and in the relevant *EEA State(s)* if they are in any doubt.

We give guidance on this in Chapter 13 of the Supervision manual (*SUP*). In particular, a *UK firm* that wants to exercise an *EEA right* must have the specific activity included in its Scope of Permission.

Filling in the form

1. If you are using your computer to complete the form, use the TAB key to move from question to question and press SHIFT TAB to move back to the previous question. Once completed, print the relevant sections and sign the declaration in section 5.
2. If you are filling in the form by hand, use black ink, write clearly and, once you have completed the relevant sections, sign the declaration in section 5.
3. If there is not enough space on the form, you may need to use separate sheets of paper. Clearly, mark each separate sheet of paper with the relevant question number.

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Registered as a Limited Company in England and Wales No 1920623. Registered Office as above.

In this form the FSA uses the following terms:

'FSA', 'we', 'our', or 'us' refers to the Financial Services Authority;

'Applicant firm' refers to the firm applying for authorisation; and

1 Contact details

1.1 Details of the person we will contact about this application

FSA reference number †	
Title †	
Contact name †	
Address Line 1 †	
Address Line 2 †	
Postcode †	
Country †	
Telephone number †	
Fax number †	
Email address †	

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

2 Details of the services to be provided

2.1 Please indicate the *EEA State(s)* into which services are to be provided. †

Note to Question

2.1

UK firms have the right to provide *cross border services* to Gibraltar. So, references in this form to an *EEA State* include references to Gibraltar (see the Financial Services and Markets Act (Gibraltar) Order 2001).

States required	
Austria	<input type="checkbox"/>
Belgium	<input type="checkbox"/>
Bulgaria	<input type="checkbox"/>
Cyprus	<input type="checkbox"/>
Czech Republic	<input type="checkbox"/>
Denmark	<input type="checkbox"/>
Estonia	<input type="checkbox"/>
Finland	<input type="checkbox"/>
France	<input type="checkbox"/>
Germany	<input type="checkbox"/>
Gibraltar	<input type="checkbox"/>
Greece	<input type="checkbox"/>
Hungary	<input type="checkbox"/>
Iceland	<input type="checkbox"/>
Ireland	<input type="checkbox"/>
Italy	<input type="checkbox"/>
Latvia	<input type="checkbox"/>
Liechtenstein	<input type="checkbox"/>
Lithuania	<input type="checkbox"/>
Luxembourg	<input type="checkbox"/>
Malta	<input type="checkbox"/>
Netherlands	<input type="checkbox"/>
Norway	<input type="checkbox"/>
Poland	<input type="checkbox"/>
Portugal	<input type="checkbox"/>
Romania	<input type="checkbox"/>
Slovak Republic	<input type="checkbox"/>
Slovenia	<input type="checkbox"/>
Spain	<input type="checkbox"/>
Sweden	<input type="checkbox"/>
All States	<input type="checkbox"/>

2.2 If the *firm* intends to provide services into more than one *EEA State*, will these services vary for each State? †

- Yes ▶
 No ▶

2.3 Tell us the proposed date for the business to start. †

Date	dd/mm/yy
------	----------

3 Consolidated Life Assurance Directive

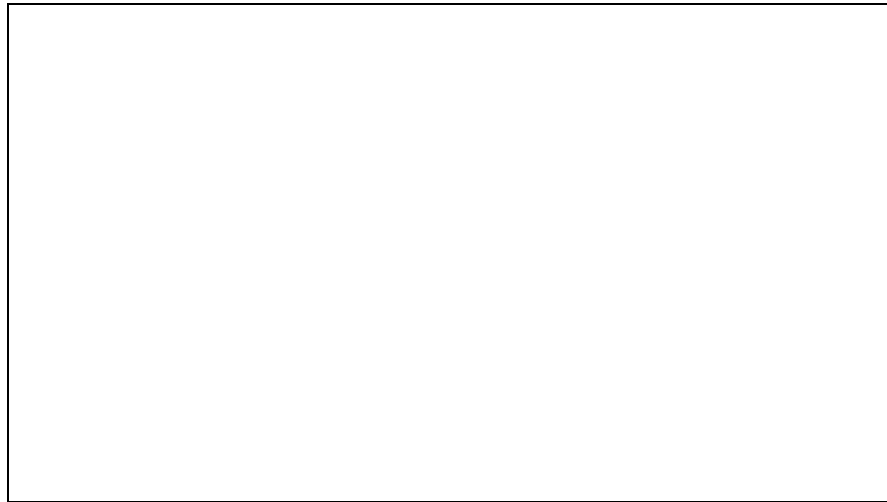
3.1 Please tick the appropriate boxes to show the classes of business to be provided (if the answer to question 2.2 was 'Yes' please complete a separate matrix for each *EEA State*). †

EEA State		
Classes of Business		
I	Life and Annuity	<input type="checkbox"/>
II	Marriage and Birth	<input type="checkbox"/>
III	Linked Long Term	<input type="checkbox"/>
IV	Permanent Health	<input type="checkbox"/>
V	Tontines	<input type="checkbox"/>
VI	Capital redemption	<input type="checkbox"/>
VII	Pension Fund Management	<input type="checkbox"/>
VIII	Collective Insurance	<input type="checkbox"/>
IX	Social Insurance	<input type="checkbox"/>

3.2 Please give details of the nature of the commitments to be covered in the *EEA State(s)* concerned. †

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7



1

4 First, Second and Third Non-Life Insurance Directives

- 4.1 Please tick the appropriate boxes to show the classes of business to be provided (if the answer to question 2.2 was 'Yes', please complete a separate matrix for each *EEA State*).[†]

EEA State

Classes of Business		
1	Accident	<input type="checkbox"/>
2	Sickness	<input type="checkbox"/>
3	Land Vehicles	<input type="checkbox"/>
4	Railway Rolling Stock	<input type="checkbox"/>
5	Aircraft	<input type="checkbox"/>
6	Ships	<input type="checkbox"/>
7	Goods in Transit	<input type="checkbox"/>
8	Fire and Natural Forces	<input type="checkbox"/>
9	Damage to Property	<input type="checkbox"/>
10	Motor Vehicle Liability (refer to note 4.2.1 on next page)	<input checked="" type="checkbox"/>
11	Aircraft Liability	<input type="checkbox"/>
12	Liability for Ships	<input type="checkbox"/>
13	General Liability	<input type="checkbox"/>
14	Credit	<input type="checkbox"/>
15	Suretyship	<input type="checkbox"/>
16	Miscellaneous Financial Loss	<input type="checkbox"/>
17	Legal Expenses (refer to note 4.2.3 on next page)	<input type="checkbox"/>
18	Assistance	<input type="checkbox"/>

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

4.2 You must provide details of the nature of the risks to be covered in the EEA State(s) concerned.[†]

Note to Question

4.2

1) If the *firm* covers, or intends to cover, relevant **motor vehicle risks**, please provide the following additional information in section 4.2 (if required by the *EEA State* concerned as part of the *consent notice*):

- the name and address of the claims representative; and
- details of the *firm's* membership of the national bureau and the national guarantee fund in the *EEA State* concerned.

'Relevant motor risks' has the meaning given to *motor vehicle liability* in Schedule 1 to the *Regulated Activities Order*. 'Claims representative' has the meaning given to it in the *EEA Passport Rights Regulations*.

2) If the *firm* covers (or intends to cover) **health insurance**, please provide the technical bases used, or to be used, for calculating premiums in respect of such risks in section 4.2.

3) If the *firm* covers (or intends to cover) risks relating to **legal expenses insurance**, please state in section 4.2 the option chosen from those described in Article 3(2) of Directive 87/344/EEC of 22 June 1987 on the coordination of laws, regulations and administrative provisions relating to legal expenses insurance.

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

5 Declaration

Note to Declaration

If you are submitting this notification electronically you do not need to provide a signature here. However, you still need to have the authority to make this notification on behalf of the *firm*.

It is a criminal offence to knowingly or recklessly give us information that is false or misleading. If necessary, please seek appropriate professional advice before supplying information to us.

There will be a delay in processing the application if any information is inaccurate or incomplete. And failure to notify us immediately of any significant change to the information provided may result in a serious delay in the application process.

- **I understand it is a criminal offence knowingly or recklessly to give the FSA information that is false or misleading in a material particular.**
- **I confirm that the information in this form is accurate and complete to the best of my knowledge and belief.**
- **I confirm that I am authorised to sign on behalf of the *firm*.**

Name [†]	
Position [†]	
Signature*	
Date [†]	dd/mm/yy

*

I enclose the following sections (mark the appropriate section)

Section 1 – Contact details (mandatory)	<input type="checkbox"/>
Section 2 – Details of the services (mandatory)	<input type="checkbox"/>
Section 3 - Consolidated Life Assurance Directive	<input type="checkbox"/>
Section 4 – First, Second and Third Non-Life Insurance Directives	<input type="checkbox"/>
Section 5 – Declaration (mandatory)	<input type="checkbox"/>

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

* These questions should only be completed if the form is being submitted in one of the ways set out in SUP 15.7 other than online submission. They should not be completed if the submission of this form is online

Passporting

Notification of intention to provide cross border services in another EEA state



BANKING CONSOLIDATION DIRECTIVE

Full name of firm [†]

(SUP 13 Annex 4R – Notice under SUP 13.5.2R)

Purpose of this form

You should complete this form if you are a *UK firm* that wishes to exercise a passport right to provide *cross border services* in another *EEA* under the *Banking Consolidation Directive*.

You may also use this form if you are a *UK firm* that wishes to notify us (the *FSA*) of changes to the details of its current *cross border services*.

Important information you should read before completing this form

A *UK firm* can only use this form if it is entitled to provide *cross border services* into another *EEA State* subject to the conditions of the *Banking Consolidation Directive* (see Schedule 3 of the Financial Services and Markets Act 2000 (FSMA)). By completing this form, you are confirming this is the case. *UK firms* should consult the legislation or take legal advice both in the *UK* and in the relevant *EEA State(s)* if they are in any doubt.

We give guidance on this in Chapter 13 of the Supervision manual (*SUP*). In particular, a *UK firm* that wants to exercise an *EEA right* must have the specific activity included in its Scope of Permission (unless the *UK firm* is a *subsidiary* of a *firm* which is a *credit institution* that meets the criteria set out in the *Banking Consolidation Directive*).

Filling in the form

1. If you are using your computer to complete the form, use the TAB key to move from question to question and press SHIFT TAB to move back to the previous question. Once completed, print the relevant sections and sign the declaration in section 4.
2. If you are filling in the form by hand, use black ink, write clearly and, once you have completed the relevant sections, sign the declaration in section 4.
3. If there is not enough space on the form, you may need to use separate sheets of paper. Clearly, mark each separate sheet of paper with the relevant question number.

1 Contact details

1.1 Details of the person we will contact about this application

FSA reference number †	
Title †	
Contact name †	
Address Line 1 †	
Address Line 2 †	
Postcode †	
Country †	
Telephone number †	
Fax number †	
Email address †	

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

2 Details of the services to be provided

2.1 Please indicate the *EEA State(s)* into which services are to be provided. †

Note to Question 2.1

UK firms have the right to provide *cross border services* to Gibraltar. So, references in this form to an *EEA State* include references to Gibraltar (see the Financial Services and Markets Act (Gibraltar) Order 2001).

Recognised Investment Exchanges completing box 2.1 will be indicating the *EEA states* in which they intend to provide access arrangements.

States required	
Austria	<input type="checkbox"/>
Belgium	<input type="checkbox"/>
Bulgaria	<input type="checkbox"/>
Cyprus	<input type="checkbox"/>
Czech Republic	<input type="checkbox"/>
Denmark	<input type="checkbox"/>
Estonia	<input type="checkbox"/>
Finland	<input type="checkbox"/>
France	<input type="checkbox"/>
Germany	<input type="checkbox"/>
Gibraltar	<input type="checkbox"/>
Greece	<input type="checkbox"/>
Hungary	<input type="checkbox"/>
Iceland	<input type="checkbox"/>
Ireland	<input type="checkbox"/>
Italy	<input type="checkbox"/>
Latvia	<input type="checkbox"/>
Liechtenstein	<input type="checkbox"/>
Lithuania	<input type="checkbox"/>
Luxembourg	<input type="checkbox"/>
Malta	<input type="checkbox"/>
Netherlands	<input type="checkbox"/>
Norway	<input type="checkbox"/>
Poland	<input type="checkbox"/>
Portugal	<input type="checkbox"/>
Romania	<input type="checkbox"/>
Slovak Republic	<input type="checkbox"/>
Slovenia	<input type="checkbox"/>
Spain	<input type="checkbox"/>
Sweden	<input type="checkbox"/>
All States	<input type="checkbox"/>

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

2.2 If the *firm* intends to provide services into more than one *EEA State*, will these services vary for each State? †

Yes ▶

No ▶

2.3 Tell us the proposed date for the business to start. †

Date	dd/mm/yy
------	----------

3 Banking Consolidation Directive

3.1 You must tick the appropriate boxes to show the activities to be provided (if the answer to question 2.2 was 'Yes', please complete a separate matrix for each EEA State).[†]

Note to Question 3.1

The Box marked ¥ should only be completed by UK credit institutions wishing to passport investment services and activities and ancillary services provided for by the extended scope of MiFID.

EEA State		
Activity		
1	Acceptance of deposits and other repayable funds	<input type="checkbox"/>
2	Lending, including, inter alia, consumer credit, mortgage credit, factoring, with or without recourse, and financing of commercial transactions (including forfeiting)	<input type="checkbox"/>
3	Financial leasing	<input type="checkbox"/>
4	Payment services as defined in Article 4(3) of Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market	<input type="checkbox"/>
5	Issuing and administering other means of payment (e.g. travellers' cheques and bankers' drafts) insofar as this activity is not covered by point 4	<input type="checkbox"/>
6	Guarantees and commitments	<input type="checkbox"/>
7	Trading for own account or for account of customers in:	<input type="checkbox"/>
	(a) money market instruments (cheques, bills, certificates of deposits etc)	<input type="checkbox"/>
	(b) foreign exchange	<input type="checkbox"/>
	(c) financial futures and options	<input type="checkbox"/>
	(d) exchange and interest-rate instruments	<input type="checkbox"/>
	(e) transferable securities	<input type="checkbox"/>
8	Participation in securities issues and the provision of services related to such issues	<input type="checkbox"/>
9	Advice to undertakings on capital structure, industrial strategy, and related questions and advice and services relating to mergers and the purchase of undertakings	<input type="checkbox"/>
10	Money broking	<input type="checkbox"/>
11	Portfolio management and advice	<input type="checkbox"/>
12	Safekeeping and administration of securities	<input type="checkbox"/>
13	Credit reference services	<input type="checkbox"/>
14	Safe custody services	<input type="checkbox"/>
¥	Additional MiFID services and activities subject to mutual recognition under the BCD*	<input type="checkbox"/>

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

¥ See separate matrix on next page

		EEA State														
		Investment services and activities								Ancillary services						
		1	2	3	4	5	6	7	8	1	2	3	4	5	6	7
Financial Instruments	1	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	5	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	6	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	7	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	8	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	9	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	10	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please refer to page 6 for a full description of MiFID Services and activities.

UK Firms that intend to use a Tied Agent established in the territory of another EEA state are required to complete Annex 1 at the end of this form and tick the appropriate boxes below to show the investment services to be provided by the tied Agent.¥

¥Please refer to MiFID Article 23(1) for details of the activities that may be provided by a tied agent

Investment services and activities

- (1) Reception and transmission of orders in relation to one or more financial instruments
- (2) Execution of orders on behalf of clients
- (3) Dealing on own account
- (4) Portfolio management
- (5) Investment advice
- (6) Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis
- (7) Placing of financial instruments without a firm commitment basis
- (8) Operation of Multilateral Trading Facilities

Ancillary services

- (1) Safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management
- (2) Granting credits or loans to an investor to allow him to carry out a transaction in one or more financial instruments, where the firm granting the credit or loan is involved in the transaction
- (3) Advice on undertakings on capital structure, industrial strategy and related matters and advice and services relating to mergers and the purchase of undertakings
- (4) Foreign exchange services where these are connected to the provision of investment services
- (5) Investment research and financial analysis or other forms of general recommendation relating to transactions in financial instruments
- (6) Services related to underwriting
- (7) Investment services and activities as well as ancillary services of the type included under Section A or B of Annex 1 related to the underlying of the derivatives included under Section C – 5, 6, 7 and 10 - where these are connected to the provision of investment or ancillary services

Financial Instruments

- (1) Transferable securities
- (2) Money-market instruments
- (3) Units in collective investment undertakings
- (4) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, or other derivatives instruments, financial indices or financial measures which may be settled physically or in cash
- (5) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event)
- (6) Options, futures, swaps, and any other derivative contract relating to commodities that can be physically settled provided that they are traded on a regulated market and/or an MTF
- (7) Options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned in C.6 and not being for commercial purposes, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are cleared and settled through recognised clearing houses or are subject to regular margin calls
- (8) Derivative instruments for the transfer of credit risk
- (9) Financial contracts for differences
- (10) Options, futures, swaps, forward rate agreements and any other derivative contracts relating to climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event), as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in this Section, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on a regulated market or an MTF, are cleared and settled through recognised clearing houses or are subject to regular margin calls

4 Declaration

Note to Declaration

If you are submitting this notification electronically you do not need to provide a signature here. However, you still need to have the authority to make this notification on behalf of the firm.

It is a criminal offence to knowingly or recklessly give us information that is false or misleading. If necessary, please seek appropriate professional advice before supplying information to us.

There will be a delay in processing the application if any information is inaccurate or incomplete. And failure to notify us immediately of any significant change to the information provided may result in a serious delay in the application process.

- **I understand it is a criminal offence knowingly or recklessly to give the FSA information that is false or misleading in a material particular.**
- **I confirm that the information in this form is accurate and complete to the best of my knowledge and belief.**
- **I confirm that I am authorised to sign on behalf of the firm.**

Name †	
Position †	
Signature *	
Date *	dd/mm/yy

*

I enclose the following sections (mark the appropriate section)

Section 1 – Contact details (mandatory)	<input type="checkbox"/>
Section 2 – Details of the services (mandatory)	<input type="checkbox"/>
Section 3 – Banking Consolidation Directive	<input type="checkbox"/>
Section 4 – Declaration (mandatory)	<input type="checkbox"/>
Annex 1 – Tied Agent Details	<input type="checkbox"/>

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

* These questions should only be completed if the form is being submitted in one of the ways set out in SUP 15.7 other than online submission. It should not be completed if the submission of this form is online

ANNEX 1 – Tied Agent Notification Form †

This form should be used to notify FSA when a *UK firm* intends to use a *tied agent* to provide cross-border services in the territory of another *EEA state*.

Tied Agent Details

1	Name of Tied Agent [†]	<input style="width: 95%; height: 25px;" type="text"/>
2	Address of Tied Agent [†]	<input style="width: 95%; height: 100px;" type="text"/>
3	Trading name(s) of Tied Agent, if different to the name given in question 1 above [†]	<input style="width: 95%; height: 25px;" type="text"/>
4	Telephone number of Tied Agent [†]	<input style="width: 95%; height: 25px;" type="text"/>
5	Fax number of Tied agent [†]	<input style="width: 95%; height: 25px;" type="text"/>
6	E-mail address of Tied Agent [†]	<input style="width: 95%; height: 25px;" type="text"/>
7	Website of Tied Agent [†]	<input style="width: 95%; height: 25px;" type="text"/>
8	Legal Status of Tied Agent [†] <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 45%;"> <input type="checkbox"/> Private Limited Company <input type="checkbox"/> Partnership <input type="checkbox"/> Limited Liability <input type="checkbox"/> Sole Trader </div> <div style="width: 45%;"> <input type="checkbox"/> Public Limited Company <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Unincorporated Association <input type="checkbox"/> Other, please specify below </div> </div>	<input style="width: 95%; height: 25px;" type="text"/>
9	Date of commencement of agreement with your firm [†]	<input style="width: 95%; height: 25px;" type="text"/>

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Passporting

Notification of intention to provide cross border services in another EEA state



INSURANCE MEDIATION DIRECTIVE

(SUP 13 Annex 5R – Notification under SUP 13.5.2R)

Full name of firm[†]

Purpose of this form

You should complete this form if you are a *UK firm* that wishes to exercise a passport right to provide *cross border services* in another *EEA State* under the *Insurance Mediation Directive*.

If you are an Appointed Representative ('AR') then this form must be completed by the sponsoring firm on your behalf.

Important information you should read before completing this form

A *UK firm* can only use this form if it is entitled to provide *cross border services* into another *EEA State* subject to the conditions of the *Insurance Mediation Directive* (see Schedule 3 of the Financial Services and Markets Act 2000 (FSMA)). By completing this form, you are confirming this is the case. *UK firms* should consult the legislation or take legal advice both in the *UK* and in the relevant *EEA State(s)* if they are in any doubt.

We give guidance on this in Chapter 13 of the Supervision manual (*SUP*). In particular, a *UK firm* that wants to exercise an *EEA right* must have the specific activity included in its Scope of Permission.

Filling in the form

1. If you are using your computer to complete the form, use the TAB key to move from question to question and press SHIFT TAB to move back to the previous question. Once completed, print the relevant sections and sign the declaration in section 4.
2. If you are filling in the form by hand, use black ink, write clearly and, once you have completed the relevant sections, sign the declaration in section 4.
3. All firms should answer sections 1, 2 and 3.
4. If there is not enough space on the form, you may need to use separate sheets of paper. Clearly, mark each separate sheet of paper with the relevant question number.

The Financial Services Authority
25 The North Colonnade
Canary Wharf
London
E14 5HS
UK

Telephone: +44 (0)20 7066 1000

Fax: +44 (0)20 7066 9798

Website: www.fsa.gov.uk

Registered as a Limited Company in England and Wales No 1920623. Registered Office as above.

1 Contact details

1.1 Details of the person we will contact about this application

FSA reference number †	
Title †	
Contact name †	
Address Line 1 †	
Address Line 2 †	
Postcode †	
Country †	
Telephone number †	
Fax number †	
Email address †	

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

2 Details of the services to be provided

2.1 Please indicate the *EEA State(s)* into which services are to be provided. †

Note to Question 2.1

UK firms have the right to provide cross border services to Gibraltar. So, references in this form to an *EEA State* include references to Gibraltar (see the Financial Services and Markets Act (Gibraltar) Order 2001).

States required	
Austria	<input type="checkbox"/>
Belgium	<input type="checkbox"/>
Bulgaria	<input type="checkbox"/>
Cyprus	<input type="checkbox"/>
Czech Republic	<input type="checkbox"/>
Denmark	<input type="checkbox"/>
Estonia	<input type="checkbox"/>
Finland	<input type="checkbox"/>
France	<input type="checkbox"/>
Germany	<input type="checkbox"/>
Gibraltar	<input type="checkbox"/>
Greece	<input type="checkbox"/>
Hungary	<input type="checkbox"/>
Iceland	<input type="checkbox"/>
Italy	<input type="checkbox"/>
Ireland	<input type="checkbox"/>
Latvia	<input type="checkbox"/>
Liechtenstein	<input type="checkbox"/>
Lithuania	<input type="checkbox"/>
Luxembourg	<input type="checkbox"/>
Malta	<input type="checkbox"/>
Netherlands	<input type="checkbox"/>
Norway	<input type="checkbox"/>
Poland	<input type="checkbox"/>
Portugal	<input type="checkbox"/>
Romania	<input type="checkbox"/>
Slovak Republic	<input type="checkbox"/>
Slovenia	<input type="checkbox"/>
Spain	<input type="checkbox"/>
Sweden	<input type="checkbox"/>
All States	<input type="checkbox"/>

2.2 Tell us the proposed date for the business to start*. †

Date	dd/mm/yy
------	----------

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

* There may be restrictions on the date which business can start which arise from EU law. We will notify you if this applies.

3 Insurance Mediation Directive (IMD)

- 3.1 You must confirm that the *UK firm* wishes to passport under the IMD by ticking the box below. †

The <i>firm</i> intends to carry on <i>insurance mediation</i> in the <i>EEA State(s)</i> identified in section 2 by providing <i>cross border services</i> .	<input type="checkbox"/>
---	--------------------------

- 3.2 If this form is respect of one or more Appointed Representative(s) of the firm then please list below the name(s) and FSA reference number(s) of those Appointed Representatives

FRN†	
Name of Company†	
Address Line 1†	
Address Line 2†	
Address Line 3†	
Address Line 4†	
County†	
Town†	
Postcode/Zip†	
EEA State†	
Phone Number (including STD code)†	
E-mail address†	
Mobile number†	
Fax number†	

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

4 Declaration

Note to Declaration

If you are submitting this notification electronically you do not need to provide a signature here. However, you still need to have the authority to make this notification on behalf of the *firm*.

It is a criminal offence to knowingly or recklessly give us information that is false or misleading. If necessary, please seek appropriate professional advice before supplying information to us.

There will be a delay in processing the application if any information is inaccurate or incomplete. And failure to notify us immediately of any significant change to the information provided may result in a serious delay in the application process.

- **I understand it is a criminal offence knowingly or recklessly to give the FSA information that is false or misleading in a material particular.**
- **I confirm that the information in this form is accurate and complete to the best of my knowledge and belief.**
- **I confirm that I am authorised to sign on behalf of the *firm*.**

Name [†]	
Position [†]	
Signature*	
Date*	dd/mm/yy

*

I enclose the following sections (mark the appropriate section)

Section 1 – Contact details (mandatory)	<input type="checkbox"/>
Section 2 – Details of the services (mandatory)	<input type="checkbox"/>
Section 3 – Insurance Mediation Directive	<input type="checkbox"/>
Section 4 – Declaration (mandatory)	<input type="checkbox"/>

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

* These questions should only be completed if the form is being submitted in one of the ways set out in SUP 15.7 other than online submission. It should not be completed if the submission of this form is online

Application number
(for FSA use only)

The FSA has produced notes which will assist both the applicant and the notified person in answering the questions in this form. Please read these notes, which are available on the FSA's website at http://fsahandbook.info/FSA/docs/notes/imap_formc_notes.doc. Both the applicant and the notified person will be treated by the FSA as having taken these notes into consideration when completing their answers to the questions in this form.

Form F - Changes in notified persons

FSA Handbook Reference: SUP 15 Annex 2R – Notification under SUP 15.4.1R

Name of notified person[†]
(to be completed by applicant)

Name of firm[†]

The Financial Services Authority
Permissions, Decisions & Reporting Division
25 The North Colonnade
Canary Wharf
London E14 5HS
United Kingdom
Telephone +44 (0) 845 606 9966
Fax +44 (0) 207 066 0017
Website <http://www.fsa.gov.uk>

Registered as a Limited Company in England and Wales No 1920623. Registered Office as above

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Contact Details

Contact for this application

	Title [†]	
	First Name [†]	
	Surname [†]	
	Job Title [†]	
	Business address [†]	
	Post code [†]	
	Phone number (including STD code) [†]	
	Email address [†]	
	Mobile No [†]	
	Fax No. [†]	



[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Has the notified person previously been approved by FSA?†

Details of notified person

Is the notified person an approved person?

YES NO

1.01 a If 'yes' Notified person's FSA Individual Reference Number (IRN)†

b OR name of previous regulatory body†

c AND previous reference number†

1.02 Title
(e.g. Mr, Mrs, Ms, etc)†

1.03 Surname†

1.04 ALL forenames†

1.05 Name commonly known by†

1.06 Date of birth†

/ /

1.07 National Insurance number†

1.08 Previous name†

1.09 Date of change†

/ /

1.10 Reason for change†

1.11 a Nationality†

b Passport Number†
(If National Insurance number not available)

1.12 Place of birth†



I have supplied further information related to this in Section 6†

YES NO

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

1.13 a Private address[†]

b Postcode[†]

c Dates resident at this address
(mm/yyyy)[†]

From / /

To PRESENT

(If address has changed in the last three years, please provide addresses for the previous three years.)[†]

1.14 a Previous address 1[†]

b Postcode[†]

c Dates resident at this address
(mm/yyyy)[†]

From / /

To / /

1.15 a Previous address 2[†]

b Postcode[†]

c Dates resident at this address
(mm/yyyy)[†]

From / /

To / /



I have supplied further information
related to this in Section 6[†]

YES

NO



[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

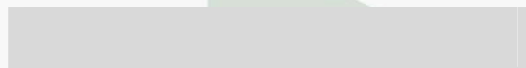
There are current holder(s) of this notifiable role. Please tick the individuals you wish to withdraw from this role. †

IRN	Name	Remove

2.01 Name of *firm* making the application†



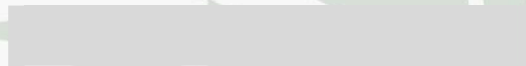
2.02 a FSA Firm Reference Number (FRN)†



2.03 a Name of Home State regulator†



b Country†



I have supplied further information related to this in Section 6†

YES

NO



† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

3.01 Notified positions individual is taking over. †

a Firm's world-wide chief executive where *the person* is situated outside the *United Kingdom*

b The *person*, if not the world-wide chief executive, within the *overseas* firm with a purely strategic responsibility for *UK* operations

c For a *bank* or an *ELMI*: the two or more *persons* who effectively direct its business in accordance with *ELM* 5.3.1R

d For a *UK* branch of an *insurer*: the *authorised UK* representative

3.02 Effective date†

/ /

3.03 FSA Individual Reference Number of individual being replaced†

3.04 Name of individual being replaced†



I have supplied further information related to this in Section 6†

YES

NO

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Please start with the most recent employment. †

Note: ALL gaps in employment must be accounted for

4.01 Employment details (1)

a	Period (mm/yyyy) †	From /	To /												
b	Nature of employment †	<table border="0"> <tr> <td style="padding-right: 20px;"><i>a</i> Employed</td> <td><input type="checkbox"/></td> </tr> <tr> <td><i>b</i> Self-employed</td> <td><input type="checkbox"/></td> </tr> <tr> <td><i>c</i> Unemployed</td> <td><input type="checkbox"/></td> </tr> <tr> <td><i>d</i> Full-time education</td> <td><input type="checkbox"/></td> </tr> </table>		<i>a</i> Employed	<input type="checkbox"/>	<i>b</i> Self-employed	<input type="checkbox"/>	<i>c</i> Unemployed	<input type="checkbox"/>	<i>d</i> Full-time education	<input type="checkbox"/>				
<i>a</i> Employed	<input type="checkbox"/>														
<i>b</i> Self-employed	<input type="checkbox"/>														
<i>c</i> Unemployed	<input type="checkbox"/>														
<i>d</i> Full-time education	<input type="checkbox"/>														
	if b, c or d is ticked, please give details †														
c	Name of employer †														
d	Nature of business †														
e	Previous / other names of employer †														
f	Last known address of employer †														
g	Is / was employer regulated by a regulatory body? †	Yes <input type="checkbox"/> No <input type="checkbox"/>	Name of regulatory body												
h	Is / was employer an <i>appointed representative/tied agent</i> †	Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, of which <i>firm</i> ?												
i	Position held †														
j	Responsibilities †														
k	Reason for leaving †	<table border="0"> <tr> <td style="padding-right: 20px;"><i>a</i> Resignation</td> <td><input type="checkbox"/></td> </tr> <tr> <td><i>b</i> Redundancy</td> <td><input type="checkbox"/></td> </tr> <tr> <td><i>c</i> Retirement</td> <td><input type="checkbox"/></td> </tr> <tr> <td><i>d</i> Termination/dismissal</td> <td><input type="checkbox"/></td> </tr> <tr> <td><i>e</i> End of contract</td> <td><input type="checkbox"/></td> </tr> <tr> <td><i>f</i> Other</td> <td><input type="checkbox"/></td> </tr> </table>		<i>a</i> Resignation	<input type="checkbox"/>	<i>b</i> Redundancy	<input type="checkbox"/>	<i>c</i> Retirement	<input type="checkbox"/>	<i>d</i> Termination/dismissal	<input type="checkbox"/>	<i>e</i> End of contract	<input type="checkbox"/>	<i>f</i> Other	<input type="checkbox"/>
<i>a</i> Resignation	<input type="checkbox"/>														
<i>b</i> Redundancy	<input type="checkbox"/>														
<i>c</i> Retirement	<input type="checkbox"/>														
<i>d</i> Termination/dismissal	<input type="checkbox"/>														
<i>e</i> End of contract	<input type="checkbox"/>														
<i>f</i> Other	<input type="checkbox"/>														
	Specify †														

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7



I have supplied further information related to this in Section 6[†]

YES

NO

4.02 a Period (mm/yyyy)[†]

From / To /

b Nature of employment[†]

- a Employed
- b Self-employed
- c Unemployed
- d Full-time education

if b, c or d is ticked, please give details[†]

c Name of employer[†]

d Nature of business[†]

e Previous / other names of employer[†]

f Last known address of employer[†]

g Is / was employer regulated by a regulatory body?[†]

Yes No

Name of regulatory body

h Is / was employer an *appointed representative/tied agent*[†]

Yes No

If yes, of which firm?

i Position held[†]

j Responsibilities[†]

k Reason for leaving[†]

- a Resignation
- b Redundancy
- c Retirement
- d Termination/dismissal
- e End of contract
- f Other

Specify[†]

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7



I have supplied further information
related to this in Section 6[†]

YES

NO



4.03 Employment details (3)

a	Period (mm/yyyy) [†]	From /	To /												
b	Nature of employment [†]	<table border="0"> <tr> <td style="padding-right: 20px;"><i>a</i> Employed</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td><i>b</i> Self-employed</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td><i>c</i> Unemployed</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td><i>d</i> Full-time education</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> </table>		<i>a</i> Employed	<input type="checkbox"/>	<i>b</i> Self-employed	<input type="checkbox"/>	<i>c</i> Unemployed	<input type="checkbox"/>	<i>d</i> Full-time education	<input type="checkbox"/>				
<i>a</i> Employed	<input type="checkbox"/>														
<i>b</i> Self-employed	<input type="checkbox"/>														
<i>c</i> Unemployed	<input type="checkbox"/>														
<i>d</i> Full-time education	<input type="checkbox"/>														
	if b, c or d is ticked, please give details [†]														
c	Name of employer [†]														
d	Nature of business [†]														
e	Previous / other names of employer [†]														
f	Last known address of employer [†]														
g	Is / was employer regulated by a regulatory body? [†]	Yes <input type="checkbox"/> No <input type="checkbox"/>	Name of regulatory body												
h	Is / was employer an <i>appointed representative/tied agent</i> [†]	Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes, of which <i>firm</i> ?												
i	Position held [†]														
j	Responsibilities [†]														
k	Reason for leaving [†]	<table border="0"> <tr> <td style="padding-right: 20px;"><i>a</i> Resignation</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td><i>b</i> Redundancy</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td><i>c</i> Retirement</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td><i>d</i> Termination/dismissal</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td><i>e</i> End of contract</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> <tr> <td><i>f</i> Other</td> <td style="text-align: right;"><input type="checkbox"/></td> </tr> </table>		<i>a</i> Resignation	<input type="checkbox"/>	<i>b</i> Redundancy	<input type="checkbox"/>	<i>c</i> Retirement	<input type="checkbox"/>	<i>d</i> Termination/dismissal	<input type="checkbox"/>	<i>e</i> End of contract	<input type="checkbox"/>	<i>f</i> Other	<input type="checkbox"/>
<i>a</i> Resignation	<input type="checkbox"/>														
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<i>c</i> Retirement	<input type="checkbox"/>														
<i>d</i> Termination/dismissal	<input type="checkbox"/>														
<i>e</i> End of contract	<input type="checkbox"/>														
<i>f</i> Other	<input type="checkbox"/>														

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Specify[†]

4.04 Employment details (4)

a Period (mm/yyyy)[†]

From / To /

b Nature of employment[†]

- a Employed
- b Self-employed
- c Unemployed
- d Full-time education

if b, c or d is ticked, please give details[†]

c Name of employer[†]

d Nature of business[†]

e Previous / other names of employer[†]

f Last known address of employer[†]

g Is / was employer regulated by a regulatory body?[†] Yes No Name of regulatory body

h Is / was employer an *appointed representative/tied agent*?[†] Yes No If yes, of which *firm*?

i Position held[†]

j Responsibilities[†]

k Reason for leaving[†]

- a Resignation
- b Redundancy
- c Retirement
- d Termination/dismissal
- e End of contract
- f Other

Specify[†]



I have supplied further information related to this in Section 6[†]

YES

NO

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

4.05 Employment details (5)

a	Period (mm/yyyy) [†]	From /	To /
b	Nature of employment [†]	a Employed	<input type="checkbox"/>
		b Self-employed	<input type="checkbox"/>
		c Unemployed	<input type="checkbox"/>
		d Full-time education	<input type="checkbox"/>

if b, c or d is ticked, please give details[†]

c	Name of employer [†]	
d	Nature of business [†]	
e	Previous / other names of employer [†]	
f	Last known address of employer [†]	
g	Is / was employer regulated by a regulatory body? [†]	
h	Is / was employer an <i>appointed representative/tied agent</i> [†]	
i	Position held [†]	
j	Responsibilities [†]	
k	Reason for leaving [†]	
	Specify [†]	



I have supplied further information related to this in Section 6[†]

YES

NO



[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

- 5.01 a Has the notified person **ever** been convicted of any offence (whether spent or not and whether or not in the *United Kingdom*):
- i. involving fraud, theft, false accounting, offences against the administration of public justice (such as perjury, perverting the course of justice and intimidation of witnesses or jurors), serious tax offences or other dishonesty: or ii. relating to *companies, building societies, industrial and provident societies, credit unions, friendly societies*, insurance, banking or other financial services, insolvency, consumer credit or consumer protection, *money laundering*, market manipulations or *insider dealing*?
- Yes No
- b Is the notified person the subject of any current criminal proceedings?
- Yes No
- c Has the notified person ever been given a caution in relation to any criminal offence?
- Yes No
- 5.02 Has the notified person any convictions for any offences (whether spent or not and whether or not in the *United Kingdom*) other than those in 5.01 above (excluding traffic offences that did not result in a ban from driving or did not involve driving without insurance)?
- Yes No
- 5.03 a Has the notified person **ever** had a County Court Judgment (“CCJ”) or other judgement debt, (whether or not in the *United Kingdom*)?
- Yes No
- Has the notified person had:
- i. more than 2 CCJs or judgment debts?
- or
- ii. more than £1,000 in total of CCJs or judgment debts?
- Yes No
- b Is the notified person aware of anybody's intention to: begin
- i. begin more than one set of proceedings against the notified person for a CCJ or other judgment debt? Or
- Yes No
- Yes No
- ii claim more than £1,000 of CCJs or judgment debts in total from the notified person?
- Yes No
- 5.04 Does the notified person have any judgment debts (including CCJs) made under a court order still outstanding, whether in full or in part?
- Yes No
- 5.05 Has the notified person **ever** failed to satisfy any such judgment debts within one year of the making of the order?
- Yes No
- 5.06 a Is the notified person, or has the notified person **ever** been, the subject of any bankruptcy proceedings or proceedings for the sequestration of the notified person's estate?
- Yes No
- b Has the notified person **ever** entered or is in the process of entering into an agreement in favour of the notified person's creditors, for example a deed of arrangement or an individual voluntary arrangement (or in Scotland a trust deed)?
- Yes No

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7



I have supplied further information related to this in Section 6[†]

YES NO

5.07

Does the notified person have any outstanding financial obligations arising from *regulated activities*, which the notified person has carried on in the past (whether or not in the *United Kingdom*)?

Yes No

(In the case of *advisers*, this will include any outstanding liabilities arising from commissions paid for the sale of *packaged products* that have lapsed.)

5.08

Has the notified person **ever** been found guilty of carrying on any unauthorised *regulated activities* or been investigated for the possible carrying on of unauthorised *regulated activities*?

Yes No

5.09

Is the notified person, or has the notified person **ever** been, the subject of an investigation into allegations of misconduct or malpractice in connection with any business activities?

Yes No

5.10

Has the notified person ever (whether or not in the *United Kingdom*) –

a been refused entry to, or been dismissed or requested to resign from, any profession, vocation, office or employment, or any fiduciary office or position of trust, whether or not remunerated?

Yes No

b been refused, restricted in, or had suspended, the right to carry on any trade, business or profession for which specific licence, authorisation, registration, membership or other permission is required?

Yes No

c been disqualified by a court from acting as a *director* of a *company* or from acting in a management capacity or conducting the affairs of any *company, partnership* or *unincorporated association*?

Yes No

d been the subject of a disqualification direction under section 59 of the Financial Services Act 1986 or a prohibition order, under section 56 of the Financial Services and Markets Act 2000, or received a warning notice that such a direction or order be made?

Yes No

5.11

In relation to activities regulated by the *FSA* or any other regulatory body (see note section 5), has:

i. the notified person, or

ii. any company, partnership or unincorporated association of which the notified person is or has been a controller, director, senior manager, partner or company secretary, during the notified person's association with that entity and for a period of three years after the notified person ceased to be associated with it, **ever** –

a been refused, had revoked, restricted or terminated, any licence, authorisation, registration, notification, membership or other permission granted **by any such body**?

Yes No

b been criticised, censured, disciplined, suspended, expelled, fined, or been the subject of any other disciplinary or intervention action **by any such body**?

Yes No

c resigned whilst under investigation by, or been required to resign from, **any such body**?


Yes No

- d decided, after making an application for any licence, authorisation, registration, notification, membership or other permission granted by **any such body**, not to proceed with it?

Yes No



e been the subject of any civil action which has resulted in a finding against the notified person or it by a court? Yes No

 I have supplied further information related to this in Section 6[†] YES NO

5.12 **Has any company, partnership or unincorporated association of which the notified person is or has been a controller, director, senior manager, partner, or company secretary, in the United Kingdom or elsewhere, at any time during the notified person's involvement or within one year of such an involvement -**


a been put into liquidation, wound up, ceased trading, had a receiver or administrator appointed or entered into any voluntary arrangement with its creditors? Yes No

b been adjudged by a court liable for any fraud, misfeasance, wrongful trading or other misconduct? Yes No

c been investigated or been involved in an investigation by an inspector appointed under companies or any other legislation, or required to produce documents to the Secretary of State, or any other authority, under any such legislation? Yes No

d been convicted of any criminal offence, censured, disciplined or publicly criticised, by any inquiry, by the *Takeover Panel* or any governmental or statutory authority or any other regulatory body (other than as already indicated under 5.11(b) above)? Yes No

5.13 Is the notified person aware of any business interests, employment obligations, or any other situations which may conflict with the performance of the *controlled functions* for which approval is now sought? Yes No

 I have supplied further information related to this in Section 6[†] YES NO

Enter Date of change:[†]

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Supplementary Information † **Section 6**

6.01 Is there any other information the notified person of the firm considers to be relevant to the application?
†

Please provide full details†

6.02 Full details must be provided here if there were any issues that arose when leaving an employer listed in section 4 or if any question has been answered 'yes' in section 5. †

Please indicate clearly which question additional information relates to. †

Question	Information

6.03 Include a list of all directorships currently or previously held by the notified person in the past 10 years (where *director* has the meaning given in the *Glossary*). †

6.04 Is there any other information the notified person or the *firm* considers to be relevant to the application? †

Yes No

If yes, provide details below or on a separate sheet of paper†

† These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Supporting Documents[†]

Indicate the required supporting documents to accompany this form.

Documents	Mode (Send by Email, Post, or by Fax)

Other information (please specify):

--



[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

DECLARATION OF NOTIFIED PERSON[†]

Knowingly or recklessly giving the *FSA* information which is false or misleading in a material particular may be a criminal offence (section 398 of the Financial Services and Markets Act 2000).

It should not be assumed that information is known to the *FSA* merely because it is in the public domain or has previously been disclosed to the *FSA* or another *regulatory body*. If there is any doubt about the relevance of information, it should be included.

Data Protection[†]

For the purposes of complying with the Data Protection Act, the personal information in this Form will be used by the *FSA* to discharge its statutory functions under the Financial Services and Markets Act 2000 and other relevant legislation. It will not be disclosed for any other purposes without the permission of the applicant.

I can confirm that the information in this Form is accurate and complete to the best of my knowledge and belief and that I have read the Notes to this Form.

The *FSA* may seek to verify the information given in this Form including answers pertaining to fitness and propriety. **I authorise the *FSA* to make such enquiries and seek further information as it thinks appropriate in the course of verifying the information given in this Form. I also understand that the results of these checks may be disclosed to my employer.**

7.01 Notified person's full name[†]

7.02 Signature^{*}

Date[†] / /

Tick here to confirm you have read and understood this declaration:[∞]

DECLARATION OF FIRM[†]

Knowingly or recklessly giving the *FSA* information which is false or misleading in a material particular may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). *SUP* 15.6.1R and *SUP* 15.6.4R require an *authorised person* to take reasonable steps to ensure the accuracy and completeness of information given to the *FSA* and to notify the *FSA* immediately if materially inaccurate information has been provided. *APER* 4.4.6E provides that, where an *approved person* is responsible for reporting matters to the *FSA*, failure to inform the *FSA* of materially significant information of which he is aware is a breach of *Statement of Principle* 4. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the *FSA*. It should not be assumed that information is known to the *FSA* merely because it is in the public domain or has previously been disclosed to the *FSA* or another regulatory body. If there is any doubt about the relevance of information, it should be included.

In making this application the *firm* believes on the basis of due and diligent enquiry that the notified person is a fit and proper person to perform the notified position(s) listed in section 3. The *firm* also believes, on the basis of due and diligent enquiry, that the notified person is competent to fulfil the duties required of such function(s).

I confirm that the information in this Form is accurate and complete to the best of my knowledge and belief and that I have read the Notes to this Form.

I confirm that I have authority to make this notification, and sign this Form, on behalf of each *firm* identified in section 7. I also confirm that a copy of this Form, as submitted to the *FSA*, will be sent to each of those *firms* at the same time as submitting the Form to the

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in *SUP* 15.7

^{*} These questions should only be completed if the form is being submitted in one of the ways set out in *SUP* 15.7 other than online submission. It should not be completed if the submission of this form is online

[∞] These questions should only be completed if submission of this form is online. It should not be completed if the form is being submitted in one of the other ways set out in *SUP* 15.7.

FSA.

7.03 Name of the *firm* submitting the application[†]

7.04 Name of *person* signing on behalf of the *firm*[†]

7.05 Job title[†]

7.06 Signature *

Date[†] / /

Tick here to confirm you have read and understood this declaration: [∞]

Completion Checklist[†]

Is the Form fully completed?[†]

Are ALL forenames included?[†]

Is there a complete five-year employment history with all gaps explained?[†]

Is the Form correctly signed and dated by both the *firm* making the application and the notified person?[†]

Has all supplementary information been included and clearly marked?[†]

N.B. Detach and keep the Notes before returning the completed Form to the FSA.[†]

* These questions should only be completed if the form is being submitted in one of the ways set out in SUP 15.7 other than online submission. It should not be completed if the submission of this form is online

[†] These questions should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7



Standing Data

To update *firm* name and trading names, website address, *accounting reference date*, auditors, locum, contacts and addresses.

(SUP 15 Annex 3R – Notifications under SUP 16.10)

Firm name[†]

("The Firm")

FSA firm reference number[†]

Address[†]

(Please return the form, marked for the attention of the Firm Contact Centre, to:)

The Financial Services Authority

25 The North Colonnade

Canary Wharf

London E14 5HS

United Kingdom

Telephone +44 (0) 20 7066 1000

Facsimile +44 (0) 20 7066 1099

Registered as a Limited Company in England and Wales No 1920623. Registered Office as above.

[†] These question(s) should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

NOTES

This form should be used to update your *firm* name and trading name(s), website address, *accounting reference date*, auditors, locum, contacts and addresses.

Personal Details

Section A

- 1 Contact Name for this application[†] §
- 2 Contact's Details:
- a Position in the *firm*[†] §
- b Daytime telephone number[†] §
- c E-mail address[†]
- d Individual reference number (IRN), if applicable[†]

Change Full Name of *Firm*

Section B

If you wish to advise the FSA of a change to the *firm*'s name please enter the following details, otherwise proceed to Section C1.[†]

Note: this section is not intended to be used by *firms* that are covered by Industrial & Provident, Friendly Society, Credit Union or Building Society legislation. These *firms* should contact the FSA's Mutuals Team.

Current Legal Status:

- | | | | |
|--|--------------------------|--|--------------------------|
| (a) Private Limited Company | <input type="checkbox"/> | (b) Public Limited Company | <input type="checkbox"/> |
| (c) <i>Limited Liability Partnership</i> | <input type="checkbox"/> | (d) Limited Partnership | <input type="checkbox"/> |
| (e) <i>Sole Trader</i> | <input type="checkbox"/> | (f) Unlimited Liability Company | <input type="checkbox"/> |
| (g) <i>Partnership</i> | <input type="checkbox"/> | (h) Other, please specify below | <input type="checkbox"/> |

[†] These question(s) should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

1 New full name of *firm* §

2 Please enter the date on which the change becomes effective †

 / /

Yes No N/A

3 Has the change requested been approved by Companies House? †

If your *firm* is a UK registered limited company (including PLC), limited partnership (if registered at Companies House), *limited liability partnership* or unlimited liability company, you should only make a change to your *firm* name if the change has already been approved by Companies House

If you have answered 'Not Applicable', please explain why below:

4 I confirm that the change requested does not constitute a change of legal status †

Add New Trading Name(s) †**Section C1**

If you wish to add a new trading name of the *firm* please enter the following details, otherwise please proceed to Section C2:

1	New Trading Name		§
1a	Please enter the date on which the change becomes effective	/ /	§
2	New Trading Name		§
2a	Please enter the date on which the change becomes effective	/ /	§
3	New Trading Name		§
3a	Please enter the date on which the change becomes effective	/ /	§
4	New Trading Name		§
4a	Please enter the date on which the change becomes effective	/ /	§

Delete Current Trading Name(s) †**Section C2**

If you wish to delete a trading name of the *firm* please enter the following details, otherwise please proceed to Section D:

1	Trading name to be deleted		§
1a	Please confirm when the trading name must cease:	/ /	§
1b	I confirm that the above trading name will not be used by the <i>firm</i> from the date indicated above.		<input type="checkbox"/>
2	Trading name to be deleted		§
2a	Please confirm when the trading name must cease:	/ /	§
2b	I confirm that the above trading name will not be used by the <i>firm</i> from the date indicated above.		<input type="checkbox"/>
3	Trading name to be deleted		§
3a	Please confirm when the trading name must cease:	/ /	§
3b	I confirm that the above trading name will not be used by the <i>firm</i> from the date indicated above.		<input type="checkbox"/>
4	Trading name to be deleted		§
4a	Please confirm when the trading name must cease:	/ /	§

† These sections should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

4b I confirm that the above trading name will not be used by the *firm* from the date indicated above.

Change Contact Details

Section D

If you wish to change the contact details of the Complaints Contact or Primary Compliance Contact please enter the following details, otherwise please proceed to Section E1:

Please note that this will not change your approved person records. If you want to change these records, please use the appropriate Approved Persons Form.

Please indicate which contact this change applies to. If you wish to change the details for both please copy this form and record the details for each on separate forms, unless the details are the same.

(a) Complaints Contact

(b) Primary Compliance Contact

1 Title[†]

§

2 Forename(s)[†]

§

3 Surname[†]

§

4 Job Title[†]

5 Email address[†]

6 Phone number. This must be a direct dialled number.[†]

§

7 Fax Number[†]

8 Please enter the date on which the change becomes effective[†].

/ /

§

9 Address[†]

§

Postcode:

10 If you would also like the contact details of the following to be changed, please tick the appropriate boxes. This will amend the contact details in line with the changes recorded above.[†]

Complaints Contact

Primary Compliance Contact

[†] These question(s) should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

1. Please indicate which of the following this change applies to. If you wish to change the details for more than one of the following please copy this form and record the details for each on separate forms, unless the details are the same.

- | | | | |
|---------------------------------|--------------------------|---------------------------------|--------------------------|
| (a) Registered Office | <input type="checkbox"/> | (b) Principal Place of Business | <input type="checkbox"/> |
| (c) Billing Address | <input type="checkbox"/> | (d) Publication Address | <input type="checkbox"/> |
| (e) Head Office | <input type="checkbox"/> | (f) CIS UK Facilities Address | <input type="checkbox"/> |
| (g) Motor claims representative | <input type="checkbox"/> | (h) UK <i>Branch</i> Address | <input type="checkbox"/> |

Please enter the new address details:

2	Address	§ Postcode:
3	Telephone number.	§
4	Fax Number	
5	Email address	
6	Please enter the date on which the change becomes effective.	§ / /

7 Contact Address Details

- | | | | |
|------------------------|--------------------------|----------------------------------|--------------------------|
| (a) Complaints Address | <input type="checkbox"/> | (b) Principal Compliance Address | <input type="checkbox"/> |
|------------------------|--------------------------|----------------------------------|--------------------------|

[†] This section should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

1. Please indicate which of the following this change applies to. If you wish to change the details for more than one of the following please copy this form and record the details for each on separate forms, unless the details are the same.

- | | | | |
|--|--------------------------|-------------------------------|--------------------------|
| (a) 3 rd Party Administration | <input type="checkbox"/> | (b) <i>Actuary</i> | <input type="checkbox"/> |
| (c) Customer Services | <input type="checkbox"/> | (d) <i>EEA Branch Address</i> | <input type="checkbox"/> |
| (e) Firm Association Branch | <input type="checkbox"/> | (f) Professional Advisor | <input type="checkbox"/> |

Please enter the new address details:

2 Address

§

Postcode:

3 Telephone number.

§

4 Fax Number

5 Email address

6 Please enter the date on which the change becomes effective.

/ / §

[†] This section should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

Change of Accounting Reference Date[†]

Section F

1 Please enter the following details to change your accounting reference date:

(a) Current Accounting Reference Date (dd/mm) / §

(b) New Accounting Reference Date (dd/mm) / §

2 What accounting periods will result from the change? The new *accounting reference date* that you have entered could result in several different periods depending on whether you want to extend or reduce your periods and which period is the first period affected.

Although the FSA may accept accounting periods of up to 18 months, SUP 16.3.18G advises firms that accounting periods longer than 15 months may be deemed unacceptable as this may hinder the timely provision of relevant and important information to the FSA. If a *firm* wishes to have an accounting period of longer than 18 months (sole traders and certain partnerships), the firm must apply to the FSA in writing.

Please detail the start and end dates for the current accounting period and the two following periods below:

(a) Current Period / / to / / §

(b) Next Period / / to / / §

(c) Next Period 2 / / to / / §

Note the change that you have requested will result in a change to your reporting timetable.

3 I confirm the change requested above and that it is correctly represented by the accounting periods listed.

Change of Website Address[†]

Section G

Please enter the new website address:

1 Website (format – www.fsa.gov.uk):

Change Auditor Details[†]

Section H1

Please enter the following details to change your Auditor's details:

1 Firm name §

[†] These sections should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

2 Address

§

Postcode:

3 Telephone number.

§

4 Fax Number

5 Email address

6 Effective date

/ / §

Change Locum Details[†]

Section H2

Please enter the following details to change your Locum's details:

1 Title

2 Forename(s)

3 Surname

4 Firm name

§

5 Address

§

Postcode:

[†] This section should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

6 Telephone number.

§

7 Fax Number

8 Email address

9 Effective date

/ / §

Warning

Knowingly or recklessly giving the FSA information, which is false or misleading in a material particular, may be a criminal offence (sections 398 and 400 of the Financial Services and Markets Act 2000). SUP 15.6.4R requires an authorised person to take reasonable steps to ensure the accuracy and completeness of information given to the FSA and to notify the FSA immediately if materially inaccurate information has been provided. Contravention of these requirements may lead to disciplinary sanctions or other enforcement action by the FSA. It should not be assumed that information is known to the FSA merely because it is in the public domain or has previously been disclosed to the FSA or another regulatory body. If you are not sure whether a piece of information is relevant, please include it anyway.

Data Protection

For the purposes of complying with the Data Protection Act, the personal information in this form will be used by the Financial Services Authority to discharge its statutory functions under the Financial Services and Markets Act 2000 and other relevant legislation. It will not be disclosed for any other purposes without the permission of the applicant.

Declaration

By submitting this application form

- **I/we confirm that the information contained in this form is accurate and complete to the best of my knowledge and belief and that I have taken all reasonable steps to ensure that this is the case.**
- **I am/we are aware that it is a criminal offence knowingly or recklessly to give the FSA information that is false or misleading in a material particular.**
- **I/we confirm that, for those questions that do not require supporting evidence, the records which demonstrate the *firm's* compliance with the rules in relation to the questions will be available to the FSA on request.**
- **I/we will notify the FSA immediately if there is a significant change to the information given in the form. If I/we fail to do so, this may result in enforcement action.**

Date †	
Name of first signatory ¹ †	
Position ² of first signatory *	
Individual Reference Number (IRN) *	
Signature *	

¹ For a sole trader, the signature of the principal is required.
 For a limited company, the signature of two directors or one director and the company secretary is required.
 For a partnership, the signature of at least one partner is required.

² e.g. Director, Partner or Sole Trader.

† These should be completed whether submission of this form is online or in one of the other ways set out in SUP 15.7

* These should only be completed if the form is being completed in one of the ways set out in SUP 15.7 other than online submission. It should not be completed if the submission of this form is online.

Name of second signatory¹ *

Position² of second signatory *

Individual Reference Number (IRN) *

Signature *

**FINANCIAL STABILITY AND MARKET CONFIDENCE SOURCEBOOK
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 119 (The code);
 - (b) section 121 (Codes: procedure);
 - (c) section 131B (Short selling rules);
 - (d) section 149 (Evidential provisions);
 - (e) section 156 (General supplementary powers);
 - (f) section 157(1) (Guidance); and
 - (g) section 165B(6) (Safeguards etc in relation to exercise of power under section 165A).
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 6 August 2010.

Making the Financial Stability and Market Confidence sourcebook (FINMAR)

- D. The Financial Services Authority makes the rules and gives the guidance in Annex A to this instrument.

Amendments to the Handbook

- E. The modules of the FSA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex B
Threshold Conditions (COND)	Annex C
Market Conduct sourcebook (MAR)	Annex D

Notes

- F. In Annex A to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of the reader but do not form part of the legislative text.

Citation

- G. This instrument may be cited as the Financial Stability and Market Confidence Sourcebook Instrument 2010.
- H. The sourcebook in Annex A to this instrument (including its schedules) may be cited as the Financial Stability and Market Confidence sourcebook (or FINMAR).

By order of the Board
22 July 2010

Annex A

Financial Stability and Market Confidence sourcebook (FINMAR)

Insert the following new sourcebook after The Fit and Proper test for Approved Persons (FIT) in the block of the Handbook titled “High Level Standards”. The text is all new and is not underlined, except where otherwise stated.

1 Gathering financial stability information

1.1 Application, purpose and scope


Application

- 1.1.1 G *FINMAR 1 is relevant to authorised persons and unauthorised persons, in particular persons whose activities are or may be relevant to the stability of one or more aspects of a relevant financial system.*

Purpose

- 1.1.2 G (1) Section 165B(6) (Statement of policy) of the *Act* requires the *FSA* to prepare and publish a statement of policy on the *financial stability information power*. The purpose of *FINMAR 1* is to set out the *FSA’s* statement of policy on the exercise of the *financial stability information power* and the *overseas financial stability information power* contained in sections 165A and 169A of the *Act*.
- (2) The Treasury has approved this statement of policy in accordance with section 165B(7) of the *Act*.
- 1.1.3 G Determining whether to impose a *financial stability information requirement* involves different considerations from the exercise of other *FSA* powers. The *guidance* in this chapter relates only to the imposition of *financial stability information requirements*.

Scope of the powers

- 1.1.4 G The *financial stability information power* and the *overseas financial stability information power* are exercisable in relation to the categories of *person* set out in section 165A(2) of the *Act* (interpreted in accordance with the rest of that section).
- 1.1.5  Table: section 165A(2) of the *Act*

Section 165A of the <i>Act</i> applies to:	
(a)	a person who has a legal or beneficial interest in any of the assets of a relevant investment fund;

(b)	a person who is responsible for the management of a relevant investment fund;
(c)	a person (a “service provider”) who provides any service to an authorised person;
(d)	a person prescribed by an order made by the Treasury or any person of a description prescribed by such an order (and see also section 165C);
(e)	a person who is connected with a person to whom this section applies as a result of any of the above paragraphs.

- 1.1.6 G The *FSA* may impose a *financial stability information requirement* on a *person* within the categories set out in *FINMAR 1.1.5UK* only to the extent that it considers that the information or document is or might be relevant to the stability of one or more aspects of the *UK financial system*. The *persons* within these categories may include:
- (1) a vehicle for collective investment, whether or not it is regulated, (including vehicles often referred to as “hedge funds” and “structured investment vehicles” or off-balance sheet vehicles used for investment) and its managers;
 - (2) a provider of a service to an *authorised person*, such as a software supplier or the provider of a liquidity facility, where the risk to the stability of one or more aspects of the *UK financial system* relates to the provision of the service;
 - (3) a large scale proprietary trader or investor who trades large volumes of *financial instruments* that are traded on *UK regulated markets* or *UK MTFs*, for example *overseas* corporate entities; and
 - (4) a *person* who manages investments for a single family (whether or not the investments are held within a trust), for example a family office.

1.2 Financial stability information powers

Introduction

- 1.2.1 G The *FSA* has a *regulatory objective* of contributing to the protection and enhancement of *UK financial stability*. Section 250 of the Banking Act 2009 imposes a duty on the *FSA* to collect information that it thinks is, or may be, relevant to the stability of individual financial institutions or to one or more aspects of the *UK financial system*.
- 1.2.2 G Some information relevant to *UK financial stability* will be accessible to the *FSA*:

- (1) through *authorised persons*' regular reports to the *FSA*; or
- (2) from other *UK* or international authorities;
- (3) through information gathered by the *FSA* under other information gathering powers, such as section 165 of the *Act* or section 250(2) of the Banking Act 2009.

1.2.3 G The *FSA* may use the *financial stability information power* to gather additional information relevant to *UK* financial stability. The information may relate to the exercise of the *FSA*'s functions, or the *FSA* may collect the information in order to disclose it to another *person* or authority, for example the Bank of England or the Treasury. Information relevant to financial stability may be held by an *authorised person* or by an *unauthorised person*.

1.2.4 G When the *FSA* seeks additional information from an *authorised person* or an *unauthorised person* it may not in all cases be necessary to exercise statutory information-gathering powers. However, the *FSA* will use its statutory powers if it believes it is appropriate to do so and, in urgent cases, it may be appropriate for the *FSA* to exercise these powers without delay.

Financial stability information power

1.2.5 G The *FSA* may use the *financial stability information power* to require a *person* to provide:

- (1) specified information or documents; or
- (2) information or documents of a specified description;

that the *FSA* considers are or may be relevant to the stability of the *UK financial system*.

[**Note:** Section 165A of the *Act*]

Overseas financial stability information power

1.2.6 G The *FSA* may exercise the *overseas financial stability information power* at the request of an *overseas regulator* to require a *person* to provide:

- (1) specified information or documents; or
- (2) information or documents of a specified description;

that the *FSA* considers are or may be relevant to the stability of a *relevant financial system* operating in the country or territory of the *overseas regulator*.

[**Note:** Section 169A of the *Act*]

- 1.2.7 G If the *overseas regulator* is a *competent authority* and the request relates to an obligation of the *FSA* under *EU* law, the *FSA* will take into account whether it is necessary to exercise the *overseas financial stability information power* to comply with that obligation.
- 1.2.8 G In deciding whether to exercise the *overseas financial stability information power*, the *FSA* may take into account in particular:
- (1) whether corresponding assistance would be given to a *UK* regulatory authority in the country or territory of the *overseas regulator*; and
 - (2) whether it is otherwise appropriate in the public interest to give the assistance sought.
- 1.2.9 G The *FSA* may decide not to exercise the *overseas financial stability information power* unless the *overseas regulator* undertakes to make such contribution towards the cost to the *FSA* of its exercise as the *FSA* considers appropriate.
- 1.2.10 G *FINMAR* 1.2.8G and *FINMAR* 1.2.9G do not apply if the *FSA* considers that it must use the *overseas financial stability information power* to comply with an obligation upon the *FSA* under *EU* law.

1.3 Providing notice before imposing a financial stability information requirement

Giving notice

- 1.3.1 G The *FSA* will give a *person* a notice in writing if it proposes to impose a *financial stability information requirement* unless the *FSA* is satisfied that information or documents are required without delay. The notice will include:
- (1) the reasons why the *FSA* proposes to impose the *financial stability information requirement*; and
 - (2) the time period in which the *person* may make representations to the *FSA* in respect of the proposal.

Right to make representations

- 1.3.2 G The notice referred to in *FINMAR* 1.3.1G will specify a reasonable period in which to make representations. In determining the period for representations the *FSA* will take into account:
- (1) the nature, type and number of documents likely to be required;
 - (2) the reasons for imposing the requirement;

- (3) whether the *person* is likely to wish to seek legal advice;
 - (4) whether the *person* is an *authorised person*;
 - (5) any cost implications for the *person*.
- 1.3.3 G The *FSA* will generally invite the recipient of a notice to make representations in writing to the address provided in the notice. The *FSA* will consider a request by a *person* to make oral representations and will take into account:
- (1) whether oral representations would be likely to:
 - (a) improve the *FSA* 's understanding of the representations;
 - (b) be more convenient or less costly than written representations; and
 - (c) assist the *FSA* in making a decision more quickly; and
 - (2) as in other cases, and in accordance with the Disability Discrimination Act 1995, any reason relating to the disability of the person which would mean that they could not otherwise have a fair hearing.
- 1.3.4 G Once the period for making representations has expired the *FSA* will determine within a reasonable period whether to impose the *financial stability information requirement*.
- 1.3.5 G If the *FSA* does not receive any representations during the period specified in the notice it will determine whether to impose the *financial stability information requirement* based on the information available to it.

1.4 Imposing a financial stability information requirement without prior notice

- 1.4.1 G If the *FSA* proposes to impose a *financial stability information requirement* and is satisfied that it is necessary for the information or documents covered by a *financial stability information requirement* to be provided or produced without delay, the *FSA* may impose the *financial stability information requirement* on a *person* without taking the steps described in *FINMAR* 1.3 (see section 165B (4) of the *Act*).
- 1.4.2 G The *FSA* will determine whether to impose a *financial stability information requirement* without prior notice based on the facts of each case and after taking into account the information before it concerning:
- (1) the nature of the risk to financial stability and whether the risk appears to be increasing rapidly;

- (2) the extent of the risk to financial stability;
- (3) whether it is fair to impose the requirement without notice; and
- (4) whether the information sought may lead to prompt action by the *FSA*.

1.4.3 G A *person* who receives a *financial stability information requirement* without prior notice should consider whether to contact the *FSA* concerning the requirement. The *person* should raise any proposal to make representations with the *FSA* at the earliest opportunity.

1.5 Imposing a requirement

Deciding to impose a requirement

1.5.1 G In deciding whether to impose a *financial stability information requirement* the *FSA* will:

- (1) review the material before it;
- (2) consider any representations received from the proposed recipient of the requirement; and
- (3) take into account:
 - (a) the nature and extent of the risks to financial stability;
 - (b) whether the information is more readily available from another source, taking into account the likely time and cost implications of seeking information from that source;
 - (c) whether the information may assist the *FSA* in fulfilling its functions, for example if the information relates to the exercise of the *FSA*'s statutory powers.

1.5.2 G A decision to impose the *financial stability information requirement* will be taken by a member of *FSA* staff at the appropriate level of seniority.

Scope of the requirement

1.5.3 G The information and documents specified will be appropriate for each case. They may be defined broadly, for example information relating to a trading strategy and its execution, or in a more limited way, for example a contract documenting a particular trade.

Notice of a financial stability information requirement

1.5.4 G The *FSA* will give a *person* notice in writing if it decides to impose a *financial stability information requirement*. The notice will describe the

information and documents to which the requirement relates and include the *FSA's* reasons for imposing the requirement.

Requiring documents to be verified or authenticated

- 1.5.5 G The *FSA* may, where it is reasonable to do so, require a *person* subject to a *financial stability information requirement* to provide:
- (1) verification of any information; or
 - (2) authentication of any document;
- that the *person* provides to the *FSA* in accordance with that requirement.
- 1.5.6 G When deciding whether to require verification or authentication the *FSA* will take into account the circumstances of each case, including:
- (1) the type of information or documents required and whether there is a particular need for the information to be exactly accurate;
 - (2) the likely additional cost to the *person* providing the information or documents;
 - (3) the extent to which verification or authentication may improve the quality or reliability of the information or documents; and
 - (4) the nature of any previous communications between the *person* and the *FSA*.
- 1.5.7 G The *FSA* may, where it is reasonable to do so, require the information or documents to be verified or authenticated in any manner. Examples of verification or authentication include:
- (1) a signed declaration by an officer or employee of a *body corporate*;
 - (2) a declaration by a commissioner for oaths that a copy of a document is a true copy of the original; and
 - (3) a declaration by the *person's* accountant or auditor that the information provided appears to be accurate.

2 Short selling

2.1 Application and purpose

Application

- 2.1.1 R This chapter applies to all *persons* who:
- (1) engage, or are intending to engage, in short selling in relation to

relevant financial instruments; or

- (2) have engaged in short selling in relation to *relevant financial instruments* where the resulting short position is still open.

Purpose

- 2.1.2 G The purpose of this chapter is to set out *rules* and provide *guidance* in relation to short selling in order to promote the *FSA*'s statutory objectives of:
- (1) maintaining confidence in the *UK financial system*; and
- (2) contributing to the protection and enhancement of the stability of the *UK financial system*.

2.2 Disclosure of disclosable short positions

Disclosure during a rights issue period

- 2.2.1 R A *person* who has a *disclosable short position* must provide *disclosure* of his position where:
- (1) the position relates, directly or indirectly, to *securities* which are:
- (a) the subject of a *rights issue*;
- (b) admitted to trading on a *prescribed market* in the *United Kingdom*; and
- (c) issued by:
- (i) a *UK company*; or
- (ii) a *non-UK company* for whom the *UK prescribed market* is the sole or main venue for trading the *securities*; and
- (2) the *disclosable short position*:
- (a) is reached or exceeded, or the position falls below a *disclosable short position*, during a *rights issue period*; or
- (b) has been reached or exceeded immediately before the beginning of the *rights issue period* and has not fallen below a *disclosable short position* at the time the *rights issue period* commences.
- 2.2.2 G For the purposes of *FINMAR* 2.2.1R(1)(c)(ii), a *UK prescribed market* is the main venue for trading *securities* of a *company* where the volume of the *securities* traded on that market in the 12-month period immediately

preceding the beginning of the *company's rights issue period* is greater than the volume of the *securities* traded on any other market, whether in the *United Kingdom* or elsewhere.

Disclosure of a short position in a UK financial sector company

- 2.2.3 R A *person* who has a *disclosable short position* in a *UK financial sector company* must provide *ongoing disclosure* of his position.
- 2.2.4 G Where a *UK financial sector company* is in a *rights issue period*, a disclosure under *FINMAR 2.2.3R* is sufficient to satisfy the disclosure requirement in *FINMAR 2.1.1R*.

2.3 Calculation of net short position

Preliminary

- 2.3.1 G This section contains provisions relating to the calculation of a *net short position* for the purposes of determining whether a *person* has a *disclosable short position*.
- 2.3.2 R A *net short position* is the position remaining after deducting a long position (if any) that a *person* holds in relation to the issued capital of a *company* from a short position in relation to the issued capital of that *company*, where the value of the long and short positions is calculated in accordance with the provisions below.
- 2.3.3 R The calculation of a *net short position* must take account of any form of economic interest, whether by virtue of a long or short position, in the issued capital of the *company*.
- 2.3.4 R A *net short position* must be calculated on the basis of the position held at midnight at the end of each day that a *person* has the *net short position*.

Long and short positions

- 2.3.5 R A 'long position' is the total of:
- (1) the number of *shares* a *person* holds in a *company*; and
 - (2) any exposure, calculated on a delta-adjusted basis, to the issued capital of the *company* the *person* has through his holding of *financial instruments* which will result in the *person* making a profit, whether directly or indirectly, if there is an increase in the price or value of the *shares* of the *company*.
- 2.3.6 R A 'short position' is the total of:
- (1) the number of *shares* in a *company* that a *person* has sold where the *person* has borrowed or needs to borrow or purchase *shares* to settle

the transaction and the *shares* have not yet been returned to the lender, or borrowed and returned to the lender, or purchased, as the case may be; and

- (2) any exposure, calculated on a delta-adjusted basis, to the issued capital of the *company* the *person* has through his holding of *financial instruments* which will result in the *person* making a profit, whether directly or indirectly, if there is a decrease in the price or value of the *shares*.

Calculating short positions: particular cases

- 2.3.7 R For the purposes of calculating a *net short position* when a *company* is in a *rights issue period*:
- (1) a long position in the nil paid rights cannot be deducted from a short position in relation to the *company*; and
 - (2) any short position in the nil paid rights must be taken into account.
- 2.3.8 G Where a *person* has an economic exposure to the issued capital of a *company* by virtue of his interest in a basket, index or exchange traded fund, the value of the exposure to the *company* should be included in the calculation of his *net short position*.

2.4 Responsibility for disclosure

Discretionary and non-discretionary managers

- 2.4.1 R Where a *person* has appointed one or more *discretionary investment managers* to manage some or all of his investments, the *person* must make any disclosures required under *FINMAR 2.2.1R* or *FINMAR 2.2.3R* in respect of any *disclosable short position*, unless *FINMAR 2.4.2G* applies.
- 2.4.2 G Where a *person* (“P”) has appointed:
- (1) a *discretionary investment manager* to manage some or all of his investments, P may authorise that *discretionary investment manager* to make any disclosures required by *FINMAR 2.2.1R* or *FINMAR 2.2.3R* on P’s behalf in relation to the investments managed by that *discretionary investment manager*;
 - (2) more than one *discretionary investment manager* to manage some or all of his investments, P may authorise another *person* (such as the *operator* of an *AUT*, *ICVC* or any other fund) to make any disclosures required by *FINMAR 2.2.1R* or *FINMAR 2.2.3R* on P’s behalf.
- 2.4.3 R Where a *discretionary investment manager* or another *person* has been authorised by a *person* (“P”) to make any disclosures required by *FINMAR*

2.2.1R or *FINMAR* 2.2.3R on P's behalf, he must:

- (1) provide *disclosure* or *ongoing disclosure* as required under *FINMAR* 2.2.1R or *FINMAR* 2.2.3R of P's position; and
- (2) clearly identify the *person* on whose behalf he is making the disclosure.

- 2.4.4 R Where a *discretionary investment manager* manages investments for more than one *person*, he must provide *disclosure* or *ongoing disclosure* under *FINMAR* 2.2.1R or *FINMAR* 2.2.3R in respect of the aggregate *net short position* of all the portfolios managed by him.
- 2.4.5 R Where a *person* whose investments are managed by a *non-discretionary investment manager* has a *disclosable short position*, the *person* must make any disclosures required under *FINMAR* 2.2.1R or *FINMAR* 2.2.3R in respect of his position.
- 2.4.6 G A *person* whose investments are managed by a *non-discretionary investment manager* and who has a *disclosable short position* may authorise his *non-discretionary investment manager* to make any disclosures required by *FINMAR* 2.2.1R or *FINMAR* 2.2.3R on his behalf in respect of his position.
- 2.4.7 R Where a *non-discretionary investment manager* has been authorised by a *person* to make any disclosures required by *FINMAR* 2.2.1R or *FINMAR* 2.2.3R on that *person's* behalf, he must:
- (1) provide *disclosure* or *ongoing disclosure* as required under *FINMAR* 2.2.1R or *FINMAR* 2.2.3R of the *person's* position; and
 - (2) clearly identify the *person* on whose behalf he is making the disclosure.

Groups

- 2.4.8 R Where one or more *companies* in a group is required to disclose a *disclosable short position*, each *company* must make a separate disclosure of its own position unless *FINMAR* 2.4.9G applies.
- 2.4.9 G One *company* in a group may make a disclosure of a *disclosable short position* held by one or more *companies* in the group, provided that the disclosure clearly states the name of the *company* or of each of the *companies*, as the case may be, which holds a *disclosable short position*.

Editor's Note: The following chapter (FINMAR 3) replaces COND 3, which is deleted. Changes from the text of COND 3 are indicated by underlining (new text) and striking through (deleted text).

3 Banking Act 2009

3.1 Application and purpose

Application

3.1.1 G *FINMAR 3 is relevant to firms subject to the powers in Parts 1 to 3 of the Banking Act 2009 (the Banking Act), that is, UK incorporated firms with a Part IV permission to carry on the regulated activity of accepting deposits, other than credit unions, firms with a Part IV permission to effect or carry out contracts of insurance and any other class of institution specified in secondary legislation.*

Purpose

3.1.2 G *The purpose of FINMAR 3 is to provide guidance on assessing Condition 2 under section 7(3) of the Banking Act.*

3.1 Assessing Condition 2 under section 7(3) of the Banking Act 2009

3.2

Introduction

3.1.1 G The Banking Act 2009 (~~the Banking Act~~) introduces new powers for HM Treasury, the Bank of England and the FSA to deal with failing banks. The powers, which are set out in Parts 1 to 3 of that Act, can be used to deal with UK incorporated firms with a Part IV permission to carry on the regulated activity of accepting deposits, other than credit unions, firms with a Part IV permission to effect or carry out contracts of insurance and any other class of institution specified in secondary legislation. In relation to building societies, the main tools in the Act are applied with modifications. In this section the term “bank” is used to refer to those firms that are potentially subject to the powers in Parts 1 to 3 of the Banking Act. The powers are defined in the Banking Act, and referred to in this section as the “stabilisation powers”. The Banking Act contains powers to enable HM Treasury to extend the application of the stabilisation powers to credit unions by secondary legislation.

3.1.2 G Section 7 of the Banking Act sets out the two conditions that must be met before a stabilisation power can be exercised in respect of a bank:

3.2.2

(1) Condition 1 is that the bank is failing, or is likely to fail, to satisfy the *threshold conditions*.

- (2) Condition 2 is that, having regard to timing and other relevant circumstances, it is not reasonably likely that (ignoring the stabilisation powers) action will be taken by or in respect of the bank that will enable it to satisfy the *threshold conditions*.

~~3.1.3~~
3.2.3 G The Banking Act provides that the *FSA* is to treat Conditions 1 and 2 as met if satisfied that they would be met but for financial assistance provided by either HM Treasury or the Bank of England (disregarding ordinary market assistance offered by the Bank on its usual terms).

Assessing Condition 1

~~3.1.4~~
3.2.4 G The matters the *FSA* will take into account in assessing whether a bank is failing or is likely to fail to satisfy the *threshold conditions* are described in *COND 2.1* to *COND 2.5*. The options available to the *FSA* in the case of a breach of the *threshold conditions* are outlined in Chapter 8 of the *Enforcement Guide* and *SUP 7.2*. These tools are available to the *FSA* at any time, and so may be used before or in conjunction with the stabilisation tools provided by the Banking Act.

Assessing Condition 2

~~3.1.5~~
3.2.5 G The Banking Act provides that in considering the test in Condition 2, the *FSA* should ignore the stabilisation powers. The purpose of this limitation is to make clear that in making its assessment, the *FSA* is not considering whether the stabilisation powers could successfully resolve the situation, but is considering whether alternative measures might provide for this instead.

Timing

~~3.1.6~~
3.2.6 G In assessing Condition 2, the *FSA* will consider the timeframe during which any actions taken by or in relation to the bank are likely to be available and to have effect. In the view of the *FSA*, the purpose of the reference to timing in Condition 2 is to require the *FSA* to consider whether a return to full compliance is likely to occur within a reasonable period of time. The following is a non-exhaustive list of factors the *FSA* may consider:

- (1) the extent of any loss, or risk of loss, or other adverse effect on *consumers*. The more serious the loss or potential loss or other adverse effect, the more likely it is that the *FSA* will consider that remedial action will be needed urgently;
- (2) the seriousness of any suspected breach of the requirements of the *Act* or the *rules* and the steps that need to be taken to correct that breach;
- (3) the risk that the bank's conduct or business presents to the stability of the UK financial system and to confidence in that system;
- (4) the likelihood that remedial action that could be taken by or in relation to the bank will take effect before *consumers*, or market

confidence or financial stability suffers significant detriment.

- 3.1.7
3.2.7 G If the *FSA* is satisfied that the breach of *threshold conditions* is likely to be temporary and to be rectified within a reasonable time, the *FSA* is unlikely to conclude that Condition 2 has been met.

Other relevant circumstances

- 3.1.8
3.2.8 G In general the *FSA* will be concerned to determine whether any remedial action that could be taken by or in relation to the bank will be effective. This will include an assessment of both how likely it is that the action will be taken, and if it is, the impact it will have on the bank's compliance with the *threshold conditions*. Circumstances that the *FSA* may take into account include but are not limited to:

- (1) where the *FSA*'s concerns relate to adequacy of liquidity:
 - (a) the availability of market funding to banks generally and any specific circumstances of the bank that may impact on its ability to access the market on terms which are generally available;
 - (b) whether the bank's current funding structure is adequate and viable; whether the primary sources of funding continue to be available, given current market sentiment, and whether they would still be viable if market sentiment was to change;
 - (c) the maturity profile of the bank's existing funding and the availability of funding from the market to replace maturing funding as the need arises;
 - (d) whether liquidity problems call into question adequacy of capital;
 - (e) the bank's credit rating and the likelihood and impact of any potential downgrade;
 - (f) the availability and terms of liquidity support from group *companies*, existing funders and central banks;
- (2) where the *FSA*'s concerns relate to capital:
 - (a) the availability of capital from the market for banks in general and any specific circumstances of the bank that may impact on its ability to access the market on terms which are generally available;
 - (b) potential sources of capital and the nature of and terms on which capital may be obtained;
 - (c) the success of any recent attempts by the bank to raise capital

on the open market;

- (d) the willingness of existing significant institutional investors to provide or assist in a strategic solution to the bank;
- (3) where the *FSA*'s concerns relate to the adequacy of non-financial resources or suitability, the *FSA* will take into account the factors identified in *COND* 2.4 and 2.5, and other *Handbook* provisions referred to in those chapters. In assessing Condition 2, the circumstances of each case are likely to be different, but the *FSA* will be concerned to establish the likelihood of achieving a return to full compliance with the *threshold conditions*, and the timescale in which a return to compliance will be effected;
- (4) the prospects of the bank securing a material and relevant transaction with a third party, for example a sale of the bank itself or of all or part of its business. In relation to any transaction, the *FSA* will have regard to factors including but not limited to:
- (a) the status of any ongoing negotiations;
 - (b) the level of interest expressed and the credibility of potential counterparties;
 - (c) practical constraints related to the bank itself, for example, management engagement, availability of relevant information and severability of infrastructure;
 - (d) the sources, availability and firmness of financing for any transaction;
 - (e) the need for shareholder approval, merger clearances or other consents;
 - (f) the suitability of the counterparty and the stability of the relevant parties following completion of any transaction.

~~3.1.9~~
3.2.9

- G When assessing whether the bank will return to compliance with *threshold condition* 4 (adequate resources) the *FSA* will also assess the reasons behind the likely or actual failure of compliance. Serious failures of management, systems or internal controls may in themselves call into question the adequacy of the bank's non-financial resources (*threshold condition* 4) or suitability (*threshold condition* 5). Therefore, in assessing whether a bank is reasonably likely to satisfy the *threshold conditions* in the future, the *FSA* will be concerned to ensure that any such failures have been adequately addressed.

Schedule 1 Record keeping requirements

Sch 1.1 G There are no record-keeping requirements in *FINMAR*.

Schedule 2 Notification requirements

Sch 2.1 G There are no notification requirements in *FINMAR*.

Schedule 3 Fees and other required payments

Sch 3.1 G There are no requirements for fees in *FINMAR*.

Schedule 4 Powers Exercised

Sch 4.1	G	The following powers and related provisions in or under the <i>Act</i> have been exercised by the <i>FSA</i> to make the <i>rules</i> , statements of policy and guidance in <i>FINMAR</i> :
		Section 131B (Short selling rules)
		Section 157(1) (Guidance)
		Section 165B(6) (Safeguards etc in relation to exercise of power under section 165A)

Schedule 5 Rights of action for damages

Sch 5.1 G There are no rules in *FINMAR*.

Schedule 6 Rules that can be waived

Sch 6.1 G There are no rules in *FINMAR*.

Annex B

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>disclosure</i>	disclosure of a <i>disclosable short position</i> which: <ul style="list-style-type: none"> (a) is made on a <i>RIS</i> by no later than 3.30pm on the <i>business day</i> following the day on which the position reaches, exceeds or falls below a <i>disclosable short position</i> of 0.25% of the issued capital of a <i>company</i>; and (b) includes the name of the <i>person</i> who has the <i>disclosable short position</i>, the amount of the <i>disclosable short position</i> and the name of the <i>company</i> in relation to which the <i>person</i> has that position.
<i>FINMAR</i>	the Financial Stability and Market Confidence sourcebook.
<i>financial stability information power</i>	the <i>FSA</i> 's power under section 165A of the <i>Act</i> (Authority's power to require information: financial stability) which, in summary, is a power to require a <i>person</i> to provide information or documents relevant to the stability of one or more aspects of the <i>UK financial system</i> .
<i>financial stability information requirement</i>	a requirement imposed on a <i>person</i> by the <i>FSA</i> using the <i>financial stability information power</i> or the <i>overseas financial stability information power</i> .
<i>ongoing disclosure</i>	disclosure of a <i>disclosable short position</i> which: <ul style="list-style-type: none"> (a) is made on a <i>RIS</i> by no later than 3.30pm on the <i>business day</i> following the day on which the position reaches, exceeds or falls below a <i>net short position</i> of 0.25%, 0.35%, 0.45% and 0.55% of the issued capital of a <i>company</i> and each 0.1% threshold thereafter; and (b) includes the name of the <i>person</i> who has the <i>disclosable short position</i>, the amount of the <i>disclosable short position</i> and the name of the <i>company</i> in relation to which the <i>person</i> has that position.
<i>overseas financial stability information power</i>	the <i>FSA</i> 's power under section 169A of the <i>Act</i> (Support of overseas regulator with respect to financial stability) which, in summary, is a power exercisable at the request of an <i>overseas regulator</i> to require a <i>person</i> to provide information or documents relevant to the stability

	of one or more aspects of the <i>relevant financial system</i> operating in the country or territory of that regulator.
<i>relevant financial instrument</i>	(in accordance with sections 131C(4) and 131C(5) of the <i>Act</i>) a <i>financial instrument</i> that: <ul style="list-style-type: none"> (a) is admitted to trading on a <i>regulated market</i> or any other <i>prescribed market</i> in an <i>EEA State</i>; or (b) has such other connection with a market in an <i>EEA State</i> as may be specified by the <i>short selling rules</i>.
<i>relevant financial system</i>	(in accordance with section 169A(5) of the <i>Act</i> (Support of overseas regulator with respect to financial stability)) a financial system including: <ul style="list-style-type: none"> (a) financial markets and exchanges; (b) activities that would be <i>regulated activities</i> if carried on in the <i>United Kingdom</i>; and (c) other activities connected with financial markets and exchanges.
<i>short selling rules</i>	(in accordance with section 131B(8) of the <i>Act</i>) rules concerning the prohibition or disclosure of short selling in relation to <i>relevant financial instruments</i> .
<i>UK financial system</i>	(as defined in section 3 of the <i>Act</i> (Market confidence)) the financial system operating in the <i>United Kingdom</i> including: <ul style="list-style-type: none"> (a) financial markets and exchanges; (b) <i>regulated activities</i>; and (c) other activities connected with financial markets and exchanges.

Amend the following definitions as shown.

<i>competent authority</i>	(1) ...
	(2) (in relation to the exercise of an <i>EEA right</i> <u>and the exercise of the overseas financial stability information power</u>) a competent authority for the purposes of the relevant <i>Single Market Directive</i> .
	...
<i>disclosable short</i>	a net short position <u>net short position</u> which represents an economic

<i>position</i>	<p>interest of one quarter of one per cent <u>1%</u> or more of the issued capital of a company <u>company</u>, excluding any interest held in the capacity of a <u>market maker</u>.</p> <p>In calculating whether a holder has a <i>disclosable short position</i>, the holder should take into account any form of economic interest it has in the shares of the <i>issuer</i>, excluding any interest which he holds as a market maker in that capacity.</p>
<i>discretionary investment manager</i>	<p>(in <i>COBS</i>, <i>FINMAR</i> and (in relation to <i>firm type</i>) in <i>SUP</i> 16.10 (Confirmation of <i>standing data</i> <u>standing data</u>)) a <i>person</i> who, acting only on behalf of a <i>client</i>, manages <i>designated investments</i> in an account or portfolio on a discretionary basis under the terms of a discretionary management agreement.</p>
<i>financial system</i>	<p>(as defined in section 3 of the Act (Market confidence)) the financial system operating in the <i>United Kingdom</i> including:</p> <ul style="list-style-type: none"> (a) financial markets and exchanges; (b) <i>regulated activities</i>; and (c) other activities connected with financial markets and exchanges.
<i>market maker</i>	<p>(1) (except in <i>COBS</i> and <i>FINMAR</i>) (in relation to an <i>investment</i>) a <i>person</i> who (otherwise than in his capacity as the <i>operator</i> of a <i>regulated collective investment scheme</i>) holds himself out as able and willing to enter into transactions of sale and purchase in <i>investments</i> of that description at prices determined by him generally and continuously rather than in respect of each particular transaction.</p> <p>(2) (in <i>COBS</i>) a <i>person</i> who holds himself out on the financial markets on a continuous basis as being willing to deal on own account by buying and selling <i>financial instruments</i> against his proprietary capital at prices defined by him.</p> <p>[Note: article 4(1)(8) of <i>MiFID</i>]</p> <p>(3) <u>(in <i>FINMAR</i>) a <i>person</i> who, ordinarily as part of his business, deals as principal in <i>financial instruments</i> (whether <i>OTC</i> or exchange traded):</u></p> <ul style="list-style-type: none"> <u>(a) to fulfil orders received from another <i>person</i> in response to that <i>person's</i> request to trade or to hedge positions arising out of those dealings; or</u> <u>(b) in a way that ordinarily has the effect of providing liquidity on a regular basis to the financial markets on both bid and offer sides of the market in comparable size.</u>

<i>net short position</i>	<p>(1) (except in <i>IPRU(INV)</i> 13 <u>and <i>FINMAR</i></u>) a net short position which gives rise to an economic exposure to the issued <i>share</i> capital of a company. Any calculation of whether a <i>person</i> has a short position must take account of any form of economic interest in the <i>shares</i> of the company.</p> <p>...</p> <p>(3) <u>(in <i>FINMAR</i>) a position which gives rise to an economic exposure to the issued capital of a <i>company</i>, calculated in accordance with <i>FINMAR</i> 2.</u></p>
<i>non-discretionary investment manager</i>	<p>(in <i>FINMAR</i> and in relation to <i>firm type</i> in <i>SUP</i> 16.10 (Confirmation of <i>standing data</i> <u><i>standing data</i></u>)) a <i>person</i> who, acting only on behalf of a <i>client</i>, manages <i>designated investments</i> in an account or portfolio on a non-discretionary basis under the terms of a non-discretionary management agreement.</p>
<i>overseas regulator</i>	<p>(1) <u>(except in relation to the <i>overseas financial stability information power</i>) (as defined in section 195(3) of the <i>Act</i> (Exercise of power in support of overseas regulator)) an authority in a country or territory outside the <i>United Kingdom</i>:</u></p> <p>(a) ...</p> <p>...</p> <p>(2) <u>(in relation to the <i>overseas financial stability information power</i>) (as defined in section 169A(2) of the <i>Act</i> (Support of overseas regulator with respect to financial stability)) an authority in a country or territory outside the <i>United Kingdom</i> which exercises functions with respect to the stability of the <i>relevant financial system</i> operating in that country or territory.</u></p>
<i>rights issue</i>	<p>(in <i>LR</i> and <i>FINMAR</i>) an offer to existing <i>security</i> holders to subscribe or purchase further <i>securities</i> in proportion to their holdings made by means of the issue of a renounceable letter (or other negotiable document) which may be traded (as “nil paid” rights) for a period before payment for the <i>securities</i> is due.</p>
<i>rights issue period</i>	<p>the period that commences on the date a <i>company</i> announces a rights issue <u><i>rights issue</i></u> and which ends on the date that the <i>shares</i> <u><i>securities</i></u> issued under the rights issue <u><i>rights issue</i></u> are admitted to trading on a <i>prescribed market</i>.</p>

Annex C

Amendments to the Threshold Conditions (COND)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

1.1.1 G *COND* applies to every *firm*, except that:

...

- (3) *threshold conditions* 3, 4 and 5 do not apply to a *Swiss General Insurance Company*; and
- (4) *COND* 2.6 (Additional conditions) is only relevant to *non-EEA insurers*; and.
- (5) ~~*COND* 3.1 is only relevant to *firms* falling within the scope of the *Banking Act 2009* (see *COND* 3.1.1G). [deleted]~~

...

COND 3 is deleted in its entirety. The deleted text is not shown struck through.

3 **Banking Act 2009** ~~[deleted]~~ This chapter has been moved to FINMAR 3

Annex D

Amendments to the Market Conduct sourcebook (MAR)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1.9 Market abuse (misleading behaviour) and market abuse (distortion)

...

- 1.9.2A E ~~Failure by a person to give adequate disclosure that he has reached or exceeded a *disclosable short position* where:~~
- ~~(1) that position relates, directly or indirectly, to *securities* which are the subject of a rights issue; and~~
 - ~~(2) the *disclosable short position* is reached or exceeded during a *rights issue period*;~~
- ~~is *behaviour* which, in the opinion of the *FSA*, is *market abuse (misleading behaviour)*. [deleted]~~

- 1.9.2B R ~~For the purposes of *MAR* 1.9.2AE, "adequate disclosure" means disclosure made on a *RIS* by no later than 3.30pm on the *business day* following the date on which the *disclosable short position* is reached or exceeded. The disclosure must include the name of the person who has the *disclosable short position*, the *disclosable short position* and the name of the *issuer* of the *qualifying instruments*. [deleted]~~

Short selling in relation to financial sector companies

- 1.9.2C E ...
- 1.9.2D E (1) ~~Failure by a person who has a *disclosable short position* in a *UK financial sector company* to provide adequate ongoing disclosure of their position is *behaviour* which, in the opinion of the *FSA*, is *market abuse (misleading behaviour)*. [deleted]~~
- (2) ~~In (1), "adequate ongoing disclosure" means disclosure made on a *RIS* by no later than 3.30pm on the *business day* following the day on which the position reaches, exceeds or falls below a *disclosable short position* of 0.25%, 0.35%, 0.45% and 0.55% of the issued share capital of the company and each 0.1% threshold thereafter. [deleted]~~
- (a) [deleted]
 - (b) [deleted]
- (2A) ~~The disclosure referred to in (1) must include the name of the person who has the position, the amount of the *disclosable short position*~~

~~and the name of the company in relation to which it has that position.
[deleted]~~

- (3) ~~For the avoidance of doubt, changes in a *disclosable short position* between the thresholds referred to in (2) do not need to be disclosed under this section. For example, an increase from 0.25% to 0.31% of the issued share capital of the company does not need to be disclosed. [deleted]~~
- (4) ~~For the avoidance of doubt, (1) applies during a *rights issue period*.
[deleted]~~
- (5) [deleted]

**ENFORCEMENT POWERS (FINANCIAL SERVICES ACT 2010)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000:
- (1) section 63C(1) (Statement of policy);
 - (2) section 69(1) (Statement of policy);
 - (3) section 131J(1) (Statement of policy);
 - (4) section 157(1) (Guidance);
 - (5) section 210(1) (Statements of policy); and
 - (6) section 395(5) (The Authority's procedures).

Commencement

- B. This instrument comes into force on 6 August 2010.

Amendments to the Handbook

- C. The Glossary is amended in accordance with Annex A to this instrument.
- D. The Decision Procedure and Penalties manual (DEPP) is amended in accordance with Annex B to this instrument.

Amendments to the Enforcement Guide

- E. The Enforcement Guide (EG) is amended in accordance with Annex C to this instrument.

Citation

- F. This instrument may be cited as the Enforcement Powers (Financial Services Act 2010) Instrument 2010.

By order of the Board
22 July 2010

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text.

breach

in *DEPP*:

...

- (4) behaviour amounting to *market abuse*, or to *requiring or encouraging market abuse*, in respect of which the *FSA* takes action pursuant to section 123 (Power to impose penalties in cases of market abuse) of the *Act*; ~~or~~
- (5) a contravention of any directly applicable *EU* regulation made under ~~MiFID~~ MiFID; or
- (6) a contravention in respect of which the *FSA* is empowered to take action pursuant to section 131G (Breach of short selling rules etc: Power to impose penalty or issue censure) of the *Act*.

Annex B

Amendments to the Decision Procedure and Penalties manual (DEPP)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

1.1 Application and Purpose

Application

1.1.1 G This manual (*DEPP*) is relevant to *firms, approved persons* and other *persons*, whether or not they are regulated by the *FSA*. It sets out:

...

(2) the *FSA's* policy with respect to the imposition and amount of penalties under the *Act* (see *DEPP* 6);

(2A) the *FSA's* policy with respect to the imposition of suspensions or restrictions, and the period for which those suspensions or restrictions are to have effect, under the *Act* (see *DEPP* 6A);

...

Purpose

1.1.2 G The purpose of *DEPP* is to satisfy the requirements of sections 63C(1), 69(1), 93(1), 124(1), 131J(1), 169(7), 210(1) and 395 of the *Act* that the *FSA* publish the statements of procedure or policy referred to in *DEPP* 1.1.1G.

...

2 Annex 1G Warning notices and decision notices under the Act and certain other enactments

...

Section of the Act	Description	Handbook reference	Decision maker
...			
63(3)/(4)	when the <i>FSA</i> is proposing or deciding to withdraw approval from an <i>approved person</i> *		<i>RDC</i>

63B(1)/(3)	<u>when the FSA is proposing or deciding to impose a penalty on a person under section 63A*</u>		<u>RDC</u>
...			
126(1)/ 127(1)	when the FSA is proposing or deciding to impose a sanction for <i>market abuse</i> *		RDC
<u>131H(1)/ (4)</u>	<u>when the FSA is proposing or deciding to take action against a person under section 131G*</u>		<u>RDC</u>
...			
207(1)/ 208(1)	When, <u>in respect of an authorised person</u> , the FSA is proposing or deciding to publish a statement in respect of an authorised person (under section 205) or impose a financial penalty on an authorised person (under section 206) <u>or suspend a permission or impose a restriction in relation to the carrying on of a regulated activity (under section 206A)*</u>		RDC
...			

6.1 Introduction

- 6.1.1 G *DEPP* 6 includes the FSA's statement of policy with respect to the imposition and amount of penalties under the *Act*, as required by sections 63C(1), 69(1), 93(1), 124(1), 131J(1) and 210(1) of the *Act*.

...

6.2 Deciding whether to take action

...

- 6.2.9 G Where disciplinary action is taken against an *approved person* the onus will be on the FSA to show that the *approved person* has been guilty of misconduct.

Action under section 63A of the Act against persons that perform a controlled

function without approval

- 6.2.9A G In addition to the general factors outlined in DEPP 6.2.1G, there are some additional considerations that the FSA will have regard to when deciding whether to take action against a *person* that performs a *controlled function* without approval contrary to section 63A of the Act.
- (1) The conduct of the *person*. The FSA will take into consideration whether, while performing *controlled functions* without approval, the *person* committed misconduct in respect of which, if he had been approved, the FSA could have taken action pursuant to section 66 of the Act and, if so, the seriousness of that misconduct.
 - (2) The extent to which the *person* could reasonably be expected to have known that he was performing a *controlled function* without approval. The circumstances in which the FSA would expect to be satisfied that a *person* could reasonably be expected to have known that he was performing a *controlled function* without approval include:
 - (a) the *person* had previously performed a similar role at the same or another *firm* for which he had been approved;
 - (b) the *person's firm* or another *firm* had previously applied for approval for the *person* to perform the same or a similar *controlled function*;
 - (c) the *person's* seniority or experience was such that he could reasonably be expected to have known that he was performing a *controlled function* without approval; and
 - (d) the *person's firm* had clearly apportioned responsibilities so that the *person's* role, and the responsibilities associated with it, were clear.
 - (3) The length of the period during which the *person* performed a *controlled function* without approval.
 - (4) Whether the *person* is an individual.
 - (5) The appropriateness of taking action against the *person* instead of, or in addition to, taking action against an *authorised person*. In assessing this, the FSA will take into consideration the extent of the culpability of an *authorised person* for the *person* performing a *controlled function* without approval. For example, a relevant factor may be that an *authorised person* decided that the *person* did not need to obtain approval and it was reasonable for the *person* to rely on the *authorised person's* judgment.
 - (6) The *person's* position and responsibilities. The more senior the *person* that performs a *controlled function* without approval, the

more seriously the FSA is likely to view his behaviour, and therefore the more likely it is to take action against the person.

...

6.5B The five steps for penalties imposed on individuals in non-market abuse cases

...

Step 2 – the seriousness of the ~~breach~~ breach

...

6.5B.2 G ...

(9) Factors relating to the nature of a *breach* by an individual include:

...

(n) whether the individual took any steps to comply with *FSA rules*, and the adequacy of those steps; ~~and~~

(o) in the context of contraventions of Part VI of the *Act*, the extent to which the *behaviour* which constitutes the contravention departs from current market practice;

(p) in relation to a contravention of section 63A of the *Act*, whether the individual's only misconduct was to perform a controlled function without approval;

(q) in relation to a contravention of section 63A of the *Act*, whether the individual performed controlled functions without approval and, while doing so, committed misconduct in respect of which, if the individual had been an approved person, the FSA would have been empowered to take action pursuant to section 66 of the *Act*; and

(r) in relation to a contravention of section 63A of the *Act*, the extent to which the individual could reasonably be expected to have known that he was performing a controlled function without approval. The circumstances in which the FSA would expect to be satisfied that a person could reasonably be expected to have known that he was performing a controlled function without approval include:

(i) the person had previously performed a similar role at the same or another firm for which he had been approved;

(ii) the person's firm or another firm had previously applied for approval for the person to perform the same or a similar controlled function;

(iii) the person's seniority or experience was such that he could reasonably be expected to have known that he was performing a controlled function without approval; and

(iv) the person's firm had clearly apportioned responsibilities so the person's role, and the responsibilities associated with it, were clear.

...

(13) Factors which are likely to be considered 'level 1 factors', 'level 2 factors' or 'level 3 factors' include:

...

(c) there was no, or limited, actual or potential effect on the orderliness of, or confidence in, markets as a result of the *breach*; ~~and~~

(d) the *breach* was committed negligently or inadvertently; and

(e) in relation to a contravention of section 63A of the Act, the individual's only misconduct was to perform a controlled function without approval.

Step 3 – mitigating and aggravating factors

6.5B.3 G ...

(2) The following list of factors may have the effect of aggravating or mitigating the *breach*:

...

(l) whether the FSA publicly called for an improvement in standards in relation to the behaviour constituting the *breach* or similar behaviour before or during the occurrence of the *breach*; ~~and~~

(m) whether the individual agreed to undertake training subsequent to the *breach*; and

(n) in relation to a contravention of section 63A of the Act, whether the person's firm or another firm has previously withdrawn an application for the person to perform the same or a similar controlled function or has had such an application rejected by the FSA.

...

Insert the following new chapter after DEPP 6. The text is not underlined.

6A The power to impose a suspension or restriction

6A.1 Introduction

- 6A.1.1 G *DEPP 6A* sets out the *FSA*'s statement of policy with respect to the imposition of suspensions or restrictions, and the period for which those suspensions or restrictions are to have effect, under the *Act*, as required by sections 69(1) and 210(1) of the *Act*.
- 6A.1.2 G For the purposes of *DEPP 6A*, "suspension" refers both to the suspension of any *permission* which an *authorised person* has to carry on a *regulated activity* (under section 206A of the *Act*), and the suspension of any approval of the performance by an *approved person* of any function to which the approval relates (under section 66 of the *Act*); and "restriction" refers both to limitations or other restrictions in relation to the carrying on of a *regulated activity* by an *authorised person* (under section 206A of the *Act*), and to limitations or other restrictions in relation to the performance by an *approved person* of any function to which any approval relates (under section 66 of the *Act*).
- 6A.1.3 G The power to impose a suspension or a restriction is a disciplinary measure which the *FSA* may use in addition to, or instead of, imposing a financial penalty or issuing a *public censure*. The principal purpose of imposing a suspension or a restriction is to promote high standards of regulatory and/or market conduct by deterring *persons* who have committed *breaches* from committing further *breaches*, helping to deter other *persons* from committing similar *breaches*, and demonstrating generally the benefits of compliant behaviour. Suspensions and restrictions are therefore tools that the *FSA* may employ to help it to achieve its *regulatory objectives*.
Examples of restrictions that we may impose include:
- (1) we may limit an *authorised person's* carrying on of a *regulated activity* so that they can only sell certain products or provide certain services;
 - (2) we may restrict an *approved person's* performance of their *controlled functions* so that they can only give advice to *consumers* or deal in certain products if they are appropriately supervised.
- 6A.1.4 G As the power to impose a suspension or a restriction is a disciplinary measure, where the *FSA* considers it necessary to take action, for example, to protect *consumers* from an *authorised person*, the *FSA* will seek to cancel or vary the *authorised person's permissions*. If the *FSA* has concerns with a *person's* fitness to be approved, and considers it necessary to take action, the *FSA* will seek to prohibit the *approved person* or withdraw its approval.

6A.2 Deciding whether to take action

- 6A.2.1 G The *FSA* will consider the full circumstances of each case and determine whether it is appropriate to impose a suspension or restriction. The *FSA* will usually make this decision at the same time as it determines whether or not to impose a financial penalty or a *public censure*.
- 6A.2.2 G The *FSA* will take into account relevant factors in deciding whether it is appropriate to impose a suspension or restriction. These may include factors listed in *DEPP* 6.2. There may also be other factors, not listed in *DEPP* 6.2, that are relevant.
- 6A.2.3 G The *FSA* will consider it appropriate to impose a suspension or restriction where it believes that such action will be a more effective and persuasive deterrent than the imposition of a financial penalty alone. This is likely to be the case where the *FSA* considers that direct and visible action in relation to a particular *breach* is necessary. Examples of circumstances where the *FSA* may consider it appropriate to impose a suspension or restriction include:
- (1) where the *FSA* (or any *previous regulator*) has taken any previous disciplinary action resulting in adverse findings against the *person*;
 - (2) where the *FSA* has previously taken action in respect of similar *breaches* and has failed to improve industry standards;
 - (3) where the *person* has failed properly to carry out an agreed redress package or other agreed remedial measures;
 - (4) where the misconduct appears to be widespread across a number of individuals across a particular business area (suggesting a poor compliance culture);
 - (5) where the *person's* competitive position in the market has improved as a result of the *breach*;
 - (6) if, in accordance with *DEPP* 6.5D, the *FSA* considers that a proposed penalty would cause the subject of enforcement action serious financial hardship and that it is appropriate to reduce the proposed penalty.
- 6A.2.4 G The *FSA* expects usually to suspend or restrict a *person* from carrying out activities directly linked to the *breach*. However, in certain circumstances the *FSA* may also suspend or restrict a *person* from carrying out activities that are not directly linked to the *breach*, for example, where an *authorised person's* relevant business area no longer exists or has been restructured.

6A.3 Determining the appropriate length of the period of suspension or restriction

6A.3.1 G The *FSA* will consider all the relevant circumstances of a case when it determines the length of the period of suspension or restriction (if any) that is appropriate for the *breach* concerned, and is also a sufficient deterrent. Set out below is a list of factors that may be relevant for this purpose. The list is not exhaustive: not all of these factors may be applicable in a particular case, and there may be other factors, not listed, that are relevant.

6A.3.2 G The following factors may be relevant to determining the appropriate length of the period of suspension or restriction to be imposed on a *person* under the *Act*:

(1) Deterrence

When determining the appropriate length of the period of suspension or restriction, the *FSA* will have regard to the principal purpose for which it imposes sanctions, namely to promote high standards of regulatory and/or market conduct by deterring *persons* who have committed *breaches* from committing further *breaches* and helping to deter other *persons* from committing similar *breaches*, as well as demonstrating generally the benefits of compliant business.

(2) The seriousness of the breach

The *FSA* will have regard to the seriousness of the breach. In assessing this, it will consider the impact and nature of the *breach*, and whether it was committed deliberately or recklessly. Where the *breach* was committed by an *authorised person*, relevant factors may include those listed in *DEPP* 6.5A.2G(6) to (9). Where the *breach* was committed by an *approved person*, relevant factors may include those listed in *DEPP* 6.5B.2G(8) to (11). There may also be other factors, not listed in these sections, that are relevant.

(3) Aggravating and mitigating factors

The *FSA* will have regard to factors that may aggravate or mitigate a *breach*. Where the *breach* was committed by an *authorised person*, relevant factors may include those listed in *DEPP* 6.5A.3G(2). Where the *breach* was committed by an *approved person*, relevant factors may include those listed in *DEPP* 6.5B.3G(2). There may also be other factors, not listed in these sections, that are relevant.

(4) The impact of suspension or restriction on the person in breach

The following considerations may be relevant to the assessment of the impact of suspension or restriction on an *authorised person*:

- (a) the *authorised person*'s expected lost revenue and profits from not being able to carry out the suspended or restricted activity;
- (b) the cost of any measures the *authorised person* must

undertake to comply with the suspension or restriction;

- (c) potential economic costs, for example, the payment of salaries to employees who will not work during the period of suspension or restriction or the payment of compensation to *consumers* who will suffer loss as a result of the suspension or restriction;
- (d) the effect on other areas of the *authorised person's* business; and
- (e) whether the suspension or restriction would cause the *authorised person* serious financial hardship.

The following considerations may be relevant to the assessment of the impact of suspension or restriction on an *approved person*:

- (f) the *approved person's* expected lost earnings from not being able to carry out the suspended or restricted activity; and
 - (g) whether the suspension or restriction would cause the *approved person* serious financial hardship.
- (5) The impact of suspension or restriction on persons other than the person in breach

The following considerations may be relevant to the assessment of the impact of suspension or restriction on *persons* other than the *person in breach*:

- (a) the extent to which *consumers* may suffer loss or inconvenience as a result of the suspension or restriction. For example, if it is difficult for *consumers* to switch to a competitor, a longer period of suspension or restriction is likely to have more impact; and
- (b) the impact of the suspension or restriction on markets.

6A.3.3 G The *FSA* may delay the commencement of the period of suspension or restriction. In deciding whether this is appropriate, the *FSA* will take into account all the circumstances of a case. Considerations that may be relevant in respect of an *authorised person* include:

- (1) the impact of the suspension or restriction on consumers;
- (2) any practical measures the *authorised person* needs to take before the period of suspension or restriction begins, for example, changes to its systems and controls to enable it to stop or limit the activity in question;
- (3) the impact of the suspension or restriction on other costs incurred by the *authorised person*, for example, cancelling suppliers or

suspending employees.

6A.4 The interaction between the power to impose suspensions or restrictions and the power to impose penalties or public censures

- 6A.4.1 G The deterrent effect and impact on a *person* of a suspension or restriction, by itself or in combination with a financial penalty, may be greater than where only a financial penalty is imposed. The *FSA* will consider the overall impact and deterrent effect of the sanctions it imposes when determining the level of penalty and the length of suspension or restriction.
- 6A.4.2 G The *FSA* expects usually to take the following approach in respect of the interaction between a suspension or restriction and a financial penalty or *public censure*:
- (1) The *FSA* will determine which sanction, or combination of sanctions, is appropriate for the *breach*.
 - (2) If the *FSA*, following the approach set out in *DEPP* 6.2, considers it appropriate to impose a financial penalty, it will calculate the appropriate level of the financial penalty, following the approach set out in *DEPP* 6.5 to *DEPP* 6.5D.
 - (3) If the *FSA*, following the approach set out in *DEPP* 6A.2, considers it appropriate to impose a suspension or restriction, it will calculate the appropriate length of the period of suspension or restriction, following the approach set out in *DEPP* 6A.3.
 - (4) Where the *FSA* considers it appropriate to impose both a financial penalty and a suspension or restriction, it will decide whether the combined impact on the *person* is likely to be disproportionate in respect to the *breach* and the deterrent effect of the sanctions.
 - (5) If the *FSA* considers the combined impact on the *person* is likely to be disproportionate, it will decide whether to reduce the period of suspension or restriction, the amount of the financial penalty or both, so that the combined impact of the sanctions is proportionate in relation to the *breach* and the deterrent effect of the sanctions. The *FSA* will decide which sanction to reduce after considering all the circumstances of the case.
 - (6) In deciding the final level of the financial penalty and the length of the period of suspension or restriction, the *FSA* will also take into account any representations by the *person* that the combined impact will cause them serious financial hardship. The *FSA* will take the approach set out in *DEPP* 6.5D in assessing this.
- 6A.4.3 G The *FSA* may depart from the approach set out in *DEPP* 6A.4.2G. For example, the *FSA* may at the outset consider that a financial penalty is the

only appropriate sanction for a *breach* but, having determined the appropriate level of financial penalty, may consider it appropriate to reduce the amount of the financial penalty for serious financial hardship reasons. In such a situation, the *FSA* may consider it appropriate to impose a suspension or restriction even if the *FSA* at the outset did not consider such a sanction to be appropriate. The *FSA* will take into account whether the *person* would suffer serious financial hardship in deciding the length of the period of suspension or restriction, and may decide not to impose a suspension or restriction if it considers such action would result in serious financial hardship.

...

Schedule 4 Powers Exercised

Sch 4.1 G

The following powers and related provisions in or under the <i>Act</i> have been exercised by the <i>FSA</i> to make the statements of policy in <i>DEPP</i> :	
	<u>Section 63C (Statement of policy)</u>
	...
	<u>Section 131J (Statement of policy)</u>
	...

Annex C

Amendments to the Enforcement Guide (EG)

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 1.2 In the areas set out below, the *Act* expressly requires the FSA to prepare and publish statements of policy or procedure on the exercise of its enforcement and investigation powers and in relation to the giving of *statutory notices*:
- (1) section 63C requires the FSA to publish a statement of its policy on the imposition, and amount, of financial penalties on persons that perform a controlled function without approval;
 - ~~(4)~~ sections 69 and 210 require the FSA to publish statements of policy on the ~~imposition, and amount,~~ imposition, and amount, of financial penalties, suspensions or restrictions on firms and approved persons, the amount of financial penalties imposed, and the period for which suspensions or restrictions are to have effect;
 - ...
 - (3) section 124 requires the FSA to publish a statement of its policy on the imposition, and amount, of financial penalties for *market abuse*;
 - ~~(3A)~~ section 131J requires the FSA to publish a statement of its policy on the imposition, and amount, of financial penalties imposed under section 131G;
 - ...
 - ...
- 7.2 The FSA has the following powers to impose a financial penalty and to publish a *public censure*.
- (1) It may publish a statement:
 - ...
 - (e) where there has been *market abuse*, against a *person* under section 123 of the *Act*; ~~and~~
 - (ea) if a person has contravened any provision of short selling rules, or any requirement imposed on the person under section 131E or 131F, under section 131G of the Act; and
 - ...
 - (2) It may impose a financial penalty:
 - (a) on a person that performs a controlled function without approval,

under section 63A of the Act;

~~(a)~~ on an *approved person*, under section 66 of the Act;

(aa)

...

(c) where there has been *market abuse*, on any *person*, under section 123 of the Act; ~~and~~

(ca) on a *person* who has contravened any provision of *short selling rules*, or any requirement imposed on the *person* under section 131E or 131F, or any *person* who was knowingly concerned in the contravention, under section 131G of the Act; and

...

**FINANCIAL SERVICES COMPENSATION SCHEME (FINANCIAL SERVICES
ACT 2010) INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the powers and related provisions in the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 156 (General supplementary powers);
 - (c) section 157(1) (Guidance);
 - (d) section 213 (The compensation scheme); and
 - (e) section 214 (General); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 6 August 2010.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Fees manual (FEES) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Financial Services Compensation Scheme (Financial Services Act 2010) Instrument 2010.

By order of the Board
22 July 2010

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text.

- compensation costs* the costs incurred:
- (a) in paying compensation; or
 - (b) as a result of making the arrangements contemplated in *COMP* 3.3.1R or taking the measures contemplated in *COMP* 3.3.3R; or
 - (c) in making payments or giving indemnities under *COMP* 11.2.3R; or
 - (d) under section 214B or section 214D of the Act; or
 - (e) by virtue of section 61 (Sources of compensation) of the Banking Act 2009.

Annex B

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

- 6.1.9 G Section 223 of the *Act* (Management expenses) prevents the *FSCS* from recovering, through a levy, any *management expenses* attributable to a particular period in excess of the limit set in *COMP* as applicable to that period. ‘Management expenses’ are defined in section 223(3) to mean expenses incurred or expected to be incurred by the *FSCS* in connection with its functions under the *Act*, except:
- (1) expenses incurred in paying compensation; ~~and~~
 - (2) expenses incurred as a result of the *FSCS* making the arrangements to secure continuity of insurance set out in *COMP* 3.3.1R and *COMP* 3.3.2R or taking the measures set out in *COMP* 3.3.3R and *COMP* 3.3.4R when a *relevant person* is an *insurer* in financial difficulties; and
 - (3) expenses incurred under section 214B or section 214D of the *Act* as a result of the *FSCS* being required by HM Treasury to make payments in connection with the exercise of the stabilisation power under Part 1 of the Banking Act 2009.

...

- 6.1.15 G *Compensation costs* are principally the costs incurred in paying compensation. Costs incurred in securing continuity of long-term insurance in safeguarding *eligible claimants* when insurers are in financial difficulties, ~~and~~ in making payments or giving indemnities under *COMP* 11.2.3R and as a result of the *FSCS* being required by HM Treasury to make payments in connection with the exercise of the stabilisation power under Part 1 of the Banking Act 2009 are also treated as *compensation costs*. For funding purposes, these costs are allocated by the *FSCS*, and met by *participant firms*, in the same way as *specific costs* up to relevant *levy limits* and then in accordance with the allocation provisions in *FEES* 6.5.2R.

**CONSEQUENTIAL AMENDMENTS (FINANCIAL SERVICES ACT 2010)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 156 (General supplementary powers);
 - (c) section 157(1) (Guidance); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 6 August 2010.

Amendments to the Handbook

- D. The modules of the FSA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Principles for Businesses (PRIN)	Annex B
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex C
Threshold Conditions (COND)	Annex D
Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)	Annex E
Prudential sourcebook for Insurers (INSPRU)	Annex F
Prudential sourcebook for UCITS Firms (UPRU)	Annex G
Supervision manual (SUP)	Annex H
Compensation sourcebook (COMP)	Annex I
Credit Unions sourcebook (CRED)	Annex J
Electronic Money sourcebook (ELM)	Annex K
Professional Firms sourcebook (PROF)	Annex L
Recognised Investment Exchanges and Recognised Clearing Houses sourcebook (REC)	Annex M

Citation

- E. This instrument may be cited as the Consequential Amendments (Financial Services Act 2010) Instrument 2010.

By order of the Board
22 July 2010

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text.

<i>consumer</i>	<p>(1) ...</p> <p>(2) (in relation to the <i>FSA's</i> power to make general <i>rules</i> (section 138 of the <i>Act</i> (General rule-making power))), the approval requirements for <i>controllers</i> (section 186 of the <i>Act</i> (Objection to acquisition of control)), the publication of notices (section 391 of the <i>Act</i> (Publication)) and the exercise of <i>Treaty rights</i> (Schedule 4 to the <i>Act</i> (Treaty rights)) (as defined in section 138(7) of the <i>Act</i> (General rule-making power)) a <i>person</i>:</p> <p>...</p>
<i>prudential context</i>	<p>in relation to activities carried on by a <i>firm</i>, the context in which the activities have, or might reasonably be regarded as likely to have, a negative effect on:</p> <p>(a) confidence in the <u>UK financial system</u>; or</p> <p>...</p>
<i>regulatory objectives</i>	<p>(as described in sections 2(2) and 3 to 6 of the <i>Act</i>)</p> <p>(a) market confidence;</p> <p>(b) public awareness;</p> <p>(c) the protection of <i>consumers</i>; and</p> <p>(d) the reduction of <i>financial crime</i>; <u>and</u></p> <p>(e) <u>financial stability</u>.</p>

Annex B

Amendments to the Principles for Businesses (PRIN)

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 1.1.6 G As set out in *PRIN 3.3* (Where?), *Principles 1* (Integrity), *2* (Skill, care and diligence) and *3* (Management and control) apply to world-wide activities in a *prudential context*. *Principle 5* (Market conduct) applies to world-wide activities which might have a negative effect on confidence in the UK financial system ~~operating in the United Kingdom~~. In considering whether to take regulatory action under these *Principles* in relation to activities carried on outside the *United Kingdom*, the *FSA* will take into account the standards expected in the market in which the *firm* is operating. *Principle 11* (Relations with regulators) applies to world-wide activities; in considering whether to take regulatory action under *Principle 11* in relation to cooperation with an overseas regulator, the *FSA* will have regard to the extent of, and limits to, the duties owed by the *firm* to that regulator. (*Principle 4* (Financial prudence) also applies to world-wide activities.)

...

- 3.3.1 R Territorial application of the Principles

Principle	Territorial application
...	
<i>Principle 5</i>	if the activities have, or might reasonably be regarded as likely to have, a negative effect on confidence in the <u>UK financial system</u> operating in the United Kingdom , applies with respect to activities wherever they are carried on; otherwise, applies with respect to activities carried on from an establishment maintained by the <i>firm</i> (or its <i>appointed representative</i>) in the <i>United Kingdom</i> .
...	

Annex C

**Amendments to the Senior Management Arrangements, Systems and Controls
sourcebook (SYSC)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 3.2.11 G (1) ...
- (2) Risks of regulatory concern are those risks which relate to the fair treatment of the *firm's customers*, to the protection of *consumers*, to confidence in the UK financial system, ~~and~~ to the use of that system in connection with *financial crime*, and to financial stability.
- ...
- 14.1.4 G The purpose of this section is to serve the *FSA's regulatory objectives* of consumer protection, ~~and~~ market confidence and financial stability. In particular, this section aims to reduce the risk that a *firm* may pose a threat to these *regulatory objectives*, either because it is not prudently managed, or because it has inadequate systems to permit appropriate senior management oversight and control of its business.
- ...
- 14.1.51 G SYSC 3.2.20R requires a *firm* to take reasonable care to make and retain adequate records. The following policy on record keeping supplements SYSC 3.2.20R by providing some additional *rules* and *guidance* on record keeping in a *prudential context*. The purpose of this policy is to:
- (1) ...
- (2) help the *FSA* to satisfy itself that a *firm* is operating in a prudent manner and is not prejudicing the interests of its *customers*, ~~or~~ market confidence or financial stability.
- ...
- 15.1.5 G Credit risk concerns the *FSA* in a *prudential context* because inadequate systems and controls for credit risk management can create a threat to the *regulatory objectives* of market confidence, ~~and~~ consumer protection and financial stability by:
- ...
- ...
- 17.1.4 G Insurance risk concerns the *FSA* in a *prudential context* because inadequate systems and controls for its management can create a threat to the *regulatory objectives* of market confidence, ~~and~~ consumer protection and financial

stability. Inadequately managed insurance risk may result in:

...

Annex D

Amendments to the Threshold Conditions (COND)

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 2.5.7 G In determining whether a *firm* will satisfy and continue to satisfy *threshold condition 5* in respect of having competent and prudent management and exercising due skill, care and diligence, relevant matters, as referred to in *COND 2.5.4G(2)*, may include, but are not limited to whether:
- ...
- (2) if appropriate, the *governing body* of the *firm* includes non-executive representation, at a level which is appropriate for the control of the *regulated activities* proposed, for example, as members of an audit committee (~~see *COND 3.2.15G (Audit Committee)*~~);
- ...
- (9) the *firm* has conducted enquiries (for example, through market research or the previous activities of the *firm*) that are sufficient to give it reasonable assurance that it will not be posing unacceptable risks to *consumers* or the *UK financial system*;
- ...

Annex E

**Amendments to the Prudential sourcebook for Banks, Building Societies and
Investment Firms (BIPRU)**

In this Annex, underlining indicates new text.

- 12.3.9 G As part of the *SLRP*, the *FSA* will assess the appropriateness of the *liquidity risk* tolerance adopted by an *ILAS BIPRU firm* to ensure that this risk tolerance is consistent with maintenance by the *firm* of adequate liquidity resources for the purpose of the *overall liquidity adequacy rule*. The *FSA* will expect a *firm* to provide it with an adequately reasoned explanation for the level of *liquidity risk* which that *firm's governing body* has decided it should assume. In assessing the appropriateness of the *liquidity risk* tolerance adopted by a *firm*, the *FSA* will consider whether the tolerance adopted is consistent with the *firm's* satisfaction of *threshold condition 5 (COND 2.5.7G(6))*. Consistent with the *FSA's* statutory objectives under the *Act*, in assessing the appropriateness of a *firm's* adopted *liquidity risk* tolerance the *FSA* will also have regard to the role and importance of a *firm* in the *UK financial system*.
- ...
- 12.4.3 G Consistent with *BIPRU 12.3.5R*, the *FSA* expects that the extent and frequency of such testing, as well as the degree of regularity of *governing body* review under *BIPRU 12.4.2R*, should be proportionate to the nature scale and complexity of a *firm's* activities, as well as to the size of its liquidity risk exposures. Consistent with the *FSA's* statutory objectives under the *Act*, in assessing the adequacy of a *firm's* stress testing arrangements (including their frequency and the regularity of *governing body* review) the *FSA* will also have regard to the role and importance of that *firm* in the *UK financial system*. The *FSA* will, however, expect stress testing and *governing body* review to be carried out no less frequently than annually. The *FSA* expects that a *firm* will build into its stress testing arrangements the capability to increase the frequency of those tests in special circumstances, such as in volatile market conditions or where requested by the *FSA*.
- ...
- 12.8.5 G This section represents merely an indication of the matters to which the *FSA* will have regard in considering an application for a *whole-firm liquidity modification* or an *intra-group liquidity modification*. In considering such an application, the *FSA* will always take into account anything that it reasonably considers to be relevant for the purposes of assessing whether the statutory tests in section 148 of the *Act* are met. In doing so, it will have regard to the role and importance of a *firm* or *UK branch* in the *UK financial system*.
- ...

12.8.12 G In determining the appropriate duration of an *intra-group liquidity modification*, the *FSA* will have regard to the role and importance of the *firm* in question in the *UK financial system*. In some cases, the *FSA* may take the view that an *intra-group liquidity modification* covering a *firm* whose role and importance in the *UK financial system* are significant ought to be reviewed more regularly than one granted in respect of a less systemically significant *firm*. The *FSA* will consider this issue in determining the appropriate duration of such a modification.

...

12.8.30 G In determining the appropriate duration of a *whole-firm liquidity modification*, the *FSA* will have regard to the role and importance of the *UK branch* in question in the *UK financial system*. In some cases, the *FSA* may take the view that a *whole-firm liquidity modification*, covering a *UK branch* whose role and importance in the *UK financial system* are significant, ought to be reviewed more regularly than one granted in respect of a less systemically significant *branch*. ...

Annex F**Amendments to the Prudential sourcebook for Insurers (INSPRU)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 5.1.4 G Operational risk concerns the *FSA* in a *prudential context* because inappropriate management of operational risk can adversely affect the solvency or business continuity of a *firm*, threatening the *regulatory objectives* of market confidence, ~~and~~ consumer protection and financial stability.

Annex G**Amendments to the Prudential sourcebook for UCITS Firms (UPRU)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 1.2.1 G (1) The purpose of this sourcebook is to amplify *Principle 4* (Financial prudence) which requires a *firm* to maintain adequate financial resources to meet its *designated investment business* commitments and to withstand the risks to which its business is subject. This assists in the achievement of the *regulatory objectives* of consumer protection, ~~and~~ market confidence and financial stability.

...

Annex H

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1.1.3 G The design of these arrangements is shaped by the *regulatory objectives*. These are set out in section 2 of the *Act* (The Authority's general duties) and are:

(1) maintaining confidence in the UK financial system;

(1A) contributing to the protection and enhancement of the stability of the UK financial system;

(2) promoting public understanding of the UK financial system;

...

...

1.3.3 G The impact of a *firm* is assessed by reference to a range of factors derived from the *regulatory objectives*, including:

(1) ...

(1A) the extent to which the *firm* may pose risks to the stability of the UK financial system;

...

...

2.1.3 G Achieving the *regulatory objectives* involves the *FSA* informing itself of developments in *firms* and in markets. The *Act* requires the *FSA* to monitor a *firm's* compliance with requirements imposed by or under the *Act* (paragraph 6 (1) of Schedule 1). The *Act* also requires the *FSA* to take certain steps to cooperate with other relevant bodies and regulators (section 354). For these purposes, the *FSA* needs to have access to a broad range of information about a *firm's* business.

...

2.1.5 G Part XI of the *Act* (Information Gathering and Investigations) gives the *FSA* statutory powers, including:

(1) to require the provision of information (see ~~section~~ sections 165, 165A, and EG 3 and FINMAR 1);

...

...

2.3.12 G In complying with *Principle 11*, the *FSA* considers that a *firm* should cooperate with it in providing information for other regulators. ~~Section~~ Sections 169 of the Act (Investigations etc. in support of overseas regulator) and 169A (Support of overseas regulator with respect to financial stability) of the Act ~~gives~~ give the *FSA* certain statutory powers to obtain information and appoint investigators for *overseas regulators* if required (see *DEPP 7*, ~~and~~ *EG 3* and *FINMAR 1*).

...

6.3.28 G (1) The *FSA* is required by section 41(2) of the *Act* to ensure that a *firm* applying to vary its *Part IV permission* satisfies and will continue to satisfy the *threshold conditions* in relation to all the regulated activities for which the *firm* has or will have *Part IV permission* after the variation. However, the *FSA's* duty under the *Act* does not prevent it, having regard to that duty, from taking such steps as it considers necessary in relation to a particular *firm*, to ~~secure its consumer protection objective~~ meet any of its regulatory objectives. This may include granting a *firm's* application for variation of *Part IV permission* when it wishes to wind down (run off) its business activities and cease to carry on new business as a result of no longer being able to satisfy the *threshold conditions*.

(2) In addition, the *FSA* may refuse the application if it appears that ~~the interests of consumers, or a group of consumers,~~ any of its regulatory objectives would be adversely affected if the application were to be granted and it is desirable ~~in the interests of consumers, or that group of consumers,~~ in order to meet any of its regulatory objectives for the application to be refused.

...

6.4.2 G Under section 44(3) of the *Act*, the *FSA* may refuse an application from a *firm* to cancel its *Part IV permission* if it appears that: it is desirable for the application to be refused in order to meet any of the *FSA's* regulatory objectives.

(1) ~~the interests of consumers, or potential consumers, would be adversely affected if the application were to be granted; and~~

(2) ~~it is desirable in the interests of consumers, or potential consumers, for the application to be refused.~~

...

6 Annex 4.1G Additional guidance for a firm winding down (running off) its business

...	
-----	--

3.	If appropriate, in the interests of consumer protection <u>its regulatory objectives</u> , the <i>FSA</i> will require details of the firm's <i>firm's</i> plans and will discuss them with the <i>firm</i> and monitor the winding down or transfer of the <i>firm's</i> business. During the period in which it is winding down, a <i>firm</i> will also be required to notify the <i>FSA</i> of any material changes to the information provided such as, for example, receipt of new complaints and changes to plans.
4.	...
Use of own-initiative powers	
5.	If, for example, the <i>FSA</i> has consumer protection concerns <u>relating to any of the regulatory objectives</u> , it may, however, use its <i>own-initiative power</i> under section 45 of the <i>Act</i> (Variation etc. on the Authority's own initiative) (see <i>SUP 7</i> (Individual requirements) and <i>EG 8</i> (Variation and cancellation of permission on the <i>FSA's</i> own initiative and intervention against incoming firms)), to vary the <i>Part IV permission</i> of a <i>firm</i> which is winding down or transferring its <i>regulated activities</i> .
...	

...

7.1.5 G By waiving or modifying the requirements of a *rule* or imposing an additional *requirement* or *limitation*, the *FSA* can ensure that the *rules*, and any other *requirements* or *limitations* imposed on a *firm*, take full account of the *firm's* individual circumstances, and so assist the *FSA* in meeting the *regulatory objectives* (for example, to protect *consumers*, ~~and~~ maintain market confidence and contribute to financial stability).

...

7.2.2 G The circumstances in which the *FSA* may vary a *firm's Part IV permission* on its own initiative under section 45 of the *Act* include where it appears to the *FSA* that:

- (1) ...
- (2) it is desirable to vary a *firm's permission* in order to ~~protect the interests of consumers or potential consumers~~ meet any of the *FSA's regulatory objectives*.

...

7.3.4 G The *FSA* will seek to give a *firm* reasonable notice of an intent to vary its *permission* and to agree with the *firm* an appropriate timescale. However, if the *FSA* considers that a delay may ~~be prejudicial to the interest of consumers~~ create a risk to any of the *FSA's regulatory objectives*, the *FSA* may need to act immediately using its powers under section 45 of the *Act* to

vary a *firm's Part IV permission* with immediate effect.

...

15.3.1 R A *firm* must notify the *FSA* immediately it becomes aware, or has information which reasonably suggests, that any of the following has occurred, may have occurred or may occur in the foreseeable future:

...

(4) any matter in respect of the *firm* which could result in serious financial consequences to the UK financial system or to other *firms*.

...

18.2.2 G The *FSA's regulatory objectives* include market confidence, financial stability and the protection of *consumers*. ~~Either or both~~ Any or all of these might be impaired if a transfer were approved that led to loss, or perceived loss, to *consumers* or other market participants. On the other hand a transfer that led to improved security or benefits for *consumers* would promote the *FSA's regulatory objectives*. When considering a transfer, the *FSA* needs to take into account the interests of existing *consumers* of the transferee and of *consumers* remaining with the transferor as well as of those whose contracts are being transferred. The *guidance* in this section is intended to protect *consumers*. By so doing it promotes the market confidence objective.

...

Sch 2 Notification requirements

...

Sch 2.2 G

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
...				
SUP 15.3.1R	Notification s - matters having a serious regulatory impact.	The fact of any of the trigger events occurring.	Becoming aware or having information which reasonably suggests, that any of the following has occurred, may have occurred or may occur in the foreseeable future:	Immediately.
			...	

			(4) any matter in respect of the <i>firm</i> which could result in serious financial consequences to the <u>UK</u> <i>financial system</i> or to other <i>firms</i> .	
...				

Annex I

Amendments to the Compensation sourcebook (COMP)

In this Annex, underlining indicates new text.

1.1.9 G This sourcebook is one of the means by which the *FSA* will meet its *regulatory objectives* of securing the appropriate degree of protection for *consumers*, contributing to the protection and enhancement of the financial stability of the *United Kingdom* and maintaining confidence in the *UK* financial system.

...

15.1.1 G When a *relevant person* is *in default* with claims against it for *protected deposits*, it may be desirable for the *FSCS* to make accelerated payments of compensation, for the protection of consumers, to contribute to financial stability and to maintain market confidence.

Annex J

Amendments to the Credit Unions sourcebook (CRED)

In this Annex, underlining indicates new text.

14.1.4 G The design of these arrangements is shaped by the *regulatory objectives*. These are set out in section 2 of the *Act* (The Authority's general duties) and are:

- (1) maintaining confidence in the UK financial system;
- (1A) contributing to the protection and enhancement of the stability of the UK financial system;
- (2) promoting public understanding of the UK financial system;
- ...

14.6.4 G The *FSA* may vary a *credit union's Part IV permission* on its own initiative where:

- (1) one or more of the *threshold conditions* is, or is likely to be, no longer satisfied;
- (2) it is desirable in order to protect members;
- (3) it is otherwise desirable in order to meet any of the *FSA's regulatory objectives*.

14.9.3 G *SUP 15.3.1R* states that a *credit union* must notify the *FSA* immediately it becomes aware, or has information which reasonably suggests, that any of the following has occurred, may have occurred or may occur in the foreseeable future:

- (4) any matter in respect of the *credit union* which could result in serious financial consequences to the UK financial system or to other *firms*.

App 1.1 This is the table referred to in CRED 2.2.2G.

	Sourcebook or manual	Reference code
	...	

High Level Standards	The Fit and Proper test for Approved persons	<i>FIT</i>
	<u>Financial Stability and Market Confidence sourcebook</u>	<u><i>FINMAR</i></u>
	...	

Annex K

Amendments to the Electronic Money sourcebook (ELM)

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 1.2.4 G The *rules and guidance* in *ELM* will help the *FSA* to meet the *regulatory objectives* of protecting *consumers*, ~~and~~ maintaining market confidence and protecting financial stability. They do so by setting standards about the backing of *e-money* issued by an *ELMI* with high quality liquid assets. They also do so by setting minimum capital and other risk management standards. This mitigates the risk that *ELMIs* will be unable to meet their liabilities and commitments to *consumers*. *ELM* also protects *consumers* by regulating the relationship between issuers of *e-money* and those who hold their *e-money*.
- ...
- 5.4.4 G The risks referred to in *SYSC* 7.1.4R and *SYSC* 7.1.5R relating to *e-money* include the following risks:
- ...
- (4) use of the system referred to in (2) for *financial crime* or in a way that may harm or misuse any part of the *UK financial system*.
- ...
- 8.7.9 G The information or documents referred to in *ELM* 8.7.6G must be provided or produced before the end of the reasonable period, and at the place, specified by the *FSA*. The *FSA* may require the information to be provided in such form as it may reasonably require. The *FSA* may require the information to be verified, and the document authenticated, in such manner as it may reasonably require (see article 9G(6) of the *Regulated Activities Order* (Obtaining information from certified persons etc.) and section 165 of the *Act* (Authority's power to require information: authorised persons etc.)) (~~Obtaining information from certified persons etc.~~). The *FSA* may use the power to require information and documents from *small e-money issuers* in support of its enforcement functions.

Annex L

Amendments to the Professional Firms sourcebook (PROF)

In this Annex, underlining indicates new text.

- 1.1.6 G The *rules* and *guidance* in this sourcebook are intended to:
- (1) ...
 - (2) promote public understanding of the UK *financial system* by ensuring that the *clients* of an *exempt professional firm* are made aware that the firm is not an *authorised person*;
- ...

Annex M

**Amendments to the Recognised Investment Exchanges and Recognised Clearing Houses
sourcebook (REC)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 2.3.5 G In assessing whether a *UK recognised body* has sufficient financial resources in relation to counterparty and market risks, the *FSA* may have regard to:
- (1) the amount and liquidity of its financial assets and the likely availability of liquid financial resources to the *UK recognised body* during periods of major market turbulence or other periods of major stress for the *UK financial system*; and
- ...
- ...
- 2.13.3 G In determining whether a *UK recognised body* is able and willing to promote and maintain high standards of integrity and fair dealing in the carrying on of *regulated activities*, the *FSA* may have regard to the extent to which the *UK recognised body* seeks to promote and encourage, through its rules, practices and procedures, conduct in *regulated activities* which is consistent with the *Code of Market Conduct* (see *MAR 1*) and with any other codes of conduct, rules or principles relating to behaviour in *regulated activities* which users of the *UK financial system* ~~in the United Kingdom~~ would normally expect to apply to the *regulated activity* and the conduct in question.
- ...
- 3.18.1 G ...
- (3) The information required under *REC 3.18* is relevant to the *FSA's* supervision of the *UK recognised body's* obligations in relation to the enforceability of compliance with the *UK recognised body's* ~~rules~~ rules. It is also relevant to the *FSA's* broader responsibilities concerning market confidence and financial stability and, in particular, its functions in relation to *market abuse* and *financial crime*. It may also be necessary in the case of *members* based outside the *United Kingdom* to examine the implications for the enforceability of *default rules* or collateral and the settlement of transactions, and thus the ability of the *UK recognised body* to continue to meet the *recognition requirements*. It follows that the admission of a *member* from outside the *United Kingdom* who is not an *authorised person* could require notification under both *REC 3.18.2R* and *REC 3.18.3R*, although a single report from the *UK recognised body* covering both notifications would be acceptable to

the *FSA*.

...

- 4.6.4 G Under section 298(7) of the *Act* (Directions and revocation: procedure), the *FSA* need not follow the consultation procedure set out in the rest of section 298 (see *REC* 4.8), or may cut short that procedure, if it considers it essential to do so. The *FSA* is likely to consider it essential to cut short the procedure if, in the absence of immediate action, there would be:

...

- (2) a serious threat to market confidence or to the stability of the UK *financial system*; or

...

**CAPITAL REQUIREMENTS DIRECTIVE (HANDBOOK AMENDMENTS)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 150(2) (Actions for damages);
 - (c) section 156 (General supplementary powers);
 - (d) section 157(1) (Guidance); and
 - (2) the other powers listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 31 December 2010.

Amendments to the Handbook

- D. The modules of the FSA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
General Prudential sourcebook (GENPRU)	Annex B
Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)	Annex C
Supervision manual (SUP)	Annex D

Notes

- E. In the Annexes to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- F. This instrument may be cited as the Capital Requirements Directive (Handbook Amendments) Instrument 2010.

By order of the Board
22 July 2010

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>deferred share</i>	in relation to a <i>building society</i> , a deferred share as defined in the Building Societies (Deferred Shares) Order 1991.
<i>hybrid capital</i>	an item of capital that is stated in <i>GENPRU 2.2</i> as eligible for inclusion at stage B1, B2 or C of the calculation in the <i>capital resources table</i> .
<i>mezzanine securitisation positions</i>	<p>for the purposes of <i>BIPRU 9.3.7R</i>, <i>9.4.11R</i> and <i>9.5.1R(6)</i>, <i>securitisation positions</i> to which a <i>risk weight</i> lower than 1250% applies and which are more junior than the most senior position in the relevant <i>securitisation</i> and more junior than any <i>securitisation position</i> in the relevant <i>securitisation</i> to which:</p> <ul style="list-style-type: none"> (a) in the case of a <i>securitisation position</i> subject to the <i>standardised approach</i> to <i>securitisation</i> set out in <i>BIPRU 9.11.1R</i> and <i>9.11.2R</i>, a <i>credit quality step 1</i> is assigned; or (b) in the case of a <i>securitisation position</i> subject to the <i>IRB approach</i> to <i>securitisation</i> set out in <i>BIPRU 9.12.10R</i> and <i>9.12.11R</i>, a <i>credit quality step 1</i> or <i>2</i> is assigned under <i>BIPRU 9.7.2R</i>, <i>9.8.2R</i> to <i>9.8.7R</i> and regulation 23 of the <i>Capital Requirements Regulations 2006</i>. <p>[Note: <i>BCD</i>, Annex IX, Part 2, Point 1, paragraph 1b]</p>
<i>ongoing basis</i>	<p>in <i>BIPRU 9.15</i>, maintaining on an <i>ongoing basis</i> means that the retained positions, interest or exposures are not hedged or sold.</p> <p>[Note: <i>BCD</i>, Article 122a, paragraph 1]</p>

Amend the following definition as shown.

<i>netting set</i>	(in accordance with Part 1 of Annex III of the <i>Banking Consolidation Directive</i> (Definitions) and for the purpose of <i>BIPRU 13</i> (The calculation of counterparty risk exposure values for financial derivatives, securities financing transactions and long settlement transactions)) a group of transactions with a single counterparty that are subject to a legally
--------------------	---

enforceable bilateral netting arrangement and for which netting is recognised under *BIPRU* 13.7 (Contractual netting), *BIPRU* 5 (Credit risk mitigation) and, if applicable, *BIPRU* 4.10 (The IRB approach: Credit risk mitigation); each transaction that is not subject to a legally enforceable bilateral netting arrangement, which is recognised under *BIPRU* 13.7 must be interpreted as its own *netting set* for the purpose of *BIPRU* 13. Under the method set out at *BIPRU* 13.6, all *netting sets* with a single counterparty may be treated as a single *netting set* if negative simulated market values of the individual sets are set to zero in the estimation of *expected exposure (EE)*.

[Note: *BCD*, Annex III, Part 1, point 5]

Annex B

Amendments to the General Prudential sourcebook (GENPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Table: Arrangement of GENPRU 2.2

2.2.6 G This table belongs to GENPRU 2.2.5G

Topic	Location of text
...	...
Limits on the use of different forms of capital for <i>banks</i> and <i>building societies</i> (certain types of <i>capital resources</i> cannot be used for certain purposes)	GENPRU 2.2.42R <u>2.2.44R</u> to GENPRU 2.2.45R; GENPRU 2.2.47R to GENPRU 2.2.48R
...	...
Limits on the use of different forms of capital for <i>BIPRU investment firms</i> (certain types of <i>capital resources</i> cannot be used for certain purposes)	GENPRU 2.2.42R <u>2.2.44R</u> to GENPRU 2.2.45R; GENPRU 2.2.47R to GENPRU 2.2.48R
...	...
<i>Tier one capital</i> instruments: general	GENPRU 2.2.9G to GENPRU 2.2.10G; GENPRU 2.2.62R to GENPRU 2.2.69G; GENPRU 2.2.80R to GENPRU 2.2.82G
<u><i>Tier one capital: payment of coupons (BIPRU firm only)</i></u>	<u>GENPRU 2.2.69AR to GENPRU 2.2.69FG</u>
...	...
<u><i>Core tier one capital: deferred shares (building society only)</i></u>	<u>GENPRU 2.2.108AR to GENPRU 2.2.108BG</u>
<i>Tier one capital: perpetual non-cumulative preference shares (insurer only)</i>	GENPRU 2.2.109R to GENPRU 2.2.110G
<i>Tier one capital: PIBS</i>	GENPRU 2.2.76R; GENPRU

	2.2.111R to GENPRU 2.2.112G
<i>Innovative tier one capital</i> (excluding issues through SPVs) (<i>insurer only</i>)	GENPRU 2.2.76R; GENPRU 2.2.113R to GENPRU 2.2.122G
<i>Hybrid capital</i> (excluding issues through SPVs) (<i>BIPRU firm only</i>)	<u>GENPRU 2.2.115AR to GENPRU 2.2.119G</u>
<i>Innovative tier one capital</i> <i>Hybrid capital</i> (issues through SPVs) (<i>BIPRU firm only</i>)	GENPRU 2.2.123R to GENPRU 2.2.137R
...	...
Redemption of <i>tier one instruments</i>	GENPRU 2.2.64R(3); GENPRU 2.2.70R to GENPRU 2.2.79G
<u>Purchases of <i>tier one instruments</i>:</u> <u>BIPRU firm only</u>	<u>GENPRU 2.2.79AR to GENPRU 2.2.79HG</u>
...	...

2.2.9 G *Tier one capital* typically has the following characteristics:

- (1) it is able to absorb losses;
- (2) it is permanent or (in the case of a *BIPRU firm*) available when required;

...

2.2.10 G The forms of capital that qualify for *Tier one capital* are set out in the *capital resources table* and include, for example, *share capital*, reserves, partnership and *sole trader capital*, verified interim net profits and, for a *mutual*, the *initial fund* plus permanent members' accounts. *Tier one capital* is divided into:

- (1) in the case of an *insurer*, *core tier one capital*, perpetual non-cumulative *preference shares*, ~~*permanent interest bearing shares (PIBS)*~~ and *innovative tier one capital*; and
- (2) in the case of a *BIPRU firm*, *core tier one capital* and *hybrid capital*. *Hybrid capital* is further divided into the different stages B1, B2 and C of the calculation in the *capital resources table*.

...

Limits on the use of different forms of capital: Use of higher tier capital in lower tiers

2.2.25 R A *firm* may include in a *lower stage of capital*, *capital resources* which are eligible for inclusion in a *higher stage of capital* if the *capital resources gearing rules* would prevent the use of that capital in that *higher stage of capital*. However:

...

(2) (subject to *GENPRU 2.2.26R* and *GENPRU 2.2.26AR*) the *rules* in *GENPRU* governing the eligibility of capital in that *lower stage of capital* continue to apply.

...

2.2.26A R A dated item of *tier one capital* which is included in a *BIPRU firm's tier two capital resources* under *GENPRU 2.2.25R* is not subject to the requirement to have no fixed maturity date in *GENPRU 2.2.177R(1)*.

2.2.27 R ~~A *BIPRU firm* may include in a *lower stage of capital*, *innovative tier one capital* that it is prohibited from using under *GENPRU 2.2.42R* (*BIPRU firms* may not use *innovative tier one capital* to meet the *CRR*). However:~~

~~(1) the *capital resources gearing rules* applicable to that *lower stage of capital* apply to that *innovative tier one capital*; and~~

~~(2) (subject to *GENPRU 2.2.28R*) the *rules* in *GENPRU* governing the eligibility of capital in that *lower stage of capital* continue to apply. [deleted]~~

2.2.28 R ~~The~~ In the case of a *BIPRU firm*, the requirement to obtain a legal opinion in *GENPRU 2.2.159R(12)* does not apply to *innovative tier one capital hybrid capital* treated under *GENPRU 2.2.27R 2.2.25R* but the requirements to obtain a legal opinion in *GENPRU 2.2.118R* continue to apply.

Limits on the use of different forms of capital: Limits relating to tier one capital applicable to ~~all firms except *BIPRU investment firms*~~ insurers

2.2.29 R In relation to the *tier one capital resources* of an *insurer, bank or building society*, calculated at stage F of the calculation in the *capital resources table* (Total tier one capital after deductions), at least 50% must be accounted for by *core tier one capital*.

~~Limits on the use of different forms of capital: Limits relating to tier one capital applicable to all firms~~

2.2.30 R In relation to the *tier one capital resources* of an *insurer*, ~~and subject to *GENPRU 2.2.42R* (Restriction on the use of *innovative tier one capital*), those of a *BIPRU firm*~~, calculated at stage F of the calculation in the *capital resources table* (Total tier one capital after deductions), no more than 15% may be accounted for by *innovative tier one capital*.

Limits on the use of different forms of capital: Limits relating to tier one capital

applicable to BIPRU firms

- 2.2.30A R In relation to the *tier one capital resources* of a *BIPRU firm*, calculated at stage F of the calculation in the *capital resources table* (Total tier one capital after deductions):
- (1) no more than 50% may be accounted for by hybrid capital;
 - (2) no more than 35% may be accounted for by hybrid capital included at stages B2 and C of the calculation in the capital resources table; and
 - (3) no more than 15% may be accounted for by hybrid capital included at stage C of the calculation in the capital resources table.

Limits on the use of different forms of capital: Limits relating to tier one capital:
Purpose of the requirements

- 2.2.31 G The purpose of the requirements in *GENPRU 2.2.29R* and *GENPRU 2.2.30AR(1)* is to ensure that ~~at least 50% of the firm's tier one capital resources (net of tier one capital deductions) is met by~~ includes a minimum proportion of core tier one capital which provides ~~maximum loss absorbency on a going concern basis to protect the firm from insolvency the highest quality capital.~~ Although a perpetual non-cumulative preference share or a PIBS is in legal form a share, it behaves in many ways like a perpetual fixed interest debt instrument. Within the 50% limit on non-core tier one capital,;
- (1) *GENPRU 2.2.30R* places a further sub-limit on the amount of innovative tier one capital that ~~a firm~~ an insurer may include in its tier one capital resources; and
 - (2) *GENPRU 2.2.30AR(2)* and *GENPRU 2.2.30AR(3)* place further sub-limits on the amounts of hybrid capital included at stages B2 and C of the calculation in the *capital resources table* that a *BIPRU firm* may include in its tier one capital resources.

~~This limit is~~ These limits are necessary to ensure that most of a firm's tier one capital comprises items of capital of the highest quality.

...

~~Limits on the use of innovative tier one capital: BIPRU firm~~

- 2.2.42 R ~~For the purpose of meeting the main BIPRU firm Pillar 1 rules, a BIPRU firm may not include innovative tier one capital in its tier one capital resources. [deleted]~~
- 2.2.43 G ~~A BIPRU firm may include innovative tier one capital in its tier one capital resources for the purpose of GENPRU 1.2 (Adequacy of financial resources) and BIPRU 10 (Concentration risk). A firm may also include it in its upper tier two capital resources under GENPRU 2.2.25R (Limits on the use of different forms of capital: Use of higher tier capital in lower tiers) for all~~

purposes as long as it meets the conditions for treatment as *upper tier two capital*. [deleted]

...

2.2.52 G This table belongs to *GENPRU 2.2.51G*

Description of the stage of the capital resources calculation	Stage in the <i>capital resources table</i>	Amount (£)
Total <i>tier one capital</i> after deductions (excluding innovative tier one instruments — see <i>GENPRU 2.2.53G</i>)	Stage F	80
Total <i>tier two capital</i> (including innovative tier one instruments — see <i>GENPRU 2.2.53G</i>)	Stage K	80
Deductions	Stage M	(20)
Total <i>tier one capital</i> and <i>tier two capital</i> after deductions	Stage N	140
<i>Upper tier three capital</i> (this example assumes the firm has no <i>lower tier three capital</i> (trading book profits))	Stage Q	50
Total <i>capital resources</i>	Stage T	190

2.2.53 G ~~*GENPRU 2.2.42R* (Limits on the use of innovative tier one capital) prohibits the inclusion of *innovative tier one instruments* in the *tier one capital* of a *BIPRU firm* for the purpose of meeting the *capital resources requirement*. Thus they are not included in the calculation of stage F of the *capital resources table*. Instead all *innovative tier one instruments* have been included in *tier two capital* in accordance with *GENPRU 2.2.25R* (Use of higher tiers of capital in lower tiers). [deleted]~~

...

2.2.61 G The explanation for *GENPRU 2.2.60R* can be found in *GENPRU 2.2.43G 2.1.43G* (Base capital resources requirement). ...

...

2.2.63 R The categories referred to in *GENPRU 2.2.62R(1)* are:

(1) *permanent share capital*;

- (2) *eligible partnership capital*;
- (3) *eligible LLP members' capital*;
- (4) *sole trader capital*;
- (5) (in the case of an insurer) a perpetual non-cumulative *preference share*;
- (6) ~~(in the case of a building society) PIBS; and [deleted]~~
- (7) (in the case of an insurer) an *innovative tier one instrument*; and
- (8) (in the case of a BIPRU firm) hybrid capital.

General conditions for eligibility as tier one capital

- 2.2.64 R The conditions that an item of capital of a *firm* must comply with under *GENPRU 2.2.62R(2)* are as follows:
- (1) it is issued by the *firm*;
 - (2) it is fully paid and the proceeds of issue are immediately and fully available to the *firm*;
 - (3) it:
 - (a) cannot be redeemed at all or can only be redeemed on a winding up of the *firm*; or
 - (b) complies with the conditions in *GENPRU 2.2.70R* (Basic requirements for redeemability) and *GENPRU 2.2.76R* (Redeemable instrument subject to a *step-up*);
 - (4) the item of capital meets the following conditions in relation to any *coupon*:
 - (a) the *firm* is under no obligation to pay a *coupon*; or
 - (b) (if the *firm* is obliged to pay the *coupon*) the *coupon* is payable in the form of an item of capital that is:
 - (i) in the case of a BIPRU firm, core tier one capital; and
 - (ii) in the case of an insurer, included in a higher stage of capital or the same stage of capital as that first item of capital;
 - (5) any *coupon* is either:
 - (a) non-cumulative; or

- (b) (if it is cumulative) it must, if deferred, be paid by the *firm* in the form of *tier one capital* complying with (4)(b);
- (6) it is able to absorb losses to allow the *firm* to continue trading and:
- (a) in the case of an *insurer*, in particular it complies with GENPRU 2.2.80R to GENPRU 2.2.81R (Loss absorption) and, in the case of an *innovative tier one instrument*, GENPRU 2.2.116R to GENPRU 2.2.118R (~~*Innovative tier one instrument* should not constitute a liability~~) (Other tier one capital: loss absorption); and
 - (b) in the case of a *BIPRU firm*, it does not, through appropriate mechanisms, hinder the recapitalisation of the *firm*, and in particular it complies with:
 - (i) GENPRU 2.2.80R to GENPRU 2.2.81R (Loss absorption); and
 - (ii) in the case of *hybrid capital*, GENPRU 2.2.116R to GENPRU 2.2.118R (Other tier one capital: loss absorption);
- (7) the amount of the item included must be net of any foreseeable tax charge at the moment of its calculation or must be suitably adjusted in so far as such tax charges reduce the amount up to which that item may be applied to cover risks or losses;
- (8) it is available to the *firm* for unrestricted and immediate use to cover risks and losses as soon as these occur;
- (9) it ranks for repayment upon winding up, administration or any other similar process:
- (a) in the case of an *insurer*, no higher than a *share* of a company incorporated under the Companies Act 2006 (whether or not it is such a *share*); or
 - (b) in the case of a *BIPRU firm*, lower than any items of capital that are:
 - (i) eligible for inclusion within the *firm's tier two capital resources*; and
 - (ii) not eligible for inclusion within the *firm's tier one capital resources*; and
- (10) the description of its characteristics used in its marketing is consistent with the characteristics required to satisfy (1) to (9) and, where it applies, GENPRU 2.2.271R (Other requirements: insurers carrying on with-profits business (Insurers only)).

...

2.2.68A R A BIPRU firm must not include a capital instrument in its tier one capital resources if:

- (1) the capital instrument is affected by a dividend stopper; and
- (2) the dividend stopper operates in a way that hinders recapitalisation.

2.2.68B G A dividend stopper prevents the firm from paying any coupon on more junior or pari passu instruments in a period in which the firm omits payments to the holder of the capital instrument containing the dividend stopper, and so may hinder the recapitalisation of the firm contrary to GENPRU 2.2.64R(6).

...

Tier one capital: payment of coupons (BIPRU firm only)

2.2.69A R A BIPRU firm must not make a payment of a coupon on an item of hybrid capital if the firm has no distributable reserves.

2.2.69B R A BIPRU firm must cancel the payment of a coupon on an item of hybrid capital if the BIPRU firm does not meet its capital resources requirement or if the payment of that coupon would cause it to breach its capital resources requirement.

2.2.69C R A BIPRU firm must not pay a coupon on an item of hybrid capital in the form of core tier one capital in accordance with GENPRU 2.2.64R(4)(b) unless:

- (1) the firm meets its capital resources requirement; and
- (2) such a substituted payment preserves the firm's financial resources.

2.2.69D G The FSA considers that a BIPRU firm's financial resources are not preserved under GENPRU 2.2.69CR(2) unless, among other things, the conditions of the substituted payment are that:

- (1) there is no decrease in the amount of the firm's core tier one capital;
- (2) the deferred coupon is satisfied without delay using newly issued core tier one capital that has an aggregate fair value no more than the amount of the coupon;
- (3) the firm is not obliged to find new investors for the newly issued instruments; and
- (4) if the holder of the newly issued instruments subsequently sells the instruments and the sale proceeds are less than the value of the coupon, the firm is not obliged to issue further new instruments to

cover the loss incurred by the holder of the instruments.

- 2.2.69E R A BIPRU firm must cancel the payment of a coupon if circumstances arise whereby the payment of the coupon by newly issued instruments, in accordance with GENPRU 2.2.64R(4)(b), does not comply with the requirements of GENPRU 2.2.69CR.
- 2.2.69F G (1) In relation to the cancellation or deferral of the payment of a coupon in accordance with GENPRU 2.2.64R(4) and (5), GENPRU 2.2.69AR, or GENPRU 2.2.69BR, the FSA expects that situations where a coupon may need to be cancelled or deferred will be resolved through analysis and discussion between the firm and the FSA. If the FSA and the firm do not agree on the cancellation or deferral of the payment of a coupon, then the FSA may consider using its powers under section 45 of the Act to, on its own initiative, vary a firm's Part IV permission to require it to cancel or defer a coupon in accordance with the FSA's view of the financial and solvency situation of the firm.
- (2) In considering a firm's financial and solvency situation, the FSA will normally take into account, among other things, the following:
- (a) the firm's financial and solvency position before and after the payment of the coupon, in particular whether that payment, or other foreseeable internal and external events or circumstances, may increase the risk of the firm breaching its capital resources requirement or the overall financial adequacy rule;
- (b) an appropriately stressed capital plan, covering 3-5 years, which includes the effect of the proposed payment of the coupon; and
- (c) an evaluation of the risks to which the firm is or might be exposed and whether the level of tier one capital ensures the coverage of those risks, including stress tests on the main risks showing potential loss under different scenarios.
- (3) If the BIPRU firm is required to cancel or defer the payment of a coupon by the FSA, it may still be able to pay the coupon by way of newly issued core tier one capital in accordance with GENPRU 2.2.64R(4)(b) and GENPRU 2.2.69CR. The FSA may consider using its powers under section 45 of the Act to, on its own initiative, vary a firm's Part IV permission to impose conditions on the use of such a mechanism or to require its cancellation, based on the factors outlined in this guidance.

Redemption of tier one instruments

- 2.2.70 R A firm may not include a capital instrument in its tier one capital resources, unless its contractual terms are such that:

- (1) (if it is redeemable other than in circumstances set out in *GENPRU* 2.2.64R(3)(a) (redemption on a winding-up)) it is redeemable only at the option of the *firm* or, in the case of a *BIPRU firm*, on the date of maturity; and
- (2) the *firm* cannot exercise that redemption right:
 - (a) before the fifth anniversary of its date of issue;
 - (b) unless it has given notice to the *FSA* in accordance with *GENPRU* 2.2.74R; and
 - (c) unless at the time of exercise of that right it complies with *GENPRU* 2.1.13R (the main capital adequacy rule for *insurers*) or the *main BIPRU firm Pillar 1 rules* and will continue to do so after redemption;
- (3) (in the case of a *BIPRU firm* and if it is undated) if it provides for a moderate incentive for the *BIPRU firm* to redeem it, that incentive does not occur before the tenth anniversary of its date of issue; and
- (4) (in the case of a *BIPRU firm* and if it is dated):
 - (a) it has an original maturity date of at least 30 years after its date of issue; and
 - (b) it does not provide an incentive to redeem on any date other than its maturity date.

2.2.70A G In the case of a *BIPRU firm*, an incentive to redeem is a feature of a *capital instrument* that would lead a reasonable market participant to have an expectation that the *firm* will redeem the instrument. The *FSA* considers that interest rate step-ups and principal stock settlements, in conjunction with a call option, are incentives to redeem. Only instruments with moderate incentives to redeem are permitted as *tier one capital*, in accordance with the limited conversion ratio in *GENPRU* 2.2.138R and the rule on step-ups in *GENPRU* 2.2.147R.

2.2.71 R A *firm* may include a term in a *tier one instrument* allowing the *firm* to redeem it before the date in *GENPRU* 2.2.70R(2)(a) if the following conditions are satisfied:

- (1) the other conditions in *GENPRU* 2.2.70R are met;
- (2) the circumstance that entitles the *firm* to exercise that right is:
 - (a) (in the case of an *insurer*) a change in law or regulation in any relevant jurisdiction or in the interpretation of such law or regulation by any court or authority entitled to do so; and
 - (b) (in the case of a *BIPRU firm*) a change in the applicable tax

treatment or regulatory classification of those instruments;

- (3) (a) (in the case of an *insurer*) it would be reasonable for the *firm* to conclude that it is unlikely that that circumstance will occur, judged at the time of issue or, if later, at the time that the term is first included in the terms of the *tier one instrument*; and
- (b) (in the case of a *BIPRU firm*) the circumstance that entitles the *firm* to exercise that right was not reasonably foreseeable at the date of issue of the *tier one instrument*; and
- (4) the *firm*'s right is conditional on it obtaining the *FSA*'s consent in the form of a *waiver* of *GENPRU 2.2.72R*.

...

2.2.74 R A *firm* must not redeem any *tier one instrument* that it has included in its *tier one capital resources* unless it has notified the *FSA* of its intention at least one month before it becomes committed to do so. When giving notice, the *firm* must provide details of its position after such redemption in order to show how it will:

- (1) meet its *capital resources requirement*; ~~and~~
- (2) have sufficient financial resources to meet the *overall financial adequacy rule*; and
- (3) in the case of a *BIPRU firm*, not otherwise suffer any undue effects to its financial or solvency conditions.

2.2.74A G The *FSA* considers that, in order to comply with *GENPRU 2.2.74R*, the *firm* should, at a minimum, provide the *FSA* with the following information:

- (1) a comprehensive explanation of the rationale for the redemption;
- (2) the *firm*'s financial and solvency position before and after the redemption, in particular whether that redemption, or other foreseeable internal and external events or circumstances, may increase the risk of the *firm* breaching its *capital resources requirement*;
- (3) an appropriately stressed capital plan covering 3-5 years, which includes the effect of the proposed redemption; and
- (4) an evaluation of the risks to which the *firm* is or might be exposed and whether the level of *tier one capital* ensures the coverage of such risks including stress tests on the main risks showing potential loss under different scenarios.

2.2.74B R If a *BIPRU firm* does not comply with its *capital resources requirement* or if the redemption of any dated *tier one instrument* would cause it to breach its

capital resources requirement, it must suspend the redemption of its dated tier one instruments.

...

Step-ups and redeemable tier one instruments: Insurer only

2.2.76 R In the case of an insurer, in relation to an innovative tier one instrument or a PIBS which is redeemable and which satisfies the following conditions:

...

...

Purchases of tier one instruments: BIPRU firm only

2.2.79A R A BIPRU firm must not purchase a tier one instrument that it has included in its tier one capital resources unless:

- (1) the firm initiates the purchase;
- (2) it is on or after the fifth anniversary of the date of issue of the instrument; and
- (3) the firm has given notice to the FSA in accordance with GENPRU 2.2.79GR.

2.2.79B G In exceptional circumstances a BIPRU firm may apply for a waiver of GENPRU 2.2.79AR(2) under section 148 (Modification or waiver of rules) of the Act.

2.2.79C R GENPRU 2.2.79AR(2) does not apply if:

- (1) the firm replaces the capital instrument it intends to purchase with a capital instrument that is included in a higher stage of capital or the same stage of capital; and
- (2) the replacement capital instrument has already been issued.

2.2.79D R GENPRU 2.2.79AR(2) does not apply if:

- (1) the firm intends to hold the purchased instrument for a temporary period as market maker; and
- (2) the purchased instruments held by the firm do not exceed the lower of:
 - (a) 10% of the relevant issuance; or
 - (b) 3% of the firm's total issued hybrid capital.

2.2.79E G In the circumstances provided for in GENPRU 2.2.79DR, a firm would purchase the instrument and, instead of cancelling it, the firm would hold the

instrument for a temporary period. In that case a *firm* should have in place adequate policies to take into account any relevant regulations and *rules*, which include those relating to market abuse.

- 2.2.79F R For the purposes of calculating its *tier one capital resources*, a *firm* must deduct the amount of any item of *hybrid capital* which it then holds.
- 2.2.79G R A *BIPRU firm* must not purchase a *tier one instrument* in accordance with *GENPRU 2.2.79AR* unless it has notified the *FSA* of its intention at least one month before it becomes committed to doing so. When giving notice, the *firm* must provide details of its position after the purchase in order to show how, over an appropriate timescale, adequately stressed, and without planned recourse to the capital markets, it will:
- (1) meet its *capital resources requirement*; and
 - (2) have sufficient financial resources to meet the *overall financial adequacy rule*.
- 2.2.79H G The *FSA* considers that:
- (1) in order to comply with *GENPRU 2.2.79GR*, the *firm* should, at a minimum, provide the *FSA* with the following information:
 - (a) a comprehensive explanation of the rationale for the purchase;
 - (b) the *firm*'s financial and solvency position before and after the purchase, in particular whether the purchase, or other foreseeable internal and external events or circumstances, may increase the risk of the *firm* breaching its *capital resources requirement* or the *overall financial adequacy rule*;
 - (c) an appropriately stressed capital plan covering 3-5 years, which includes the effect of the proposed purchase; and
 - (d) an evaluation of the risks to which the *firm* is or might be exposed and whether the level of *tier one capital* ensures the coverage of such risks including stress tests on the main risks showing potential loss under different scenarios; and
 - (2) the proposed purchase should not be on the basis that the *firm* reduces capital on the date of the purchase and then plans to raise new external capital during the following 3-5 years to replace the purchased capital.

Loss Absorption

- 2.2.80 R A *firm* may not include a *share* in its *tier one capital resources* unless (in addition to complying with the other relevant *rules* in *GENPRU 2.2*):

...

- (2) (in the case of a *building society*) it is a deferred share “~~deferred share~~” as defined in the Building Societies (Deferred Shares) Order 1991; or

...

...

- 2.2.82 G There are additional loss absorption requirements for (in the case of an insurer) innovative tier one capital and (in the case of a BIPRU firm) hybrid capital in GENPRU 2.2.116R to GENPRU 2.2.118R (~~Innovative tier one instrument should not constitute a liability~~) (Other tier one capital: loss absorption).

Core tier one capital: permanent share capital

- 2.2.83 R *Permanent share capital* means an item of capital which (in addition to satisfying GENPRU 2.2.64R) meets the following conditions:

- (1) it is:

...

- (c) part of the *initial fund* of a *mutual*; or

- (d) a deferred share;

...

...

- 2.2.85 R (1) ...
- (2) For these purposes material interim net losses mean unaudited interim losses arising from a *firm's trading book* and *non-trading book* business which exceed 10% of the sum of its *capital resources* calculated at ~~stages~~ stage A (Core tier one capital) and ~~B~~ (~~Perpetual non-cumulative preference shares~~) in the *capital resources table*.

...

...

- 2.2.97 R The items *permanent share capital* and *share premium account* (which form part of *core tier one capital*) and ~~perpetual non-cumulative preference shares~~ (~~which forms stage B of the capital resources table~~) do not apply to a *BIPRU firm* that is a partnership or a *limited liability partnership*.

...

Core tier one capital: deferred shares (building society only)

2.2.108A R A building society may include a deferred share at stage A of the calculation in the capital resources table if (in addition to satisfying all the other requirements in relation to tier one capital) it is permanent share capital and is otherwise equivalent to an ordinary share in terms of its capital qualities, taking into account the specific constitution of building societies under the Building Societies Act 1986.

2.2.108B G The other main provisions relevant to inclusion of a deferred share in tier one capital are GENPRU 2.2.62R (Tier one capital: General), GENPRU 2.2.64R (General conditions for eligibility as tier one capital), GENPRU 2.2.65R (Connected transactions) and GENPRU 2.2.80R (Loss absorption).

Other tier one capital: perpetual non-cumulative preference shares (insurer only)

2.2.109 R A In the case of an insurer, a perpetual non-cumulative preference share may be included at stage B of the calculation in the capital resources table if...

...

2.2.110 G The other main provisions relevant to the eligibility of a perpetual non-cumulative preference share for inclusion by an insurer in tier one capital are...

Other tier one capital: permanent interest bearing shares (building societies only)

2.2.111 R A building society may include a PIBS at stage B of the calculation in the capital resources table if (in addition to satisfying all the other requirements in relation to tier one capital) it is a “deferred share” as defined in the Building Societies (Deferred Shares) Order 1991. [deleted]

2.2.112 G The other main provisions relevant to inclusion of a PIBS in tier one capital are GENPRU 2.2.62R (Tier one capital: General), GENPRU 2.2.64R (General conditions for eligibility as tier one capital), GENPRU 2.2.65R (Connected transactions), GENPRU 2.2.70R to GENPRU 2.2.75R (Redemption of tier one instruments), GENPRU 2.2.76R (Step-ups and redeemable tier one instruments) and GENPRU 2.2.80R (Loss absorption). However many of the rules in this section about features of capital instruments that result in treatment as innovative tier one capital do not apply. [deleted]

Other tier one capital: innovative tier one capital: general (insurer only)

2.2.113 R If, in the case of an insurer, an item of capital is stated to be an innovative tier one instrument by the rules in GENPRU 2.2, it cannot be included in stages A (Core tier one capital) or B (Perpetual non-cumulative preference shares) of the calculation in the capital resources table.

Other tier one capital: innovative tier one capital: redemption (insurer only)

- 2.2.114 R If, in the case of an insurer, a tier one instrument, other than a PIBS:
- (1) is redeemable; and
 - (2) a reasonable person would think that:
 - (a) the firm is likely to redeem it; or
 - (b) the firm is likely to have an economic incentive to redeem it;

that tier one instrument is an innovative tier one instrument.

- 2.2.115 G Any feature that in conjunction with a call would make a firm an insurer more likely to redeem a tier one instrument, other than a PIBS, would normally result in classification as innovative tier one capital resources....

Other tier one capital: conditions for eligibility for hybrid capital to be included at the different stages B1, B2 and C of the calculation in the capital resources table (BIPRU firm only)

- 2.2.115A R A BIPRU firm must not include a capital instrument at stage B1 of the calculation in the capital resources table unless (in addition to satisfying all the other requirements in relation to tier one capital and hybrid capital) its contractual terms are such that:

- (1) it cannot be redeemed in cash but can only be converted into core tier one capital;
- (2) it must be converted into core tier one capital by the firm during emergency situations;
- (3) the emergency situations referred to in (2):
 - (a) are clearly defined within the terms of the capital instrument, legally certain and transparent; and
 - (b) occur at the latest, and include, when the BIPRU firm does not meet its capital resources requirement;
- (4) the FSA may require its conversion into core tier one capital when the FSA considers it necessary;
- (5) it may be converted into core tier one capital by the firm or the holder of the instrument at any time; and
- (6) the maximum number of capital instruments which are core tier one capital into which it may be converted must:
 - (a) be determined at the date of its issue;
 - (b) be determined on the basis of the market value of those other instruments at the date of its issue;

- (c) have an aggregate value equal to its par value; and
- (d) not increase if the price of those other instruments decreases.

- 2.2.115B G The intention of GENPRU 2.2.115AR is to ensure that capital instruments included in stage B1 of the calculation in the capital resources table have the same permanence as core tier one capital; the presence of a call option for these instruments may reduce their permanence.
- 2.2.115C G (1) In respect of GENPRU 2.2.115AR(4), the FSA may require the firm to convert the instrument into core tier one capital based on its financial and solvency situation. The FSA will take into account, among other things, the factors identified at GENPRU 2.2.69FG(2), adjusted to take into account the effects of a conversion rather than payment of a coupon.
- (2) Even if a firm meets its capital resources requirement, the FSA may consider the amount or composition of the firm's tier one capital as inadequate to cover the financial and solvency risks of the firm in which event the FSA may require the firm to convert the instrument into core tier one capital.
- 2.2.115D R A BIPRU firm may include a capital instrument at stage B2 of the calculation in the capital resources table if (while satisfying all the other requirements in relation to tier one capital and hybrid capital) it cannot be included at stage B1 of that calculation as it does not satisfy the requirements of GENPRU 2.2.115AR.
- 2.2.115E G (1) The other main provisions relevant to the eligibility of a capital instrument to be included at stages B1 and B2 of the calculation in the capital resources table are GENPRU 2.2.62R (Tier one capital: General), GENPRU 2.2.64R (General conditions for eligibility as tier one capital), GENPRU 2.2.65R (Connected transactions), GENPRU 2.2.68AR (Dividend stoppers), GENPRU 2.2.70R to GENPRU 2.2.75R (Redemption of tier one instruments), GENPRU 2.2.80R (Loss absorption) and GENPRU 2.2.116R to GENPRU 2.2.118R (Other tier one capital: loss absorption).
- (2) The rule about hybrid capital included at stage C of the calculation in the capital resources table in GENPRU 2.2.115FR is also relevant. Capital instruments that would otherwise qualify for inclusion at stages B1 or B2 of the calculation in the capital resources table may only be eligible for inclusion at stage C of that calculation.
- 2.2.115F R A BIPRU firm may include a capital instrument at stage C of the calculation in the capital resources table, and must not include it in stage B1 or B2 of that calculation, if (in addition to satisfying all the other requirements in relation to tier one capital and hybrid capital) it either:

- (1) is dated; or
- (2) provides an incentive for the *firm* to redeem it, as assessed at the date of its issue.

2.2.115G G An incentive to redeem is a feature of a *capital instrument* that would lead a reasonable market participant to have an expectation that the *firm* will redeem the instrument. The effect of *GENPRU 2.2.115FR(2)* is that the classification of an instrument that provides an incentive to redeem is always assessed at the date of its issue, and it cannot be reclassified.

Other tier one capital: ~~innovative tier one capital~~: loss absorption

2.2.116 R ~~A *firm* may~~ An *insurer* must not include a *capital instrument* that is not a share in its *innovative tier one capital resources* ~~if~~ unless (in addition to satisfying all the other requirements in relation to *tier one capital* and *innovative tier one capital*) ~~it satisfies the condition in this rule. In addition a *firm* may not include any other capital in its *innovative tier one capital resources* unless it satisfies the condition in this rule. The condition in this rule is that the *firm*'s obligations under the instrument either:~~

- (1) do not constitute a liability (actual, contingent or prospective) under section 123(2) of the Insolvency Act 1986; or
- (2) do constitute such a liability...

...

2.2.116A R A *BIPRU firm* must not include a *capital instrument* that is not a share at stage B1, B2 or C of the calculation in the *capital resources table* unless (in addition to satisfying all the other requirements in relation to *tier one capital* and *hybrid capital*) the *firm*'s obligations under the instrument either:

- (1) do not constitute a liability (actual, contingent or prospective) under section 123(2) of the Insolvency Act 1986; or
- (2) do constitute such a liability but the terms of the instrument are such that:
 - (a) any such liability is not relevant for the purposes of deciding whether:
 - (i) the *firm* is, or is likely to become, unable to pay its debts; or
 - (ii) its liabilities exceed its assets;
 - (b) a *person* (including, but not limited to, a holder of the instrument) is not able to petition for the winding up or administration of the *firm* or for any similar procedure in relation to the *firm* on the grounds that the *firm* is or may

become unable to pay any such liability; and

- (c) the firm is not obliged to take into account such a liability for the purposes of deciding whether or not the firm is, or may become, insolvent for the purposes of section 214 of the Insolvency Act 1986 (Wrongful trading).

2.2.117 G The effect of *GENPRU 2.2.116R* and *GENPRU 2.2.116AR* is that if a *potential tier one instrument* does constitute a liability, this should only be the case when the *firm* is able to pay that liability but chooses not to do so. As *tier one capital resources for an insurer* should be undated, this will generally only be relevant on a solvent winding up of the *firm*....

2.2.117A R A BIPRU firm must not include a capital instrument at stage B1, B2 or C of the calculation in the capital resources table unless (in addition to satisfying all the other requirements in relation to tier one capital and hybrid capital) its contractual terms provide for a mechanism within the instrument which:

- (1) is clearly defined and legally certain;
- (2) is disclosed and transparent to the market;
- (3) makes the recapitalisation of the firm more likely by adequately reducing the potential future outflows to a holder of the capital instrument at certain trigger points;
- (4) enables the firm, at and after the trigger points, to operate the mechanism; and
- (5) when initiated, operates in one of the following ways:
 - (a) the principal of the instrument is written down permanently;
or
 - (b) the principal of the instrument is written down temporarily. During the write-down period any coupon payable on the instrument must be cancelled and any related dividend stoppers and pushers must operate in a way that does not hinder recapitalisation; or
 - (c) the instrument is converted into core tier one capital. The maximum number of capital instruments which are core tier one capital into which it must be converted must:
 - (i) be determined at the date of its issue;
 - (ii) be determined on the basis of the market value of those other instruments at the date of its issue;
 - (iii) have an aggregate value no more than 150% of its par value; and

(iv) not increase if the share price decreases; or

(d) an alternative process applies which has the same or greater effect on the likelihood of recapitalisation as (a), (b), and (c).

2.2.117B R The trigger points required by GENPRU 2.2.117AR(3) must:

(1) be clearly defined within the instrument and legally certain;

(2) be disclosed and transparent to the market; and

(3) be prudent and timely, and include trigger points which occur:

(a) before a breach of the firm's capital resources requirement and both:

(i) when the firm's losses lead to a significant reduction of the firm's retained earnings or other reserves which causes a significant deterioration of the firm's financial and solvency conditions; and

(ii) when it is reasonably foreseeable that the events described in (i) will occur; and

(b) when the firm is in breach of its capital resources requirement.

2.2.117C G (1) The effects of the mechanisms described in GENPRU 2.2.117AR will be more meaningful if they happen immediately after losses cause a significant deterioration of the financial as well as the solvency situation and even before the reserves are exhausted.

(2) If a firm does not operate the loss absorption mechanism in a prudent and timely way, then the FSA may consider using its powers under section 45 of the Act to, on its own initiative, vary the firm's Part IV permission to require it to operate the mechanism.

2.2.118 R (1) ~~A firm~~ An insurer may not include an innovative tier one instrument, unless it is a preference share, in its tier one capital resources unless it has obtained a properly reasoned independent legal opinion from an appropriately qualified individual confirming that the criteria in GENPRU 2.2.64R(6) (loss absorption) and GENPRU 2.2.80R to GENPRU 2.2.81R (Loss absorption) are met.

(2) A BIPRU firm may not include a capital instrument at stage B1, B2 or C of the calculation in the capital resources table unless it has obtained a properly reasoned independent legal opinion from an appropriately qualified individual confirming that the criteria in GENPRU 2.2.62R (Tier one capital: General), GENPRU 2.2.64R(1) to (9) (General conditions for eligibility as tier one capital) and GENPRU 2.2.80R to GENPRU 2.2.81R (Loss absorption) are met.

2.2.118A G For the purposes of GENPRU 2.2.118R(2), the focus of the legal opinion in considering GENPRU 2.2.64R(6)(b) should be on whether appropriate mechanisms exist and are designed to operate to ensure that the value of the hybrid capital instrument and the position of the hybrid capital holder are not enhanced by recapitalisation.

...

Other tier one capital: innovative tier one capital: coupons (insurer only)

2.2.120 R ~~A In the case of an insurer, a tier one instrument, other than a PIBS,~~ with a cumulative or mandatory coupon is an innovative tier one instrument.

Other tier one capital: innovative tier one capital: step-ups (insurer only)

2.2.121 R If, in the case of an insurer:

(1) a potential tier one instrument, ~~other than a PIBS,~~ is or may become subject to a step-up;

(2) ...

that potential tier one instrument is an innovative tier one instrument.

...

Other tier one capital: ~~innovative tier one capital~~ hybrid capital: indirectly issued tier one capital (BIPRU firm only)

...

2.2.124 R ...

(3) A BIPRU firm may not include capital coming within this rule in its capital resources unless the requirements in the following rules are satisfied:

(a) (if 2(a) applies and (2)(b) does not) GENPRU 2.2.127R, GENPRU 2.2.129R and GENPRU 2.2.132R; or

(~~a~~b) (in any other case)...

2.2.125 R A BIPRU firm may only count capital to which GENPRU 2.2.124R applies ~~as innovative tier one capital~~ at stage C of the calculation in the capital resources table.

...

2.2.127 R The SPV referred to in GENPRU 2.2.124R (2)(a) must satisfy the following conditions:

...

- (2) ...; ~~and~~
- (3) ...; and
- (4) it is incorporated under, and governed by, the laws and jurisdiction of England and Wales, Scotland or Northern Ireland.

...

- 2.2.128A R GENPRU 2.2.127R(4) does not apply if the firm has conducted a properly reasoned analysis confirming that any potential risks, including legal and operational risks, associated with cross-border issues, which undermine the quality of the capital for the issuer, that arise from an SPV not being incorporated under or governed by the laws and jurisdiction of England and Wales, Scotland or Northern Ireland, are adequately mitigated.
- 2.2.128B R The analysis must be set out in writing and dated before the date of issue of the capital instrument and the firm must be able to show that the analysis has been fully considered as part of its decision to proceed with the issue. The analysis must be conducted by a person or persons appropriately qualified to assess the relevant risks and that person may be an independent adviser or an employee of the firm who is not part of the business unit responsible for the transaction (including the drafting of the issue documentation).
- 2.2.129 R The SPV referred to in GENPRU 2.2.124R(2)(a) must fund its subscription for the capital issued by the firm by the issue of capital that satisfies the following conditions:
- (1) it must comply with the conditions for qualification as *tier one capital*, as amended by GENPRU 2.2.130R, as if the SPV was itself a firm seeking to include that capital in its *tier one capital resources*;
 - (2) ~~its terms must include an obligation on the firm, when the capital resources of the firm fall below, or are likely to fall below its capital resources requirement, to substitute for the instrument issued by the SPV a tier one instrument issued by the firm that:~~
 - (a) ~~is not an innovative tier one instrument; or~~
 - (b) ~~is an innovative tier one instrument provided that~~
 - (i) ~~it is only being classified as such because it is or may become subject to a step up, and~~
 - (ii) ~~the terms of the original instrument issued by the SPV included a step up.~~
- (a) its terms must include an obligation on the firm that, in the event of a collapse of the SPV structure, and if the mechanism contained within the instrument under GENPRU

2.2.117AR is a conversion, the firm must substitute the capital instrument issued by the SPV with core tier one capital issued by the firm; and

- (b) there must be no obstacle to the firm's issue of new securities;
- (3) the conversion ratio in respect of the substitution described in (2) must be fixed when the SPV issues the *capital instrument*; ~~and~~
- (4) to the extent that investors have the benefit of an obligation by a *person* other than the SPV:

...

- (b) the extent of that obligation must be no greater than would be permitted by *GENPRU* if that obligation formed part of the terms of a *capital instrument* issued by that member which complied with the *rules* in *GENPRU* relating to ~~*innovative tier one capital*~~ *tier one capital* included at stage C of the calculation in the *capital resources table*; and
- (5) if the SPV structure collapses, the holder of it has no better a claim against the firm than a holder of the same type of instrument directly issued by the firm.

...

2.2.131 R In relation to the obligation to substitute described in *GENPRU* 2.2.129R(2), a *firm* must take all reasonable steps to ensure that it has at all times authorised and unissued ~~*tier one instruments* that are not *innovative tier one instruments* or that are *innovative tier one instruments* only because they are or may become subject to a *step-up* (and the authority to issue them)~~ *capital instruments* which are *core tier one capital* (and the authority to issue them) sufficient to discharge its obligation to substitute.

2.2.131A G *GENPRU* 2.2.129R(2) and *GENPRU* 2.2.131R allow a *firm* to replace the capital issued by the SPV with a *capital instruments* which are *core tier one capital instrument* that is not an *innovative tier one instrument* or that is an *innovative tier one instrument* provided that:

- (1) ~~it is only being classified as such because it is or may become subject to a *step-up*, and~~
- (2) ~~the terms of the original instrument issued by the SPV included a *step-up*.~~

~~In all other respects, the *innovative tier one instrument* issued by the *firm* must meet the conditions to be an item of *tier one capital* capable of inclusion in Stage B or higher of the *capital resources table*.~~

- ...
- 2.2.138 R ...
- (2) A *firm* must not include a *potential tier one instrument* to which this rule applies in its *tier one capital resources* if:
- (a) the conversion ratio as at the date of redemption may be greater than the conversion ratio as at the time of issue by more than ~~200%~~:
- (i) in the case of a *BIPRU firm*, 150%; and
- (ii) in the case of an *insurer*, 200%; or
- ...
- ...
- 2.2.143 G (1) The significance of the limitations on conversion in *GENPRU 2.2.138R(2)* can be seen in the example in this paragraph, which uses the conversion ratio applicable to an *insurer*.
- (2) ~~A *firm*~~ An *insurer* issues innovative notes with a par value of £100 each....
- ...
- 2.2.144 G (1) In addition to the maximum conversion ~~ratio~~ ratios of 200% for an *insurer* and 150% for a *BIPRU firm*, *GENPRU 2.2.138R(2)(b)* does not permit a *firm* to issue *shares* that would have a market value that exceeds the issue price of the instrument being redeemed.
- ...
- ...
- 2.2.147 R ...
- (4) A *BIPRU firm* may not include a *capital instrument* in its *tier one capital resources* if it is redeemable and subject to more than one *step-up*.
- ...
- 2.2.157 G *Tier two capital resources* are split into upper and lower tiers. A major distinction between *upper* and *lower tier two capital* is that, except as provided by *GENPRU 2.2.26AR* for *BIPRU firms*, only perpetual instruments may be included in *upper tier two capital* whereas dated instruments, such as fixed term *preference shares* and dated subordinated debt, may be included in *lower tier two capital*.

...

2.2.179 G ...

- (3) GENPRU 2.2.26AR provides an exception, in the case of a *BIPRU firm*, to the rule that instruments must have no fixed maturity date to be eligible for *upper tier two capital resources*.

...

2 Annex 2R Capital resources table for a bank

The capital resources calculation for a bank		
Type of capital	Related text	Stage
Core tier one capital		(A)
<i>Permanent share capital</i>	<i>GENPRU 2.2.83R</i>	
Profit and loss account and other reserves (taking into account interim net losses)	<i>GENPRU 2.2.85R to 2.2.90R</i>	
<i>Eligible partnership capital</i>	...	...
...		
<u>Hybrid capital</u> Perpetual non-cumulative preference shares		(B)
<u>Stage B1</u> Perpetual non-cumulative preference shares	<i>GENPRU 2.2.109R</i> <i>2.2.115AR to GENPRU 2.2.117BR</i>	<u>(B1)</u>
<u>Stage B2</u>	<i>GENPRU 2.2.115DR</i> <i>to GENPRU 2.2.117BR</i>	<u>(B2)</u>
Innovative tier one capital		(C)
<i>Innovative tier one instruments</i> <u>Stage C</u>	<i>GENPRU 2.2.113R</i> <i>2.2.115FR to</i> <i>GENPRU 2.2.137R to</i> <i>GENPRU 2.2.117BR</i>	<u>(C)</u>
Total tier one capital before deductions = A + B <u>B1 + B2</u> + C		<u>(D)</u>
...		

Note (3): Stage C must be omitted except where *capital resources* are being used for a purpose for which *innovative tier one capital* may be used (see *GENPRU 2.2.27R*)

2 Annex 3R Capital resources table for a building society

The capital resources calculation for a building society		
Type of capital	Related text	Stage
Core tier one capital		(A)
<i>Deferred shares</i>	<i>GENPRU 2.2.108AR</i>	
Profit and loss account and other reserves (taking into account interim net losses)	<i>GENPRU 2.2.85R to 2.2.90R</i>	
...
Perpetual non-cumulative preference shares		
<i>PIBS</i>	<i>GENPRU 2.2.111R</i>	(B)
<u>Hybrid capital</u>		
<u>Stage B1</u>	<i>GENPRU 115AR to GENPRU 2.2.117BR</i>	(<u>B1</u>)
<u>Stage B2</u>	<i>GENPRU 2.2.115DR to GENPRU 2.2.117BR</i>	(<u>B2</u>)
Innovative tier one capital		(C)
<i>Innovative tier one instruments</i> <u>Stage C</u>	<i>GENPRU 2.2.113R 2.2.115FR to GENPRU 2.2.137R to GENPRU 2.2.117BR</i>	(<u>C</u>)
Total tier one capital before deductions = A + B <u>B1 + B2</u> + C		(<u>D</u>)
...		

Note (3): Stage C must be omitted except where *capital resources* are being used for a purpose for which *innovative tier one capital* may be used (see *GENPRU 2.2.27 R*)

2 Annex 4R Capital resources table for a BIPRU investment firm deducting material holdings

The capital resources calculation for an investment firm deducting material holdings		
Type of capital	Related text	Stage
Core tier one capital		(A)
<i>Permanent share capital</i>	<i>GENPRU 2.2.83R</i>	
Profit and loss account and other reserves (taking into account interim net losses)	<i>GENPRU 2.2.85R to 2.2.90R</i>	
<i>Eligible partnership capital</i>	...	...
...		
<u>Hybrid capital</u> Perpetual non-cumulative preference shares		(B)
<u>Stage B1</u> Perpetual non-cumulative preference shares	<i>GENPRU 2.2.109R 2.2.115AR to GENPRU 2.2.117BR</i>	(B1)
<u>Stage B2</u>	<i>GENPRU 2.2.115DR to GENPRU 2.2.117BR</i>	(B2)
Innovative tier one capital		(C)
<i>Innovative tier one instruments</i> <u>Stage C</u>	<i>GENPRU 2.2.113R 2.2.115FR to GENPRU 2.2.137R to GENPRU 2.2.117BR</i>	(C)
Total tier one capital before deductions = A + B <u>B1 + B2</u> + C		(D)
...		
...		

Note (3): Stage C must be omitted except where *capital resources* are being used for a purpose for which *innovative tier one capital* may be used (see *GENPRU 2.2.27R*)

2 Annex 5R Capital resources table for a BIPRU investment firm deducting illiquid assets

The capital resources calculation for an investment firm that deducts illiquid assets		
Type of capital	Related text	Stage
Core tier one capital		(A)
<i>Permanent share capital</i>	<i>GENPRU 2.2.83R</i>	
Profit and loss account and other reserves (taking into account interim net losses)	<i>GENPRU 2.2.85R to 2.2.90R</i>	
<i>Eligible partnership capital</i>	...	...
...		
Hybrid capital Perpetual non-cumulative preference shares		(B)
Stage B1 Perpetual non-cumulative preference shares	<i>GENPRU 2.2.109R 2.2.115AR to GENPRU 2.2.117BR</i>	(B1)
<u>Stage B2</u>	<u><i>GENPRU 2.2.115DR to GENPRU 2.2.117BR</i></u>	<u>(B2)</u>
Innovative tier one capital		(C)
<i>Innovative tier one instruments</i> <u>Stage C</u>	<i>GENPRU 2.2.113R 2.2.115FR to GENPRU 2.2.137R to GENPRU 2.2.117BR</i>	(C)
Total tier one capital before deductions = A + B <u>B1 + B2 + C</u>		(D)
...		

...
Note (3): Stage C must be omitted except where <i>capital resources</i> are being used for a purpose for which <i>innovative tier one capital</i> may be used (see <i>GENPRU 2.2.27R</i>)

2 Annex 6R Capital resources table for a BIPRU investment firm with a waiver from consolidated supervision

Part 1 of the capital resources calculation for an investment firm with a waiver from consolidated supervision		
Type of capital	Related text	Stage
Core tier one capital		(A)
<i>Permanent share capital</i>	<i>GENPRU 2.2.83R</i>	
Profit and loss account and other reserves (taking into account interim net losses)	<i>GENPRU 2.2.85R to 2.2.90R</i>	
<i>Eligible partnership capital</i>	...	...
...		
<u>Hybrid capital</u> Perpetual non-cumulative preference shares		(B)
<u>Stage B1</u> Perpetual non-cumulative preference shares	<i>GENPRU 2.2.109R 2.2.115AR to GENPRU 2.2.117BR</i>	<u>(B1)</u>
<u>Stage B2</u>	<i>GENPRU 2.2.115DR to GENPRU 2.2.117BR</i>	<u>(B2)</u>
Innovative tier one capital		(C)
<i>Innovative tier one instruments</i> <u>Stage C</u>	<i>GENPRU 2.2.113R 2.2.115FR to GENPRU 2.2.137R to GENPRU 2.2.117BR</i>	<u>(C)</u>
Total tier one capital before deductions = A + B <u>B1 + B2</u> + C		<u>(D)</u>
...		

...
Note (3): Stage C must be omitted except where <i>capital resources</i> are being used for a purpose for which <i>innovative tier one capital</i> may be used (see <i>GENPRU 2.2.27R</i>)
...

After GENPRU TP 8 insert the following new transitional provisions. The text is not underlined.

TP 8A Further miscellaneous capital resources definitions for BIPRU firms

Application and interpretation

8A.1 R This section applies to a *BIPRU firm*. In this section a reference to 30 December 2010 means 23.59 on 30 December 2010.

Tier one capital

8A.2 R Until 31 December 2040 a *BIPRU firm* may treat a *capital instrument* as eligible for inclusion as *hybrid capital*, if it would not otherwise be eligible, if:

- (1) on 30 December 2010 the *BIPRU firm* was subject to *GENPRU*; and
- (2) as at 30 December 2010 the *BIPRU firm* included it, and was entitled to include it, at stage B or C of the calculation in the *capital resources table*.

8A.3 R If a *BIPRU firm* treats a *capital instrument* as eligible for inclusion as *hybrid capital* under *GENPRU TP 8A.2R*, then the *firm*:

- (1) if it included the *capital instrument* as *innovative tier one capital* as at 30 December 2010, must treat the *capital instrument* as *hybrid capital* included at stage C of the calculation in the *capital resources table*;
- (2) except where it is a *building society*, must apply the limit in *GENPRU 2.2.30AR(3)* to the aggregate of the *capital instruments* treated under (1) and the *hybrid capital* that is eligible under *GENPRU 2.2* for inclusion at stage C of the calculation in the *capital resources table*;
- (3) in the case of a *building society*, must not include *hybrid capital* at stage C of the calculation in the *capital resources table* under *GENPRU 2.2*, except as provided by (4), if the amount of *PIBS* with incentives to redeem treated under *GENPRU TP 8A.2R* exceeds the limit in *GENPRU 2.2.30AR(3)*;

- (4) in the case of a *building society*, may include *hybrid capital* at stage C of the calculation in the *capital resources table*, notwithstanding (3), if the *firm* issued it after 30 December 2010 and:
- (a) the *capital instrument* would otherwise be eligible for inclusion as *hybrid capital* at stage C of the calculation in the *capital resources table* under *GENPRU 2.2*; and
 - (b) the *firm* issued it in order to replace a *PIBS* with an incentive to redeem that the *firm* treated as *hybrid capital* under *GENPRU TP 8A.2R*;
- (5) must not include *hybrid capital* at stage B2 of the calculation in the *capital resources table* under *GENPRU 2.2*, except as provided by *GENPRU TP 8A.4R*, if and to the extent that the aggregate of the following exceeds the limit in *GENPRU 2.2.30AR(2)*:
- (a) *capital instruments* included at stage C in the *capital resources table* under (1) and *GENPRU 2.2*; and
 - (b) *capital instruments* included at stage B of the calculation in the *capital resources table* as at 30 December 2010 and treated under *GENPRU TP 8A.2R*;
- (6) if it includes *hybrid capital* at stage B2 of the calculation in the *capital resources table* under *GENPRU 2.2*, except as provided by *GENPRU TP 8A.4R*, must include *capital instruments* treated under *GENPRU TP 8A.2R* in the calculation of the limit in *GENPRU 2.2.30AR(2)*;
- (7) must not include *hybrid capital* at stage B1 of the calculation in the *capital resources table* under *GENPRU 2.2*, except as provided by *GENPRU TP 8A.5R*, if and to the extent that the aggregate of the following exceeds the limit in *GENPRU 2.2.30AR(1)*:
- (a) *capital instruments* included at stage C in the *capital resources table* under (1) and *GENPRU 2.2*; and
 - (b) *capital instruments* included at stage B of the calculation in the *capital resources table* as at 30 December 2010 and treated under *GENPRU TP 8A.2R*; and
- (8) if it includes *hybrid capital* at stage B1 of the calculation in the *capital resources table* under *GENPRU 2.2*, except as provided by *GENPRU TP 8A.5R*, must include *capital instruments* treated under *GENPRU TP 8A.2R* in the calculation of the limit in *GENPRU 2.2.30AR(1)*.

8A.4 R A *BIPRU firm* may include *hybrid capital* at stage B2 of the calculation in the *capital resources table*, notwithstanding *GENPRU TP 8A.3R(5)*, if the *firm* issued it after 30 December 2010 and:

- (1) the *capital instrument* would otherwise be eligible for inclusion as *hybrid capital* at stage B2 of the calculation in the *capital resources table* under *GENPRU 2.2*; and
- (2) the *firm* issued it in order to replace another *capital instrument* that the *firm* treated as *hybrid capital* under *GENPRU TP 8A.2R*.
- 8A.5 R A *BIPRU firm* may include *hybrid capital* at stage B1 of the calculation in the *capital resources table*, notwithstanding *GENPRU TP 8A.3R(7)*, if the *firm* issued it after 30 December 2010 and:
- (1) the *capital instrument* would otherwise be eligible for inclusion as *hybrid capital* at stage B1 of the calculation in the *capital resources table* under *GENPRU 2.2*; and
- (2) the *firm* issued it in order to replace another *capital instrument* that the *firm* treated as *hybrid capital* under *GENPRU TP 8A.2R*.
- 8A.6 R In relation to the *tier one capital resources* of a *BIPRU firm*, calculated at stage F of the calculation in the *capital resources table* (Total tier one capital after deductions):
- (1) from 31 December 2020 until 30 December 2030:
- (a) no more than 20% may be accounted for by items treated under *GENPRU TP 8A.2R* as *tier one capital*; and
- (b) in the case of a *building society*, any *PIBS* with an incentive to redeem treated under *GENPRU TP 8A.2R* is to be treated as *hybrid capital* included at stage C of the calculation in the *capital resources table* and as subject to the limit in *GENPRU 2.2.30AR(3)*; and
- (2) from 31 December 2030 until 30 December 2040, no more than 10% may be accounted for by items treated under *GENPRU TP 8A.2R* as *tier one capital*.
- 8A.7 R *BIPRU firms* which do not comply by 31 December 2010 with the limits set out in *GENPRU 2.2.29R* to *GENPRU 2.2.30AR(3)* must develop strategies and processes on the necessary measures to resolve this situation before the dates set out in *GENPRU TP 8A.6R*.

...

Schedule 2

Notification and reporting requirements

...

3 Table

Handbook reference	Matter to be notified	Contents of notification	Trigger events	Time allowed
...
<i>GENPRU</i> 2.2.74R	Intention to redeem <i>tier one instrument</i> included in <i>tier one capital resources</i>	Fact of intention and details of the <i>firm's</i> position after such redemption in order to show how it will meet the <i>capital resources requirement</i> , and how it will have sufficient financial resources to meet the <i>overall financial adequacy rule</i> <u>and, in the case of a <i>BIPRU firm</i>, how it will not otherwise suffer any undue effects to its financial or solvency conditions</u>	Intention to redeem	At least one month prior to becoming committed to redeem
<u><i>GENPRU</i></u> <u>2.2.79GR</u>	<u>Intention to purchase a <i>tier one instrument</i> in accordance with <i>GENPRU</i> 2.2.79AR</u>	<u>Fact of intention and details of the <i>firm's</i> position after the purchase in order to show how, over an</u>	<u>Intention to purchase</u>	<u>At least one month prior to becoming committed to purchase</u>

		<p><u>appropriate timescale, adequately stressed, and without planned recourse to the capital markets, it will meet its <i>capital resources requirement</i> and have sufficient <u>financial resources to meet the <i>overall financial adequacy rule</i></u></u></p>		
...

Annex C

Amendments to the Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

1.2 Definition of the trading book

...

Internal hedges

...

- 1.2.16 R ~~Notwithstanding~~ By way of derogation from BIPRU 1.2.14R to BIPRU 1.2.15R, when a *firm* hedges a *non-trading book* credit risk exposure using a credit derivative booked in its *trading book* (using an internal hedge), the *non-trading book* exposure is not deemed to be hedged for the purposes of calculating capital requirements unless the *firm* purchases from an eligible third party protection provider a credit derivative meeting the requirements set out in *BIPRU 5.7.13R* (Additional requirements for credit derivatives) with regard to the *non-trading book* exposure. ~~Where~~ Without prejudice to the second sentence of BIPRU 14.2.10R, where such third party protection is purchased and is recognised as a hedge of a *non-trading book* exposure for the purposes of calculating capital requirements, neither the internal nor external credit derivative hedge must ~~may~~ be included in the *trading book* for the purposes of calculating capital requirements.

[Note: CAD Annex VII Part C point 3]

...

3.4 Risk weights under the standardised approach to credit risk

...

Exposures to institutions: Credit assessment based method

- 3.4.34 R ~~Exposures to institutions with an original effective maturity of more than three months~~ with a residual maturity of more than three months for which a credit assessment by a *nominated ECAI* is available must be assigned a *risk weight* according to the table in *BIPRU 3.4.35R* in accordance with the assignment by the *FSA* in accordance with the *Capital Requirements Regulations 2006* of the credit assessments of *eligible ECAIs* to six steps in a *credit quality assessment scale*.

[Note: BCD Annex VI Part 1, point 29]

Table: Exposures to institutions ~~with an original effective maturity of more than three months~~ with a residual maturity of more than three months for which a credit assessment by a nominated ECAI is available

...

- 3.4.37 R ~~Exposures to an institution with an original effective maturity of three months or less~~ with a residual maturity of three months or less for which a credit assessment by a *nominated ECAI* is available must be assigned a *risk weight* according to the table in *BIPRU 3.4.38R* in accordance with the assignment by the *FSA* in accordance with the *Capital Requirements Regulations 2006* of the credit assessments of *eligible ECAIs* to six steps in a *credit quality assessment scale*.

[Note: *BCD Annex VI Part 1, point 31*]

Table: Exposures to an institution ~~with an original effective maturity of three months or less~~ with a residual maturity of three months or less for which a credit assessment by a nominated ECAI is available

...

~~Short term exposures~~ Exposures to institutions and corporates with a short-term credit assessment

- 3.4.112 R ~~Short term exposures to an institution or corporate~~ Exposures to institutions where *BIPRU 3.4.34R* to *BIPRU 3.4.39R* apply, and exposures to corporates for which a short-term credit assessment by a *nominated ECAI* is available must be assigned a *risk weight* according to the table in *BIPRU 3.4.113R* in accordance with the mapping by the *FSA* in accordance with the *Capital Requirements Regulations 2006* of the credit assessments of *eligible ECAIs* to six steps in a *credit quality assessment scale*.

[Note: *BCD Annex VI Part 1, point 73*]

- 3.4.113 R Table: ~~Short term exposures on an institution or corporate~~ Exposures to institutions where *BIPRU 3.4.34R* to *BIPRU 3.4.39R* apply, and exposures to corporates for which a short-term credit assessment by a nominated ECAI is available
This table belongs to *BIPRU 3.4.112R*.

...

...

- 3.4.134 R The *exposure* value for leases must be the discounted minimum lease payments. Minimum lease payments are the payments over the lease term that the lessee is or can be required to make and any bargain option (i.e. an option the exercise of which is reasonably certain). Any guaranteed residual value fulfilling the set of conditions in *BIPRU 5.7.1R* (Eligibility), regarding the eligibility of protection providers as well as the minimum requirements

for recognising other types of guarantees provided in BIPRU 5.7.6R (Minimum requirements: General) to BIPRU 5.7.12R (Additional requirements for guarantees) must also be included in the minimum lease payments. These exposures must be assigned to the relevant exposure class in accordance with BIPRU 3.2.9R, BIPRU 3.2.10R, BIPRU 3.2.11R, BIPRU 3.2.12R, BIPRU 3.2.13R and BIPRU 3.2.14G. When the exposure is a residual value of leased properties, the risk weighted exposure amounts must be calculated as follows:

$1/t * 100\% * \text{exposure value};$

where t is the greater of 1 and the nearest number of whole years of the lease term remaining.

[Note: BCD Annex VI Part 1, point 90]

...

4.2.26 R ...

(5) A firm may apply the *standardised approach to exposures* to the central ~~government~~ governments of the United Kingdom EEA States and ~~to its~~ their regional governments, local authorities and administrative bodies, provided that:

...

...

4.2.29 R For the purposes of BIPRU 4.2.26R(4), the *equity exposure IRB exposure class* of a firm must be considered material if its aggregate value, excluding *equity exposures* incurred under legislative programmes as referred to in BIPRU 4.2.26R(8); but including exposures in a CIU treated as equity exposures in accordance with BIPRU 4.9.11R to BIPRU 4.9.15R, exceeds, on average over the preceding year, 10% of the firm's *capital resources*. If the number of those *equity exposures* is less than 10 individual holdings, that threshold is 5% of the firm's *capital resources*.

[Note: BCD Article 89(2)]

...

4.4.67 R ...

(4) For *exposures* arising from fully or nearly-fully collateralised *financial derivative instruments* transactions and fully or nearly-fully collateralised *margin lending transactions* which are subject to a master netting agreement M must be the weighted average remaining maturity of the transactions where M must be at least 10 days. For repurchase transactions or securities or commodities lending or borrowing transactions which are subject to a master netting agreement, M must be the weighted average remaining maturity of transactions, where M must be at least 5 days. The notional amount

of each transaction must be used for weighting the maturity.

...

- 4.4.68 R Notwithstanding *BIPRU* 4.4.67R(2)-(3)(4) and (8)-(9), M shall be at least one day for:

...

...

- 4.7.24 R The *risk weighted exposure amount* is the potential *loss* on the *firm's equity exposures* as derived using internal value-at-risk models subject to the 99th percentile, one-tailed confidence interval of the difference between quarterly returns and an appropriate risk-free rate computed over a long-term sample period, multiplied by 12.5. The *risk weighted exposure amounts* at the ~~individual exposure~~ equity exposure portfolio level must not be less than the ~~sum~~ total of the sums of the minimum *risk weighted exposure amounts* required under the *PD/LGD approach* and the corresponding *expected loss* amounts multiplied by 12.5 and calculated on the basis of the *PD* values set out in *BIPRU* 4.7.18R(1) and the corresponding *LGD* values set out in *BIPRU* 4.7.20R and *BIPRU* 4.7.21R.

[Note: *BCD* Annex VII Part 1 point 25]

...

- 4.9.6 R The *risk weighted exposure amounts* must be calculated according to the formula:

Risk-weighted exposure amount = 100% * *exposure* value except for when the *exposure* is a residual value of leased properties in which case it ~~should be provisioned for each year and will~~ must be calculated as follows:

$1/t * 100\% * \textit{exposure value}$;

where *t* is the greater of 1 and the nearest number of whole years of the lease ~~contract term remaining~~.

[Note: *BCD* Annex VII Part 1 point 27]

...

- 4.9.11 R (1) Where *exposures* in the form of a ~~CIU~~ CIU meet the criteria set out in *BIPRU* 3.4.121R to *BIPRU* 3.4.122R (Conditions for look through treatment under the standardised approach) and the *firm* is aware of all of the underlying *exposures* of the *CIU*, the *firm* must look through to those underlying *exposures* in order to calculate *risk weighted exposure amounts* and *expected loss* amounts in accordance with the methods set out in *BIPRU* 4. *BIPRU* 4.9.12R applies to the part of the underlying exposures of the CIU of which the firm is not aware or could not reasonably be aware. In particular, *BIPRU*

4.9.12R must apply where it would be unduly burdensome for the firm to look through the underlying exposures in order to calculate risk weighted exposure amounts and expected loss amounts in accordance with methods set out in this rule.

- (2) Where (1) applies but a *firm* does not meet the conditions for using the methods set out in *BIPRU* 4 for all or part of the underlying exposures of the CIU, risk weighted exposure amounts and expected loss amounts must be calculated in accordance with the following approaches.

...

- (4) For all other underlying *exposures*, the *standardised approach* must be used, subject to the following modifications:
- (a) ~~the exposures are assigned to the appropriate exposure class under the standardised approach and attributed the risk weight of the credit quality step immediately above the credit quality step that would normally be assigned to the exposure; and [deleted]~~
 - (b) ~~exposures assigned to the higher credit quality steps, to which a risk weight of 150% would normally be attributed, are assigned a risk weight of 200%. [deleted]~~
 - (c) for exposures subject to a specific risk weight for unrated exposures or subject to the credit quality step yielding the highest risk weight for a given exposure class, the risk weight must be multiplied by a factor of two, but cannot be higher than 1250%; and
 - (d) for all other exposures, the risk weight must be multiplied by a factor of 1.1 and subject to a minimum of 5%.

[Note: BCD Article 87(11)]

4.9.12 R ...

- (2) Alternatively to the method described in (1), a *firm* may calculate itself or rely on a third party to calculate and report the average *risk weighted exposure amounts* based on the *CIU's* underlying *exposures* and calculated in accordance with the ~~remaining provisions of this rule, approaches in BIPRU 4.9.11R(3) to BIPRU 4.9.11R(4),~~ provided that the correctness of the calculation and the report is adequately ensured.
- (3) ~~For exposures belonging to the equity exposure IRB exposure class, the approach set out in BIPRU 4.7.9R – BIPRU 4.7.12R (Simple risk weight approach) must be used. If, for those purposes, a firm is unable to differentiate between private equity, exchange traded and other equity exposures, it must treat the exposures concerned as other~~

~~equity exposures. [deleted]~~

- (4) ~~For all other underlying exposures, the standardised approach must be used, subject to the following modifications:~~
- ~~(a) the exposures must be assigned to the appropriate exposure class under the standardised approach and attributed the risk weight of the credit quality step immediately above the credit quality step that would normally be assigned to the exposure; and~~
 - ~~(b) exposures assigned to the higher credit quality steps, to which a risk weight of 150% would normally be attributed, must be assigned a risk weight of 200%. [deleted]~~

...

- 4.10.25 R Where the ratio of the value of the collateral (C) to the *exposure* value (E) is below a threshold level of C* (the required minimum collateralisation level for the *exposure*) as laid down in *BIPRU* 4.10.28R, LGD* must be the *LGD* laid down in the other sections of *BIPRU* 4 for uncollateralised *exposures* to the counterparty. For this purpose, the *exposure* value of items listed in *BIPRU* 4.4.37R to *BIPRU* 4.4.39R and *BIPRU* 4.8.29R must be calculated using a *conversion factor* or percentage of 100% rather than the *conversion factors* or percentages indicated in those rules.

[Note: *BCD* Annex VIII Part 3 point 69]

...

- 4.10.41 R The requirements in *BIPRU* 4.10.40R(2) and *BIPRU* 4.10.42R - *BIPRU* 4.10.48R do not apply ~~for~~ to guarantees provided by institutions, and central governments, and central banks and other corporate entities which meet the requirements in *BIPRU* 5.7.1R(7) if the firm has received approval under *BIPRU* 4.2 to apply the standardised approach for exposures to such entities. In this case the requirements of *BIPRU* 5 (credit risk mitigation) apply.

[Note: *BCD* Annex VII Part 4 point 96]

...

- 4.10.49 R ...
- (4) For the covered portion of the *exposure* value E (based on the adjusted value of the credit protection G_A), the *PD* for the purposes of *BIPRU* 4 may be the *PD* of the protection provider, or a *PD* between that of the borrower and that of the guarantor if a full substitution is deemed not to be warranted. In the case of subordinated *exposures* and non-subordinated unfunded protection, the *LGD* to be applied for the purposes of *BIPRU* 4 may be that

associated with senior claims.

- (5) For any uncovered portion of the *exposure* value *E* the *PD* must be that of the borrower and the *LGD* must be that of the underlying *exposure*.
- (6) G_A is the value of G^* as calculated under *BIPRU* 5.7.17R (Valuation of unfunded credit protection) further adjusted for any maturity mismatch as laid down in *BIPRU* 4.10.51R (Maturity mismatches).
- (7) *E* is the *exposure* value as related to the following rules: *BIPRU* 4.4.38R, *BIPRU* 4.4.39R, *BIPRU* 4.4.71R to *BIPRU* 4.4.78R, *BIPRU* 4.7.7R, *BIPRU* 4.8.28R, *BIPRU* 4.8.29R and *BIPRU* 4.9.9R. For this purpose, the *exposure* value of the items referred to in *BIPRU* 4.4.37R to *BIPRU* 4.4.39R and *BIPRU* 4.8.29R must be calculated using a *conversion factor* or percentage of 100% rather than the *conversion factors* or percentages indicated in those rules.

[Note: *BCD* Annex VIII Part 3 points 90 to 92]

...

- 5.4.6 R (1) Units in *CIUs* may be recognised as eligible collateral if the following conditions are satisfied:
- (a) they have a daily public quote; ~~and~~
 - (b) the *CIU* is limited to investing in instruments that are eligible for recognition under *BIPRU* 5.4.2R to *BIPRU* 5.4.5R; and
 - (c) if the *CIU* is not limited to investing in instruments that are eligible for recognition under *BIPRU* 5.4.2R to *BIPRU* 5.4.5R, units may be recognised with the value of the eligible assets as collateral under the assumption that the *CIU* has invested to the maximum extent allowed under its mandate in non-eligible assets. In cases where non-eligible assets can have a negative value due to liabilities or contingent liabilities resulting from ownership, the *firm* must calculate the total value of the non-eligible assets and must reduce the value of the eligible assets by that of the non-eligible assets in case the latter is negative in total.

...

...

- 5.4.8 R (1) In addition to the collateral set out in *BIPRU* 5.4.2R to *BIPRU* 5.4.7R, where a *firm* uses the *financial collateral comprehensive method*, the following financial items may be recognised as eligible collateral:

...

(b) units in *CIUs* if the following conditions are met:

...

(ii) the *CIU* is limited to investing in instruments that are eligible for recognition under *BIPRU* 5.4.2R to *BIPRU* 5.4.5R and the items mentioned in (a); and

(c) if the *CIU* is not limited to investing in instruments that are eligible for recognition under *BIPRU* 5.4.2R to *BIPRU* 5.4.5R and the items mentioned in (a) of this rule, units may be recognised with the value of the eligible assets as collateral under the assumption that the *CIU* has invested to the maximum extent allowed under its mandate in non-eligible assets. In cases where non-eligible assets can have a negative value due to liabilities or contingent liabilities resulting from ownership, the *firm* must calculate the total value of the non-eligible assets and must reduce the value of the eligible assets by that of the non-eligible assets, in case the latter is negative in total.

...

...

5.4.16 R A *firm* must not use both the *financial collateral simple method* and the *financial collateral comprehensive method*, unless such use is for the purposes of *BIPRU* 4.2.17R to *BIPRU* 4.2.19R and *BIPRU* 4.2.26R, and such use is provided for by the *firm's IRB permission*. A *firm* must demonstrate to the *FSA* that this exceptional application of both methods is not used selectively with the purpose of achieving reduced minimum capital requirements and does not lead to regulatory arbitrage.

[**Note:** *BCD* Annex VIII Part 3 point 24 (part)]

...

5.4.18 R The *risk weight* that would be assigned under the *standardised approach* to credit risk if the *lending firm* had a direct *exposure* to the collateral instrument must be assigned to those portions of ~~claims~~ *exposure values* collateralised by the market value of recognised collateral. For this purpose, the *exposure* value of an off-balance sheet item listed in *BIPRU* 3.7.2R must be 100% of its value rather than the *exposure* value indicated in *BIPRU* 3.2.1R. The *risk weight* of the collateralised portion must be a minimum of 20% except as specified in *BIPRU* 5.4.19R to *BIPRU* 5.4.21R. The remainder of the *exposure value* receives the *risk weight* that would be applied to an unsecured *exposure* to the counterparty under the *standardised approach*.

[Note: BCD Annex VIII Part 3 point 26]

...

5.4.28 R ...

- (4) For the purpose of (3)(a), for a *firm* calculating *risk weighted exposure amounts* under the *standardised approach* the *exposure value* of an off-balance sheet items listed in *BIPRU* 3.7 must be 100% of its value rather than the ~~percentages~~ *exposure value* indicated in *BIPRU* 3.2.1R and *BIPRU* 3.7.2R.

[Note: BCD Annex VIII Part 3 point 33]

...

5.5.5 R For life insurance policies pledged to a *lending firm* to be recognised the following conditions must be met:

- (1) ~~the party providing the life insurance may be recognised as an eligible unfunded credit protection provider under *BIPRU* 5.7.1R~~ must be subject to Directive 2002/83/EC and Directive 2001/17/EC of the European Parliament and of the Council, or is subject to supervision by a competent authority of a third country which applies supervisory and regulatory arrangements at least equivalent to those applied in the Community;
- (2) the life insurance policy is openly pledged or assigned to the *lending firm*;
- (3) the party providing the life insurance is notified of the pledge or assignment and as a result may not pay amounts payable under the contract without the consent of the *lending firm*;
- (4) ~~the declared surrender value of the policy~~ the *surrender value* is declared by the company providing the life insurance and is non-reducible;
- (4A) the *surrender value* must be paid in a timely manner upon request;
- (4B) the *surrender value* must not be requested without the consent of the *lending firm*;
- (5) the *lending firm* must have the right to cancel the policy and receive the *surrender value* in the event of the default of the borrower;
- (6) the *lending firm* is informed of any non-payments under the policy by the policyholder;
- (7) the credit protection must be provided for the maturity of the loan. Where this is not possible because the insurance relationship ends before the loan relationship expires, the *lending firm* must ensure that

the amount deriving from the insurance contract serves the lending firm as security until the end of the duration of the credit agreement; and

- (8) the pledge or assignment must be legally effective and enforceable in all jurisdictions which are relevant at the time of the conclusion of the credit agreement.

[Note: BCD Annex VIII Part 2 point 13 (part)]

...

- 5.5.7 R (1) Where the conditions set out in *BIPRU 5.5.5R* are satisfied, ~~credit protection falling within the terms of *BIPRU 5.5.4R* may be treated as a guarantee by the party providing the life insurance. The value of the credit protection recognised must be the surrender value of the life insurance policy.~~ the portion of the exposure collateralised by the current surrender value of credit protection falling within the terms of *BIPRU 5.5.4R* must be either:
- (a) subject to the risk weights specified in (3) where the exposure is subject to the standardised approach to credit risk; or
- (b) assigned an LGD of 40% where the exposure is subject to the IRB approach but not subject to the firm's own estimates of LGD.
- (2) In case of a currency mismatch, the current surrender value must be reduced according to *BIPRU 5.7.17R* and *BIPRU 5.5.18R*, the value of the credit protection being the current surrender value of the life insurance policy.
- (3) For the purpose of (1)(a), the following risk weights must be assigned on the basis of the risk weight assigned to a senior unsecured exposure to the company providing the life insurance:
- (a) a risk weight of 20%, where the senior unsecured exposure to the company providing the life insurance is assigned a risk weight of 20%;
- (b) a risk weight of 35%, where the senior unsecured exposure to the company providing the life insurance is assigned a risk weight of 50%;
- (c) a risk weight of 70%, where the senior unsecured exposure to the company providing the life insurance is assigned a risk weight of 100%; and
- (d) a risk weight of 150%, where the senior unsecured exposure to the company providing the life insurance is assigned a risk weight of 150%.

[**Note:** BCD Annex VIII Part 3 point 80 and BCD Annex VIII Part 3 point 80a]

...

- 5.7.9 R Where an *exposure* is protected by a guarantee which is counter-guaranteed by a central government or *central bank*, a regional government or local authority or a *public sector entity*, claims on which are treated as claims on the central government in whose jurisdiction they are established under the *standardised approach*, a *multilateral development bank* or an *international organisation*, to which a 0% *risk weight* is assigned under or by virtue of the *standardised approach*, or a *public sector entity*, claims on which are treated as claims on *credit institutions* under the *standardised approach*, the *exposure* may be treated as protected by a guarantee provided by the entity in question provided the following conditions are satisfied:

...

...

- 5.7.23 R For the purposes of BIPRU 3.2.20R to BIPRU 3.2.26R, g shall be the *risk weight* to be assigned to an *exposure*, the *exposure value* (E) of which is fully protected by *unfunded credit protection* (G_A), where:
- (1) g is the *risk weight* of *exposures* to the protection provider as specified under the *standardised approach*; ~~and~~
 - (2) G_A is the value of G^* as calculated under BIPRU 5.7.17 R further adjusted for any maturity mismatch as laid down in BIPRU 5.8; ~~and~~
 - (3) E is the *exposure value* according to BIPRU 3.2.1R to BIPRU 3.2.3R and BIPRU 13; for this purpose the *exposure value* of an off-balance sheet item listed in BIPRU 3.7.2R shall be 100% of its value rather than the *exposure value* indicated in BIPRU 3.2.1R.

[**Note:** BCD Annex VIII Part 3 point 87]

...

- 5.7.24 R Where the protected amount is less than the *exposure value* and the protected and unprotected portions are of equal seniority - ~~ie i.e.~~ the *firm* and the protection provider share losses on a pro-rata basis, proportional regulatory capital relief is afforded. For the purposes of BIPRU 3.2.20R to BIPRU 3.2.26R *risk weighted exposure amounts* must be calculated in accordance with the following formula:
 $(E - G_A) \times r + G_A \times g$
 where:

- (1) E is the *exposure value* according to BIPRU 3.2.1R to BIPRU 3.2.3R and BIPRU 13; for this purpose, the *exposure value* of an off-balance sheet item listed in BIPRU 3.7.2R shall be 100% of its value rather

than the *exposure* value indicated in *BIPRU 3.2.1R*;

...

...

- 6.4.6 R The *ORCR* under the *standardised approach* is ~~the average over three years of the risk weighted relevant indicators calculated each year~~ calculated as the three-year average of the yearly summations of the capital requirements across the business lines referred to in *BIPRU 6.4.15R*.

[Note: *BCD Annex X, Part 2 point 1 (part)*]

- 6.4.7 R ~~In each year, a negative capital requirement in one business line, resulting from a negative relevant indicator, may be imputed to the whole. However, where the aggregate capital charge across all business lines within a given year is negative, then the input to the average for that year must be zero. In any given year, negative capital requirements (resulting from negative gross income) in any business line may offset positive capital requirements in other business lines without limit. However, where the aggregate of the capital requirements across all business lines within a given year is negative, the input to the numerator for that year must be zero.~~

[Note: *BCD Annex X, Part 2 point 1 (part)*]

...

- 6.5.21 R ...

- (3) A *firm* must be able to map its historical internal loss data into the business lines defined in *BIPRU 6.4.15R* and into the event type categories defined in *BIPRU 6.5.25R*, and must be able to provide this data to the ~~FSA~~ FSA upon request. Loss events which affect the entire *firm* may be allocated to an additional business line ‘corporate items’ due to exceptional circumstances. The *firm* must have documented, objective criteria for allocating losses to the specified business lines and event types. A *firm*’s *operational risk* losses that are related to credit risk and have historically been included in the internal credit risk databases must be recorded in the *operational risk* databases and be separately identified. Such losses will not be subject to the *ORCR*, as long as they continue to be treated as credit risk for the purposes of calculating the *capital resources requirement*. *Operational risk* losses that are related to market risks must be included in the scope of the capital requirement for *operational risk*.

...

- 6.5.27 R ...

- (9) The capital alleviation arising from the recognition of ~~insurance~~ insurances and other risk transfer mechanisms must not exceed 20% of the capital requirement before the recognition of risk mitigation techniques.

[**Note:** *BCD* Annex X Part 3 points 27 to 29]

...

- 6.5.29 G For the purposes of *BIPRU* 6.5.27R(9), a *firm* should be able to set out clearly how it made its assessment of the appropriate level of capital alleviation, including any assumptions made by the *firm* and how the insurances and other risk transfer mechanisms ~~has~~ have been factored into the *firm*'s risk measurement system.

- 6.5.30 R A *firm* may recognise a risk transfer mechanism other than insurance to the extent that a noticeable risk mitigating effect is achieved and the risk transfer mechanism is included in the *firm*'s *AMA permission*.

[**Note:** *BCD* Annex X Part 3 point 25]

...

7.2 Interest rate PRR

...

Specific risk calculation

...

- 7.2.44 R Table: specific risk PRAs

This table belongs to *BIPRU* 7.2.43R

Issuer	Residual maturity	PRA
...
(A)
(B)
(C)
(D) Debt <i>securities</i> issued or guaranteed by <i>corporates</i> which would qualify for <i>credit quality step 1, 2 or 3</i> under the <i>standardised approach</i> to credit risk.
(E)

(A) ...	...	...
(B) Debt <i>securities</i> issued or guaranteed by <i>corporates</i> which would qualify for <i>credit quality step 3</i> or 4 under the <i>standardised approach</i> to credit risk.		
(C) ...	...	...
...

[Note: CAD Annex I point 14 Table 1]

...

7.2.47 R ...

7.2.47A G Originators, investors and sponsors of securitisations in the trading book will have to meet the requirements of BIPRU 9.3.1AR, BIPRU 9.3.15R to BIPRU 9.3.20R and BIPRU 9.15.

7.2.47B G Subject to BIPRU 7.2.47CG, BIPRU 9.15.9R and BIPRU 9.15.10R, where the investor, originator or sponsor of a securitisation fails to meet any of the requirements in BIPRU 9.3.18R to BIPRU 9.3.20R (Disclosure requirements) and BIPRU 9.15.11R to BIPRU 9.15.16R (investor due diligence requirements) in any material respect by reason of its negligence or omission, the FSA will use its powers under section 45 (Variation etc on the Authority's own initiative) of the Act to impose an additional capital charge of no less than 250% (capped at 1250%) of the PRR that would otherwise apply to the relevant securitisation positions under the rules in BIPRU 7.2. The additional capital charge imposed will be progressively increased with each relevant, subsequent infringement of the requirements in BIPRU 9.3.18R to BIPRU 9.3.20R and BIPRU 9.15.11R to BIPRU 9.15.16R.

7.2.47C G When calculating the additional capital charge it will impose under BIPRU 7.2.47BG, the FSA will take into account the exemption of certain securitisations from the scope of BIPRU 9.15.3R under BIPRU 9.15.9R and BIPRU 9.15.10R and, if those exemptions are relevant, reduce the capital charge it would otherwise impose.

...

7.11 Credit derivatives in the trading book

...

Establishment of positions created by credit derivatives: Treatment of the protection buyer

- 7.11.12 R For the *protection buyer*, the *positions* are determined as the mirror ~~image~~ principle of the *protection seller*, with the exception of a credit linked note (which entails no short *position* in the issuer). If at a given moment there is a call option in combination with a *step-up*, such moment is treated as the maturity of the protection. In the case of first-to-default credit derivatives and nth to default credit derivatives, ~~a firm that is a protection buyer may off-set specific risk for n-1 of the underlyings (i.e., the n-1 assets with the lowest specific risk PRR)~~ the treatment in BIPRU 7.11.12AR and BIPRU 7.11.12BR applies instead of the mirror principle.

[Note: CAD Annex I point 8.B]

- 7.11.12A R Where a firm obtains credit protection for a number of reference entities underlying a credit derivative under the terms that the first default among the assets will trigger payment and that this credit event will terminate the contract, the firm may off-set specific risk for the reference entity to which the lowest specific risk percentage charge among the underlying reference entities applies according to the Table in BIPRU 7.2.44R.

[Note: CAD Annex I point 8.B]

- 7.11.12B R Where the nth default among the exposures triggers payment under the credit protection, the protection buyer may only off-set specific risk if protection has also been obtained for defaults 1 to n-1 or when n-1 defaults have already occurred. In those cases, the methodology set out in BIPRU 7.11.12AR for first-to-default credit derivatives must be followed, appropriately modified for nth-to-default products.

[Note: CAD Annex I point 8.B]

...

9.1 Application and purpose

Application

- 9.1.1 R BIPRU 9 applies to a BIPRU firm, with the exception of the rules in BIPRU 9.3.15R to BIPRU 9.3.20R (dealing with origination criteria and disclosure requirements) and the rules in BIPRU 9.15 (dealing with requirements for investors) which apply exclusively to credit institutions.

...

General obligations: Systems

- 9.1.6 R The risks arising from *securitisation* transactions in relation to which a *firm* is investor, originator or sponsor, including reputational risks, must be evaluated and addressed through appropriate policies and procedures, to ensure in particular that the economic substance of the transaction is fully reflected in ~~the~~ risk assessment and management decisions.

[Note: BCD Annex V, Point 8]

...

Trading book and non-trading book

- 9.1.9 G *BIPRU* 9 deals with:
- (1) requirements for investors, originators and sponsors of securitisations of non-trading book exposures; ~~and~~
 - (2) the calculation of risk weighted exposure amount for securitisation positions for the purposes of calculating either the credit risk capital component or the counterparty risk capital component; and
 - (3) the requirements that investors, originators and sponsors of securitisations in the trading book will have to meet (BIPRU 9.3.1AR, BIPRU 9.3.15R to BIPRU 9.3.20R and BIPRU 9.15).

...

9.3 Requirements for originators and sponsors

...

- 9.3.1A R The provisions of BIPRU 9.3.15R to BIPRU 9.3.20R apply with respect to:
- (1) new securitisations issued on or after 1 January 2011; and
 - (2) from 31 December 2014, to existing securitisations where new underlying exposures are added or substituted after that date.

[Note: BCD, Article 122a, paragraph 8]

- 9.3.2 G ~~Subject to BIPRU 9.3.6G, for the purposes of BIPRU 9.4.1R and BIPRU 9.5.1R the transfer of credit risk to third parties should only be considered significant if the proportion of risk transferred is broadly commensurate with, or exceeds, the proportion by which risk weighted exposure amounts are reduced. [deleted]~~
- 9.3.3 G ~~For measuring the reduction in risk and risk weighted exposure amounts, an originator should assess the securitisation positions it holds against the underlying exposures if they had never been securitised. [deleted]~~
- 9.3.4 G ~~An originator should use an appropriate method, consistent with its own internal processes, to assess whether the risk transferred is significant. [deleted]~~
- 9.3.5 G ~~If the result of,~~
- (1) ~~applying a risk weight of 1250% to all positions that an originator holds in the securitisation; or~~

~~(2) deducting all those positions from *capital resources*;~~

~~is a reduction in the *originator's* capital requirement compared to the capital requirements that would apply had it not transferred the *securitised exposures*, then the *originator* may treat the risk transferred as significant for the purposes of *BIPRU 9.4.1R* and *BIPRU 9.5.1R*. [deleted]~~

...

9.3.7 R Significant credit risk will be considered to have been transferred for *originators* in the following cases:

- (1) *the risk weighted exposure amounts of the mezzanine securitisation positions held by the originator in the securitisation do not exceed 50% of the risk weighted exposure amounts of all mezzanine securitisation positions existing in this securitisation;*
- (2) *where there are no mezzanine securitisation positions in a given securitisation and the originator can demonstrate that the exposure value of the securitisation positions that would be subject to deduction from capital resources or a 1250% risk weight exceeds a reasoned estimate of the expected loss on the securitised exposures by a substantial margin, the originator does not hold more than 20% of the exposure values of the securitisation positions that would be subject to deduction from capital resources or a 1250% risk weight.*

[Note: *BCD*, Annex IX, Part 2, Point 1, paragraph 1a and Point 2 paragraph 2a]

9.3.8 R An *originator* must notify the *FSA* that it is relying on the deemed transfer of significant credit risk under *BIPRU 9.3.7R* within a reasonable period before or after a relevant transfer, not being later than one month after the date of the transfer. The notification must include the following information:

- (1) *the risk weighted exposure amount of the securitised exposures and retained securitisation positions;*
- (2) *the exposure value of the securitised exposures and the retained securitisation positions;*
- (3) *details of the securitisation positions, including rating, exposure value broken down by securitisation positions sold and retained;*
- (4) *a statement that sets out why the firm is satisfied that the reduction in risk weighted exposure amounts is justified by a commensurate transfer of credit risk to third parties;*
- (5) *any relevant supporting documents, for example, a summary of the transaction.*

9.3.9 G In the event that the *FSA* decides that the possible reduction in *risk weighted*

exposure amounts which the originator would achieve by the securitisation referred to in BIPRU 9.3.7R is not justified by a commensurate transfer of credit risk to third parties, it will use its powers under section 45 of the Act (Variation etc on the Authority's own initiative) to require the firm to increase its risk weighted exposure amount to an amount commensurate with the FSA's assessment of the transfer of credit risk to third parties.

9.3.10 G An originator may be granted a waiver of the requirements in BIPRU 9.3.7R and BIPRU 9.3.8R.

9.3.11 D An originator's application for a waiver of the requirements in BIPRU 9.3.7R and BIPRU 9.3.8R must demonstrate that the following conditions are satisfied:

- (1) it has policies and methodologies in place which ensure that the possible reduction of capital requirements which the originator achieves by the securitisation is justified by a commensurate transfer of credit risk to third parties; and
- (2) that such transfer of credit risk to third parties is also recognised for the purposes of the originator's internal risk management and its internal capital allocation.

[Note: BCD, Annex IX, Part 2, Point 1, paragraph 1c and Point 2 paragraph 2c]

9.3.12 G BIPRU 1.3.10G sets out the FSA's approach to the granting of waivers. The conditions in BIPRU 9.3.11D are minimum requirements. Satisfaction of those does not automatically mean the FSA will grant the relevant waiver. The FSA will in addition also apply the tests in section 148 (Modification or waiver of rules) of the Act.

9.3.13 G When considering an application for a waiver of the requirements in BIPRU 9.3.7R and BIPRU 9.3.8R, the FSA may undertake a visit to the firm in order to examine the firm's risk management and governance arrangements. Before such a visit, the FSA may request information from the firm additional or supplementary to that provided in the waiver application.

9.3.14 G An originator should clearly state the scope of the waiver of the requirements in BIPRU 9.3.7R and BIPRU 9.3.8R it is seeking in its application. For example, residential mortgage backed securities may be subdivided into prime and sub-prime with only one sub-category within the scope of the waiver. Relevant asset classes may therefore be defined according to a firm's internal usage of terms.

Origination criteria

9.3.15 R A credit institution, whether acting as sponsor or originator, must apply the criteria used for credit-granting in respect of exposures held on their trading and non-trading book under SYSC 7.1.9R to exposures to be securitised. The criteria applied must include the processes for approving and, where

relevant, amending, renewing and re-financing credits.

[Note: BCD, Article 122a, paragraph 6]

- 9.3.16 R A credit institution, whether acting as sponsor or originator, must apply the same standards of analysis as are applied under BIPRU 9.3.15R to participations or underwritings in securitisation issues purchased from third parties regardless of whether those participations or underwritings are to be held on their trading book or non-trading book.

[Note: BCD, Article 122a, paragraph 6]

- 9.3.17 R Where a credit institution as originator fails to meet the requirements under BIPRU 9.3.15R to BIPRU 9.3.16R, it may not rely on and apply BIPRU 9.3.1R(1) to reduce its risk weighted exposure amounts or exclude the relevant securitised exposures from the calculation of its risk weighted exposure amounts, and, as relevant, expected loss amounts of those exposures.

[Note: BCD, Article 122a, paragraph 6]

Disclosure requirements

- 9.3.18 R The sponsor or originator credit institutions of a securitisation must disclose to investors the level of its commitment to maintain a net economic interest in the securitisation under BIPRU 9.15.3R.

[Note: BCD, Article 122a, paragraph 7]

- 9.3.19 R The sponsor or originator credit institutions of a securitisation must ensure that prospective investors have readily available access to all materially relevant data concerning it, including:
- (1) on the credit quality and performance of the individual underlying exposures;
 - (2) cash flows and collateral supporting the securitisation exposure; and
 - (3) such information as is necessary to conduct comprehensive and well-informed stress-tests on the cash flows and collateral values supporting the underlying exposures.

[Note: BCD, Article 122a, paragraph 7]

- 9.3.20 R Under BIPRU 9.3.19R, materially relevant data is determined as at the date of the securitisation and where appropriate due to the nature of the securitisation thereafter.

[Note: BCD, Article 122a, paragraph 7]

- 9.3.21 G Subject to BIPRU 9.3.22G, BIPRU 9.15.9R and BIPRU 9.15.10R, where the originator or sponsor of a securitisation fails to meet any of the

requirements in BIPRU 9.3.18R to BIPRU 9.3.20R (disclosure requirements) in any material respect by reason of its negligence or omission, the FSA will use its powers under section 45 (Variation etc on the Authority's own initiative) of the Act to impose an additional risk weight of no less than 250% (capped at 1250%) of the risk weight that would otherwise apply to the relevant securitisation positions under the rules in BIPRU 9.11 to BIPRU 9.14. The additional risk weight imposed will be progressively increased with each relevant, subsequent infringement of the requirements in BIPRU 9.3.18R to BIPRU 9.3.20R.

[Note: BCD, Article 122a, paragraph 5]

- 9.3.22 G When calculating the additional risk weight it will impose, the FSA will take into account the exemption of certain securitisations from the scope of BIPRU 9.15.3R under BIPRU 9.15.9R and BIPRU 9.15.10R and, if those exemptions are relevant, reduce the risk weight it would otherwise impose.

[Note: BCD, Article 122a, paragraph 5]

9.4 Traditional securitisation

Minimum requirements for recognition of significant credit risk transfer

- 9.4.1 R The originator of a traditional securitisation may exclude securitised exposures from the calculation of risk weighted exposure amounts and expected loss amounts if either of the following conditions is fulfilled:
- (1) significant credit risk associated with the securitised exposures has is considered to have been transferred to third parties; or
 - (2) the originator applies a 1250% risk weight to all securitisation positions it holds in the securitisation or deducts these securitisation positions from capital resources according to GENPRU 2.2.237R;

and the transfer complies with the conditions in BIPRU 9.4.2R – BIPRU 9.4.10R ~~9.4.14R~~.

[Note: BCD, Annex IX, Part 2, Point 1, paragraph 1 (part)]

...

- 9.4.11 R Significant credit risk will be considered to be transferred for an originator in the following cases:
- (1) the risk weighted exposure amounts of the mezzanine securitisation positions held by the originator in the securitisation do not exceed 50% of the risk weighted exposure amounts of all mezzanine securitisation positions existing in this securitisation;
 - (2) where there are no mezzanine securitisation positions in a given

securitisation and the originator can demonstrate that the exposure value of the securitisation positions that would be subject to deduction from capital resources or a 1250% risk weight exceeds a reasoned estimate of the expected loss on the securitised exposures by a substantial margin, the originator does not hold more than 20% of the exposure values of the securitisation positions that would be subject to deduction from capital resources or a 1250% risk weight.

[**Note:** *BCD*, Annex IX, Part 2, Point 1, paragraph 1a]

- 9.4.12 R An originator must notify the FSA that it is relying on the deemed transfer of significant credit risk under BIPRU 9.4.11R within a reasonable period before or after a relevant transfer, not being later than one month after the date of the transfer. The notification must include the following information:
- (1) the risk weighted exposure amount of the securitised exposures and retained securitisation positions;
 - (2) the exposure value of the securitised exposures and the retained securitisation positions;
 - (3) details of the securitisation positions, including rating, exposure value broken down by securitisation positions sold and retained;
 - (4) a statement that sets out why the firm is satisfied that the reduction in risk weighted exposure amounts is justified by a commensurate transfer of credit risk to third parties;
 - (5) any relevant supporting documents, for example, a summary of the transaction.
- 9.4.13 G In the event that the FSA decides that the possible reduction in risk weighted exposure amounts which the originator would achieve by the securitisation referred to in BIPRU 9.4.11R is not justified by a commensurate transfer of credit risk to third parties, it will use its powers under section 45 (Variation etc on the Authority's own initiative) of the Act to require the firm to increase its risk weight exposure amount to an amount commensurate with the FSA's assessment of the transfer of credit risk to third parties.
- 9.4.14 G An originator may be granted a waiver of the requirements in BIPRU 9.4.11R and BIPRU 9.4.12R.
- 9.4.15 D An originator's application for a waiver of the requirements in BIPRU 9.4.11R and BIPRU 9.4.12R must demonstrate that the following conditions are satisfied.
- (1) it has policies and methodologies in place which ensure that the possible reduction of capital requirements which the originator achieves by the securitisation is justified by a commensurate transfer of credit risk to third parties; and

- (2) that such a transfer of credit risk to third parties is also recognised for the purposes of all the *firm's* internal risk management and internal capital allocation.

[Note: BCD, Annex IX, Part 2, Point 1, paragraph 1c]

- 9.4.16 G *BIPRU* 1.3.10G sets out the FSA's approach to the granting of *waivers*. The conditions in *BIPRU* 9.4.15D are minimum requirements. Satisfaction of those does not automatically mean the FSA will grant the relevant *waiver*. The FSA will in addition also apply the tests in section 148 (Modification or waiver of rules) of the Act.
- 9.4.17 G When considering an application for a *waiver* of the requirements in *BIPRU* 9.4.11R and *BIPRU* 9.4.12R, the FSA may undertake a visit to the *firm* in order to examine the *firm's* risk management and governance arrangements. Before such a visit, the FSA may request information from the *firm* additional or supplementary to that provided in the *waiver* application.
- 9.4.18 G An *originator* should clearly state the scope of the *waiver* of the requirements in *BIPRU* 9.4.11R and *BIPRU* 9.4.12R it is seeking in its application. For example, residential mortgage backed securities may be subdivided into prime and sub-prime with only one sub-category within the scope of the *waiver*. Relevant asset classes may therefore be defined according to a *firm's* internal usage of terms.

9.5 Synthetic securitisation

Minimum requirements for recognition of significant credit risk transfer

- 9.5.1 R (1) An *originator* of a *synthetic securitisation* may calculate *risk weighted exposure amount amounts*, and, as relevant, *expected loss amounts*, for the *securitised exposures* in accordance with *BIPRU* 9.5.3R and *BIPRU* 9.5.4R, if either of the following conditions is fulfilled:
- (a) significant credit risk ~~has~~ is considered to have been transferred to third parties, either through funded or unfunded credit protection; or
- (b) the *originator* applies a 1250% *risk weight* to all *securitisation positions* he holds in this *securitisation* or deducts these *securitisation positions* from *capital resources* according to *GENPRU* 2.2.237R;

and the transfer complies with the conditions in (2)-(58).

[Note: BCD, Annex IX, Part 2, Point 2, paragraph 2]

...

- (6) Significant credit risk will be considered to have been transferred if either of the following conditions is met:
- (a) the risk weighted exposure amounts of the mezzanine securitisation positions which are held by the originator in this securitisation do not exceed 50% of the risk weighted exposure amounts of all mezzanine securitisation positions existing in this securitisation;
 - (b) where there are no mezzanine securitisation positions in a given securitisation and the originator can demonstrate that the exposure value of the securitisation positions that would be subject to deduction from capital resources or a 1250% risk weight exceeds a reasoned estimate of the expected loss on the securitised exposures by a substantial margin, the originator does not hold more than 20% of the exposure values of the securitisation positions that would be subject to deduction from capital resources or a 1250% risk weight.

[Note: BCD, Annex IX, Part 2, Point 2, paragraph 2a]

- (7) An originator must notify the FSA that it is relying on the deemed transfer of significant credit risk under BIPRU 9.5.1R(6) within a reasonable period before or after a relevant transfer, not being later than one month after the date of the transfer. The notification must include the following information:
- (a) the risk weighted exposure amount of the securitised exposures and retained securitisation positions;
 - (b) the exposure value of the securitised exposures and the retained securitisation positions;
 - (c) details of the securitisation positions, including rating, exposure value broken down by securitisation positions sold and retained;
 - (d) a statement that sets out why the firm is satisfied that the reduction in risk weighted exposure amounts is justified by a commensurate transfer of credit risk to third parties;
 - (e) any relevant supporting documents, for example, a summary of the transaction.

9.5.1A G An originator may be granted a waiver of the requirements in BIPRU 9.5.1.R(6) and (7).

9.5.1B D An originator's application for a waiver of the requirements in BIPRU 9.5.1.R(6) and (7) must demonstrate that the following conditions are satisfied:

- (1) it has policies and methodologies in place which ensure that the possible reduction of capital requirements which the *originator* achieves by the *securitisation* is justified by a commensurate transfer of credit risk to third parties; and
- (2) that such transfer of credit risk to third parties is also recognised for the purposes of all the *originator's* internal risk management and its internal capital allocation.

[**Note:** *BCD*, Annex IX, Part 2, Point 2, paragraph 2c]

9.5.1C G *BIPRU* 1.3.10G sets out the *FSA's* approach to the granting of *waivers*. The conditions in *BIPRU* 9.5.1BD are minimum requirements. Satisfaction of those does not automatically mean the *FSA* will grant the relevant *waiver*. The *FSA* will in addition also apply the tests in section 148 (Modification or waiver of rules) of the *Act*.

9.5.1D G When considering an application for a *waiver* of the requirements in *BIPRU* 9.5.1.R(6) and (7), the *FSA* may undertake a visit to the *firm* in order to examine the *firm's* risk management and governance arrangements. Before such a visit, the *FSA* may request information from the *firm* additional or supplementary to that provided in the *waiver* application.

9.5.1E G An *originator* should clearly state the scope of the *waiver* of the requirements in *BIPRU* 9.5.1.R(6) and (7) it is seeking in its application. For example, residential mortgage backed securities may be subdivided into prime and sub-prime with only one sub-category within the scope of the *waiver*. Relevant asset classes may therefore be defined according to a *firm's* internal usage of terms.

9.5.1F G In the event that the *FSA* decides that the possible reduction in *risk weighted exposure amounts* which the *originator credit institution* would achieve by the *securitisation* referred to in *BIPRU* 9.5.1R(6) is not justified by a commensurate transfer of credit risk to third parties, it will use its powers under section 45 (Variation etc on the Authority's own initiative) of the *Act* to require the *firm* to increase its *risk weight exposure amount* to an amount commensurate with the *FSA's* assessment of the transfer of credit risk to third parties.

...

Treatment of unrated liquidity facilities

9.11.10 R When the conditions in this paragraph have been met, and in order to determine its *exposure* value, a conversion figure of 20% ~~may be applied to the nominal amount of a liquidity facility with an original maturity of one year or less and a conversion figure of 50%~~ may be applied to the nominal amount of a *liquidity facility* with a nominal maturity of more than one year.

...

Liquidity facilities that may be drawn only in the event of a general market

disruption

- 9.11.11 R ~~To determine its *exposure* value a conversion figure of 0% may be applied to the nominal amount of a *liquidity facility* that may be drawn only in the event of a general market disruption (i.e. where more than one *SSPE* across different transactions are unable to roll over maturing commercial paper and that inability is not the result of an impairment of the *SSPE*'s credit quality or of the credit quality of the *securitised exposures*), provided that the conditions set out in *BIPRU* 9.11.10R are satisfied.~~

~~[Note: *BCD* Annex IX Part 4 point 14] [deleted]~~

...

9.12 Calculation of risk-weighted exposure amounts under the IRB approach

...

Ratings based method

...

- 9.12.13 R ~~Subject to *BIPRU* 9.12.16R and *BIPRU* 9.12.17R, the *risk weights* in column A of each table in *BIPRU* 9.12.11R and *BIPRU* 9.12.12R must be applied where the position is in the most senior *tranche* of a *securitisation*.~~

...

...

- 9.12.16 R ~~A firm may apply a *risk weight* of 6% to a position in the most senior *tranche* of a *securitisation* where that *tranche* is senior in all respects to another *tranche* of the *securitisation positions* which would receive a *risk weight* of 12% under *BIPRU* 9.12.10R, provided that:~~

- ~~(1) it can be demonstrated that this is justified due to the loss absorption qualities of subordinate *tranches* in the *securitisation*; and~~
- ~~(2) either the position has an external credit assessment which has been determined to be associated with credit quality step 1 in *BIPRU* 9.12.11R and *BIPRU* 9.12.12R or, if it is unrated, requirements (1) to (3) in *BIPRU* 9.12.7R are satisfied where 'reference positions' are taken to mean positions in the subordinate *tranche* which would receive a *risk weight* of 12% under *BIPRU* 9.12.10R.~~

~~[Note: *BCD* Annex IX Part 4 point 48] [deleted]~~

...

Liquidity facilities only available in the event of general market disruption

- 9.12.26 R ~~A conversion figure of 20% may be applied to the nominal amount of a~~

~~liquidity facility that may only be drawn in the event of a general market disruption and that meets the conditions to be an eligible liquidity facility set out in BIPRU 9.11.10R.~~

~~[Note: BCD Annex IX Part 4 point 56] [deleted]~~

...

- 9.12.28 G (1) When it is not practical for the *firm* to calculate the *risk weighted exposure amounts* for the *securitised exposures* as if they had not been *securitised* and the position does not qualify for the *ABCP internal assessment approach*, a *firm* may apply to the *FSA* for a variation of its *IRB permission* under which, on an exceptional basis, it may temporarily apply the method in (2) for the calculation of *risk weighted exposure amounts* for an *unrated securitisation position* in the form of a *liquidity facility* that meets the conditions to be a *liquidity facility* set out in *BIPRU 9.11.10R* ~~or that falls within the terms of *BIPRU 9.12.26R*.~~
- (2) Under the method in this paragraph, the highest *risk weight* that would be applied under the *standardised approach* to any of the *securitised exposures* had they not been *securitised* may be applied to the *securitisation position* represented by the *liquidity facility*. To determine the *exposure* value of the position a conversion figure of 50% may be applied to the nominal amount of the *liquidity facility*, if the facility has an original maturity of one year or less. ~~If the *liquidity facility* complies with the conditions in *BIPRU 9.12.26R* a conversion figure of 20% may be applied.~~ In other cases a conversion factor of 100% must be applied.

...

After BIPRU 9.14 insert the following new section. The text is not underlined.

9.15 Requirements for investors

Application

- 9.15.1 R *BIPRU 9.15* applies to:
- (1) new *securitisations* issued on or after 1 January 2011; and
 - (2) from 31 December 2014, to existing *securitisations* where new underlying exposures are added or substituted after that date.

[Note: BCD, Article 122a, paragraph 8]

Purpose

- 9.15.2 G The purpose of *BIPRU 9.15* is to implement Article 122a of the *Banking Consolidation Directive*, with the exception of those parts of Article 122a

that are implemented through the *rules* in *BIPRU* 9.3.

Exposures to transferred credit risk

- 9.15.3 R Subject to *BIPRU* 9.15.9R and *BIPRU* 9.15.10R, a *credit institution*, other than when acting as an *originator*, a *sponsor* or original lender, will be exposed to the credit risk of a *securitisation position* in its *trading book* or *non-trading book* only if the *originator*, *sponsor* or original lender has explicitly disclosed to the *credit institution* that it will retain, on an *ongoing basis*, a material net economic interest which, in any event, must not be less than 5%.

[**Note:** *BCD*, Article 122a, paragraphs 1 and 3]

Retention of net economic interest

- 9.15.4 R Retention of net economic interest means any of the following:
- (1) retention of no less than 5% of the nominal value of each of the *tranches* sold or transferred to the investors;
 - (2) in the case of *securitisations* of *revolving exposures*, retention of the *originator's* interest of no less than 5% of the nominal value of the *securitised exposures*;
 - (3) retention of randomly selected *exposures*, equivalent to no less than 5% of the nominal amount of the *securitised exposures*, where those *exposures* would otherwise have been *securitised* in the *securitisation* provided that the number of potentially *securitised exposures* is no less than 100 at origination;
 - (4) retention of the first loss *tranche* and, if necessary, other *tranches* having the same or a more severe risk profile than those transferred or sold to investors and not maturing any earlier than those transferred or sold to investors, so that the retention equals in total no less than 5% of the nominal value of the *securitised exposures*.

[**Note:** *BCD*, Article 122a, paragraph 1]

- 9.15.5 R Net economic interest is measured at the origination and must be maintained on an *ongoing basis*. It must not be subject to any *credit risk mitigation* or any short positions or any hedge. The net economic interest must be determined by the notional value for off-balance sheet items.

[**Note:** *BCD*, Article 122a, paragraph 1]

- 9.15.6 R Multiple applications of the retention of net economic interest requirements for any given *securitisation* are prohibited.

[**Note:** *BCD*, Article 122a, paragraph 1]

- 9.15.7 R Subject to *BIPRU* 9.15.8R, where an *EEA* parent credit institution or an *EEA*

financial holding company, or one of its *subsidiaries*, as an *originator* or a *sponsor*, *securitises exposures* from several *credit institutions*, *investment firms* or other *institutions* which are included within the scope of supervision on a consolidated basis, the requirement to retain a net economic interest referred to in *BIPRU 9.15.3R* may be satisfied on the basis of the consolidated situation of the related *EEA* parent credit institution or *EEA* financial holding company.

[**Note:** *BCD*, Article 122a, paragraph 2]

- 9.15.8 R *BIPRU 9.15.7R* only applies where the *credit institutions*, *investment firms* or *institutions* which created the *securitised exposures* have committed themselves to adhere to the requirements in *BIPRU 9.3.15R* to *BIPRU 9.3.17R* and deliver, in a timely manner, to the *originator* or *sponsor* and to the *EEA* parent credit institution or an *EEA* financial holding company the information needed to satisfy *BIPRU 9.3.18R* to *BIPRU 9.3.20R*.

[**Note:** *BCD*, Article 122a, paragraph 2]

- 9.15.9 R *BIPRU 9.15.3R* does not apply where the *securitised exposures* are claims or contingent claims on, or fully, unconditionally and irrevocably guaranteed by:

- (1) central governments or *central banks*;
- (2) regional governments, local authorities and public sector entities of *EEA States*;
- (3) *institutions* to which a 50% *risk weight* or less is assigned under *BIPRU 3.4.31R* to *BIPRU 3.4.46R*; or
- (4) *multilateral development banks*.

[**Note:** *BCD*, Article 122a, paragraph 3]

- 9.15.10 R The requirements in *BIPRU 9.15.3R* do not apply with respect to the following:
- (1) transactions based on a clear, transparent and accessible index, where the underlying reference entities are identical to those that make up an index of entities that is widely traded, or are other tradable securities other than *securitisation positions*; or
 - (2) syndicated loans, purchased receivables or credit default swaps where these instruments are not used to package and/or hedge a *securitisation* that is within the scope of *BIPRU 9.15.3R*.

[**Note:** *BCD*, Article 122a, paragraph 3]

Investor due diligence

- 9.15.11 R Before investing, and as appropriate thereafter, a *credit institution* must be

able to demonstrate to the *FSA* for each of its individual *securitisation positions*, that it has a comprehensive and thorough understanding of, and has implemented, formal policies and procedures appropriate to its *trading book* and *non-trading book* and commensurate with the risk profile of its investments in *securitised positions* for analysing and recording:

- (1) information disclosed under *BIPRU* 9.15.3R, by *originators* or *sponsors* to specify the net economic interest that they maintain, on an *ongoing basis*, in the *securitisation*;
- (2) the risk characteristics of the individual *securitisation position*;
- (3) the risk characteristics of the *exposures* underlying the *securitisation position*;
- (4) the reputation and loss experience in earlier *securitisations* of the *originators* or *sponsors* in the relevant *exposure* classes underlying the *securitisation position*;
- (5) the statements and disclosures made by the *originators* or *sponsors*, or their agents or advisors, about their due diligence on the *securitised exposures* and, where applicable, on the quality of the collateral supporting the *securitised exposures*;
- (6) where applicable, the methodologies and concepts on which the valuation of collateral supporting the *securitised exposures* is based and the policies adopted by the *originator* or *sponsor* to ensure the independence of the valuer; and
- (7) all the structural features of the *securitisation* that can materially impact the performance of the *credit institution's securitisation position*.

[**Note:** *BCD*, Article 122a, paragraph 4]

9.15.12 R A *credit institution* must regularly perform its own stress tests appropriate to its *securitisation positions*.

[**Note:** *BCD*, Article 122a, paragraph 4]

9.15.13 R For the purposes of *BIPRU* 9.15.12R, a *credit institution* may rely on financial models developed by an *ECAI* provided that the *credit institution* can demonstrate, when requested by the *FSA*, that they took due care prior to investing to validate the relevant assumptions in and structuring of the models and to understand methodology, assumptions and results.

[**Note:** *BCD*, Article 122a, paragraph 4]

Monitoring requirements

9.15.14 R A *credit institution*, other than when acting as *originator* or *sponsor* or original lender, must establish formal procedures appropriate to its *trading*

book and *non-trading book*, and commensurate with the risk profile of its investments in *securitised positions*, to monitor, on an *ongoing basis* and in a timely manner, performance information on the *exposures* underlying its *securitisation positions*.

[Note: BCD, Article 122a, paragraph 5]

- 9.15.15 R (1) Where relevant, the information required to be monitored under *BIPRU* 9.15.14R must include:
- (a) the *exposure* type;
 - (b) the percentage of loans more than 30, 60 and 90 days past due, default rates, prepayment rates, loans in foreclosure;
 - (c) collateral type and occupancy;
 - (d) frequency distribution of credit scores or other measures of credit worthiness across underlying exposures;
 - (e) industry and geographical diversification; and
 - (f) frequency distribution of loan to value ratios with band widths that facilitate adequate sensitivity analysis.
- (2) Where underlying exposures are themselves *securitisation positions*, a *credit institution* must have the information set out in paragraph (1) not only on the underlying *securitisation tranches*, such as the issuer name and credit quality, but also on the characteristics and performance of the pools underlying those *securitisation tranches*.

[Note: BCD, Article 122a, paragraph 5]

- 9.15.16 R A *credit institution* must have a thorough understanding of all structural features of a *securitisation transaction* that would materially impact the performance of its *exposures* to the *transaction*, such as the contractual waterfall and waterfall related triggers, credit enhancements, *liquidity* enhancements, market value triggers and deal-specific definition of default.

[Note: BCD, Article 122a, paragraph 5]

Consequences of failure to meet requirements

- 9.15.17 G Subject to *BIPRU* 9.3.22G, *BIPRU* 9.15.9R to *BIPRU* 9.15.10R and *BIPRU* 9.15.18G, where a *credit institution* fails to meet any of the requirements in *BIPRU* 9.3.18R to *BIPRU* 9.3.20R (disclosure requirements), and *BIPRU* 9.15.11R to *BIPRU* 9.15.16R (investor due diligence requirements) in any material respect by reason of its negligence or omission, the *FSA* will use its powers under section 45 (Variation etc on the Authority's own initiative) of the *Act* to impose an additional *risk weight* of no less than 250% (capped at 1250%) of the risk weight that would otherwise apply to the relevant *securitisation positions* under *BIPRU* 9.11 to *BIPRU* 9.14. The additional

risk weight imposed will be progressively increased with each relevant, subsequent infringement of the requirements in *BIPRU* 9.3.18R to *BIPRU* 9.3.20R and *BIPRU* 9.15.11R to *BIPRU* 9.15.16R.

[Note: *BCD*, Article 122a, paragraph 5]

- 9.15.18 G When calculating the additional *risk weight* it will impose, the *FSA* will take into account the exemption of certain *securitisations* from the scope of *BIPRU* 9.15.3R under *BIPRU* 9.15.9R and *BIPRU* 9.15.10R and, if those exemptions are relevant, reduce the *risk weight* it would otherwise impose.

[Note: *BCD*, Article 122a, paragraph 5]

Amend the following as shown.

11 Disclosure (Pillar 3)

...

- 11.5.3 R A *firm* must disclose the following information regarding its *capital resources*:
- (1) summary information on the terms and conditions of the main feature of all *capital resources* items and components thereof, including:
 - (a) hybrid capital;
 - (b) capital instruments which provide an incentive for the firm to redeem them; and
 - (c) capital instruments which the firm treats as tier one capital under GENPRU TP 8A;
 - (2) *tier one capital resources* ~~less any innovative tier one capital resources~~, with separate disclosure of:
 - (a) all positive items and deductions;
 - (b) the overall amount of hybrid capital, with specification of those instruments treated as tier one capital under GENPRU TP 8A; and
 - (c) the overall amount of capital instruments that provide for an incentive to redeem them, with specification of those instruments treated as tier one capital under GENPRU TP 8A;

...

...

Disclosure: Use of VaR model for calculation of market risk capital requirement

- 11.5.13 R The following information must be disclosed by a *firm* which calculates its *market risk capital requirement* using a *VaR model*:
- (1) for each sub-portfolio covered:
 - (a) the characteristics of the models used;
 - (b) a description of stress testing applied to the sub-portfolio;
 - (c) a description of the approaches used for back-testing and validating the accuracy and consistency of the internal models and modelling processes;
 - (d) the highest, the lowest and the mean of the daily *value-at-risk* measures over the reporting period and the *value-at-risk* measure as per the end of the period;
 - (e) a comparison of the daily end-of-day *value-at-risk* measures to the one-day changes of the portfolio's value by the end of the subsequent *business day* together with an analysis of any important overshootings during the reporting period;

...

[Note: BCD Annex XII, Part 2, point 10]

...

11.6 Qualifying requirements for the use of particular instruments or methodologies

...

Disclosure: Insurance for the purpose of mitigating operational risk

- 11.6.6 R A *firm* using the *advanced measurement approach* for the calculation of its *operational risk capital requirement* must disclose a description of the use of insurance and other risk transfer mechanisms for the purpose of mitigating the risk.

[Note: BCD Annex XII, Part 3, point 3]

...

Exceptions

- 13.3.14 R When a *firm* purchases credit derivative protection against a *non-trading book exposure*, or against a *CCR exposure*, it must compute its capital requirement for the hedged asset in accordance with:

- (1) *BIPRU 5.7.16R to BIPRU 5.7.25R and BIPRU 4.10.49R(4) to (6)* (Unfunded credit protection: Valuation and calculation of risk-weighted exposure amounts and expected loss amounts); or
- (2) ~~*BIPRU 4.4.79R (Double default)*~~; or where a firm calculates risk weighted exposure amounts in accordance with the IRB approach:
 - (a) *BIPRU 4.4.79R (Double default)*; or
 - (b) *BIPRU 4.10.40R to BIPRU 4.10.48R. (Unfunded credit protection: Minimum requirements for assessing the effect of guarantees and credit derivatives).*
- (3) ~~*BIPRU 4.10.40R to BIPRU 4.10.48R (Unfunded credit protection: Minimum requirements for assessing the effect of guarantees and credit derivatives).*~~ [deleted]

[Note: *BCD Annex III Part 2 point 3 (part)*]

13.3.15 R ~~In the cases in *BIPRU 13.3.14R*, a firm must set the exposure value for these credit derivatives to zero.~~

~~[Note: *BCD Annex III Part 2 point 3 (part)*]~~

- (1) In the cases in *BIPRU 13.3.14R*, and where the option in the second sentence of *BIPRU 14.2.10R* is not applied, the exposure value for CCR for these credit derivatives is set to zero.
- (2) However, a firm may choose consistently to include for the purposes of calculating capital requirements for counterparty credit risk all credit derivatives not included in the trading book and purchased as protection against a non-trading exposure or against a CCR exposure where the credit protection is recognised under the BCD.

[Note: *BCD Annex III Part 2 point 3 (part)*]

...

13.5.6 R This table belongs to *BIPRU 13.5.5R*

Transaction or instrument	Calculation of size of risk position
...	
Credit default swap	The notional value of the reference debt instrument multiplied by the remaining maturity of the credit default swap.
<u>'Nth to default' credit default</u>	<u>The effective notional value of the reference debt instrument, multiplied by</u>

<u>swap</u>	<u>the modified duration of the ‘nth to default’ derivative with respect to a change in the credit spread of the reference debt instrument.</u>
Subject to <i>BIPRU 13.5.9R</i> to <i>BIPRU 13.5.10R</i> , <i>financial derivative instrument</i> with a non-linear risk profile, including <i>options</i> and <i>swaptions</i> except in the case of an underlying debt instrument.	Equal to the delta equivalent effective notional value of the <i>financial instrument</i> that underlies the transaction.
...	

[**Note:** *BCD* Annex III Part 5 points 5 to 9 and 15 (part)]

...

- 13.5.15 R There is one *hedging set* for each issuer of a reference debt instrument that underlies a credit default swap. ‘Nth to default’ basket credit default swaps must be treated as follows:
- (1) the size of a *risk position* in a reference debt instrument in a basket underlying an ‘nth to default’ credit default swap is the effective notional value of the reference debt instrument, multiplied by the modified duration of the ‘nth to default’ derivative, with respect to a change in the credit spread of the reference debt instrument;
 - (2) there is one *hedging set* for each reference debt instrument in a basket underlying a given ‘nth to default’ credit default swap; *risk positions* from different ‘nth to default’ credit default swaps must not be included in the same *hedging set*; and
 - (3) the *CCR* multiplier applicable to each *hedging set* created for one of the reference debt instruments of an ‘nth to default’ derivative is 0.3% for reference debt instruments that have a credit assessment from a recognised *ECAI* equivalent to *credit quality step* 1 to 3, and 0.6% for other debt instruments.

[**Note:** *BCD* Annex III Part 5 point 15]

....

- 13.5.22 R This table belongs to *BIPRU 13.5.21R*.

<i>Hedging set</i>	<i>CCR</i> Multiplier (<i>CCRM</i>)	
--------------------	---------------------------------------	--

categories		
...
(9)	Other <i>commodities</i> (excluding precious metals and electricity power)	10.0%
(10)	Underlying instruments of <i>financial derivative instruments</i> that are not in any of the above categories Reference debt instruments of an <u>'nth to default' derivative that have a credit assessment from a recognised ECAI equivalent to <i>credit quality step 1 to 3</i></u>	10.0% <u>0.3%</u>
(11)	Reference debt instruments of an <u>'nth to default' derivative that do not have a credit assessment from a recognised ECAI equivalent to <i>credit quality step 1 to 3</i></u>	<u>0.6%</u>
(12)	<u>Underlying instruments of <i>financial derivative instruments</i> that are not in any of the above categories.</u>	<u>10.0%</u>

[Note: BCD Annex III Part 5 Table 5 and Part 5 point 15 (c)]

...

14.2 Calculation of the capital requirement for CCR

...

Credit derivatives

...

- 14.2.10 R Where a credit derivative included in the *trading book* forms part of an internal hedge and the credit protection is recognised under the BCD for the purposes of the calculation of the *credit risk capital component*, there is deemed to be no counterparty risk arising from the position in the credit derivative. Alternatively, a firm may consistently include for the purposes of calculating *capital requirements for counterparty credit risk* all credit derivatives included in the *trading book* forming part of internal hedges or purchased as protection against *CCR exposure* where the credit protection is recognised under the BCD.

[**Note:** *CAD* Annex II point 11]

...

TP 15 Commodities firm transitionals: Exemptions from capital requirements

...

Duration of exemption

15.4 R *BIPRU* TP 15 applies until 31 December ~~2010~~ 2014.

[**Note:** *CAD* Article 48(1)]

...

TP 20 Standardised credit risk transitionals

...

20.5 R Until 31 December ~~2012~~ 2015, a 0% *risk weight* applies to *exposures* to the central government of the *United Kingdom* and of the Bank of England denominated and funded in the currency of another *EEA State*.

...

20.7 R *BIPRU* TP 20.6R applies until 31 December ~~2012~~ 2015 or any earlier date on which the relevant *CRD implementation measure* ceases to apply.

Annex D

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise indicated.

15.3 General notification requirements

...

Breaches of rules and other requirements in or under the Act

15.3.11 R (1) A *firm* must notify the *FSA* of:

...

(e) a breach of any requirement in regulation 4C(3) (or any successor provision) of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007; or

(f) it exceeding (or becoming aware that it will exceed) the limit in BIPRU 10.5.6R;

...

(2) ...

...

16.12 Integrated Regulatory Reporting

...

16.12.3A G The following is designed to assist *firms* to understand how the reporting requirements set out in this chapter operate when the circumstances set out in *SUP* 16.12.3R(1)(a)(ii) apply.

(1) Example 1

A *BIPRU 730K firm* that undertakes activities in both *RAG 3* and *RAG 7* Overlaying the requirements of *RAG 3* (*data items*) with the requirements of *RAG 7* shows the following:

RAG 3 (<i>SUP</i> 16.12.11R) data items	RAG 7 (<i>SUP</i> 16.12.22AR) data items
...	

IRB portfolio risk	IRB portfolio risk
Securitisation: <u>non-trading book</u>	Securitisation: <u>non-trading book</u>
...	
Systems and Controls Questionnaire (if it is a <i>non-ILAS BIPRU firm</i>)	
Securitisation: <u>trading book</u>	Securitisation: <u>trading book</u>

From this, the additional reports that are required are:

...

(2) Example 2

A UK bank in RAG 1 that also carries on activities in RAG 5

Again, overlaying the RAG 1 reporting requirements with the requirements for a RAG 5 firm gives the following :

RAG 1 requirements (<i>SUP</i> 16.12.5R)	RAG 5 requirements (<i>SUP</i> 16.12.18AR)
...	...
IRB portfolio risk	
Securitisation: <u>non-trading book</u>	
...	...
Currency Analysis (if it is an <i>ILAS BIPRU firm</i>)	
Securitisation: <u>trading book</u>	
	Lending - Business flow and rates
	...

In this case, it is more obvious that the firm's reporting requirement in RAG 1 is not all the data items listed above. However, for the purposes of this exercise, it is the list of potential data items that is important. Thus comparing RAG 1 with RAG 5, the additional reporting requirements are:

...

...

Regulated Activity Group 1

16.12.5 R The applicable *data items* and forms or reports referred to in SUP 16.12.4R are set out according to *firm* type in the table below:

Description of <i>data item</i>	Prudential category of firm <i>firm</i> , applicable <i>data items</i> and reporting format (Note 1)							
	<i>UK bank</i>	<i>Building society</i>	<i>Non-EEA bank</i>	<i>EEA bank that has permission to accept deposits, other than one with permission for cross border services only</i>	<i>EEA bank that does not have permission to accept deposits, other than one with permission for cross border services only</i>	<i>Electronic money institutions</i>	<i>Credit union</i>	<i>Dormant account fund operator (note 15)</i>
...								
IRB portfolio risk	FSA045 (note 13)	FSA045 (note 13)						
Securitisation: <u>non-trading book</u>	FSA046 (note 14)	FSA046 (note 14)						
...								
Currency Analysis	...							
<u>Securitisation: trading book</u>	FSA058 (Note 23)							
...								
Note 14	Only applicable to <i>firms</i> that <u>hold securitisation positions, or are the originator or sponsor of undertake securitisations of non-trading book exposures.</u>							
...								
Note 23	Only applicable to <i>firms</i> that <u>hold securitisation positions, or are the originator or sponsor of securitisations of trading book exposures.</u>							

16.12.6 R The applicable reporting frequencies for submission of *data items* and periods referred to in SUP 16.12.5R are set out in the table below according to *firm* type. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise.

<i>Data item</i>	Unconsolidated <i>UK banks</i> and	Solo consolidated	Report on a <i>UK consolidation</i>	Other members of <i>RAG 1</i>
------------------	------------------------------------	-------------------	-------------------------------------	-------------------------------

	<i>building societies</i>	<i>UK banks and building societies</i>	<i>group or, as applicable, defined liquidity group basis by UK banks and building societies</i>	
...				
FSA046	<u>Half-yearly</u> <u>Quarterly</u>		<u>Half-yearly</u> <u>Quarterly</u>	
...				
FSA054	...	...	...	...
<u>FSA058</u>	<u>Quarterly</u>		<u>Quarterly</u>	
...				

16.12.7 R The applicable due dates for submission referred to in SUP 16.12.4R are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period set out in SUP 16.12.6R, unless indicated otherwise.

<i>Data item</i>	Daily	Weekly	Monthly submission	Quarterly submission	Half yearly submission	Annual submission
...						
FSA046				<u>20 business days (Note 3), 45 business days (Note 4)</u>	30 business days (note 3), 45 business days (note 4)	
...						
FSA054			...			
<u>FSA058</u>				<u>20 business days (Note 3), 45 business days (Note 4)</u>		
...						

...

Regulated Activity Group 2.2

16.12.9 R The applicable *data items* referred to in SUP 16.12.4R are set out according to type of *firm* in the table below.
The applicable reporting frequencies for submission of *data items* and periods

referred to in SUP 16.12.4R are set out in the table below and are calculated from a firm's accounting reference date, unless indicated otherwise. The applicable due dates for submission referred to in SUP 16.12.4R are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period.

	<i>Member's adviser</i> (note 3)		the <i>Society</i> (note 1)		
Description of <i>data item</i> and <i>data item</i>	Frequency	Submission deadline	Description of <i>data item</i>	Frequency	Submission deadline
...					
Large Exposures					
FSA008 (note Notes 20, 21)	Quarterly	20 <i>business days</i> (note 19)			
...					
...					
<u>Note 21</u>	<u>This will not be applicable to BIPRU limited activity firms or BIPRU limited licence firms unless they have a waiver under BIPRU 6.1.2G.</u>				

...

Regulated Activity Group 3

...

16.12.11 R The applicable *data items* referred to in SUP 16.12.4R are set out according to *firm* type in the table below:

Description of <i>data item</i>	Firms <u>Firms</u> ' prudential category and applicable <i>data items</i> (note 1)							
	<i>BIPRU firms</i> (note 17)			<i>Firms other than BIRPU firms</i>				
	730K	125K and UCITS investment firms	50K	<i>IPRU (INV)</i> Chapter 3	<i>IPRU (INV)</i> Chapter 5	<i>IPRU (INV)</i> Chapter 9	<i>IPRU (INV)</i> Chapter 13	<i>UPRU</i>
...								
Large exposures	FSA008 (note Notes 2, 6)	FSA008 (note Notes 2, 6)	FSA008 (note Notes 2, 6)					

...								
Securitis- ation: <u>non- trading book</u>	FSA046 (note 23)	FSA046 (note 23)	FSA046 (note 23)					
...								
Systems and Controls Question- naire	...							
<u>Securitis- ation: trading book</u>	<u>FSA058 (Note 32)</u>	<u>FSA058 (Note 32)</u>	<u>FSA058 (Note 32)</u>					
...								
Note 6	This will not be applicable to <i>BIPRU limited activity firms</i> or <i>BIPRU limited licence firms</i> unless they have a waiver under <i>BIPRU 6.1.2G</i> .							
...								
Note 23	Only applicable to <i>firms that hold securitisation positions, or are the originator or sponsor of undertake securitisations of non-trading book exposures.</i>							
...								
<u>Note 32</u>	<u>Only applicable to firms that hold securitisation positions, or are the originator or sponsor of securitisations of trading book exposures.</u>							

...

16.12.12 R The applicable reporting frequencies for *data items* referred to in *SUP 16.12.4R* are set out in the table below according to *firm* type. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise.

<i>Data Item</i>	<i>BIPRU 730K firm</i>	<i>BIPRU 125K firm and UCITS investment firm</i>	<i>BIPRU 50K firm</i>	<i>UK consolidation group or defined liquidity group</i>	<i>Firm other than BIPRU firms</i>
...					
FSA046	<u>Half-yearly Quarterly</u>	<u>Half-yearly Quarterly</u>	<u>Half-yearly Quarterly</u>	<u>Half-yearly Quarterly</u>	
...					
FSA055	...			...

<u>FSA058</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>	
...					

16.12.13 R The applicable due dates for submission referred to in SUP 16.12.4R are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period set out in SUP 16.12.12R, unless indicated otherwise.

<i>Data item</i>	Monthly	Quarterly	Half yearly	Annual
...						
FSA046				<u>20 business days (Note 1),</u> <u>45 business days (Note 2)</u>	30 business days (note 1), 45 business days (note 2)	
...						
FSA055						...
<u>FSA058</u>				<u>20 business days (Note 1),</u> <u>45 business days (Note 2)</u>		
...						

Regulated Activity Group 4

...

16.12.15 R The applicable *data items* referred to in SUP 16.12.4R according to type of *firm* are set out in the table below:

Description of data item	<i>Firms Firms'</i> prudential category and applicable <i>data items</i> (Note 1)							
	<i>BIPRU</i>			<i>Firms other than BIRPU firms</i>				
	730K	125K and UCITS investment firms	50K	<i>IPRU (INV)</i> Chapter 3	<i>IPRU (INV)</i> Chapter 5	<i>IPRU (INV)</i> Chapter 9	<i>IPRU (INV)</i> Chapter 13	<i>UPRU</i>
...								
Large exposures	FSA008 (note Notes 2, 6)	FSA008 (note Notes 2, 6)	FSA008 (note Notes 2, 6)					
...								

Securitis- ation: <u>non- trading book</u>	FSA046 (note 19)	FSA046 (note 19)	FSA046 (note 19)					
...								
Systems and Controls Question- naire	...							
Securitis- ation: <u>trading book</u>	FSA058 (Note 29)	FSA058 (Note 29)	FSA058 (Note 29)					
...								
Note 6	This will not be applicable to <i>BIPRU limited activity firms</i> or <i>BIPRU limited licence firms</i> unless they have a waiver under <i>BIPRU 6.1.2G</i> .							
...								
Note 19	Only applicable to <i>firms</i> that <u>hold securitisation positions, or are the originator or sponsor of undertake securitisations of non-trading book exposures.</u>							
...								
Note 29	<u>Only applicable to firms that hold securitisation positions, or are the originator or sponsor of securitisations of trading book exposures.</u>							

...

16.12.16 R The applicable reporting frequencies for *data items* referred to in *SUP 16.12.15R* are set out in the table below according to *firm* type. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise.

<i>Data item</i>	Firm's <i>Firms'</i> prudential category				
	<i>BIPRU 730K firm</i>	<i>BIPRU 125K firm and UCITS investment firm</i>	<i>BIPRU 50K firm</i>	<i>UK consolidation group or defined liquidity group</i>	<i>Firm other than BIPRU firms</i>
...					
FSA046	<u>Half yearly Quarterly</u>	<u>Half yearly Quarterly</u>	<u>Half yearly Quarterly</u>	<u>Half yearly Quarterly</u>	
...					
FSA055	...			...

<u>FSA058</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>	
...					

16.12.17 R The applicable due dates for submission referred to in *SUP* 16.12.4R are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period set out in *SUP* 16.12.16R, unless indicated otherwise.

Data item <i>Data item</i>	Monthly	Quarterly	Half yearly	Annual
...						
FSA046				<u>20 business days (Note 2), 45 business days (Note 3)</u>	30 business days (note 2), 45 business days (note 3)	
...						
FSA055						...
<u>FSA058</u>				<u>20 business days (Note 2), 45 business days (Note 3)</u>		
...						

...

Regulated Activity Group 7

...

16.12.22A R The applicable *data items* referred to in *SUP* 16.12.4R are set out according to type of *firm* in the table below:

Description of <i>data item</i>	Firm <i>Firms</i> ' prudential category and applicable <i>data item</i> (note 1)					
	<i>BIPRU730K firm</i>	<i>BIPRU 125K firm and UCITS investment firm</i>	<i>BIPRU 50K firm</i>	<i>Exempt CAD firms subject to IPRU (INV) Chapter 13</i>	<i>Firms (other than exempt CAD firms) subject to IPRU (INV) Chapter 13</i>	<i>Firms that are also in one or more of RAGs 1 to 6 and not subject to IPRU (INV) Chapter 13</i>
...						
Large exposures	FSA008 (note <u>Notes</u>)	FSA008 (note <u>Notes</u>)	FSA008 (note <u>Notes</u>)			

	2.6)	2.6)	2.6)			
...						
Securitis- ation: <u>non- trading book</u>	FSA046 (note 14)	FSA046 (note 14)	FSA046 (note 14)			
...						
Systems and Controls Question- naire	...					
Securitis- ation: <u>trading book</u>	FSA058 (Note 22)	FSA058 (Note 22)	FSA058 (Note 22)			
...						
Note 6	This will not be applicable to <i>BIPRU limited activity firms</i> or <i>BIPRU limited licence firms</i> unless they have a waiver under <i>BIPRU</i> 6.1.2G.					
...						
Note 14	Only applicable to <i>firms</i> that <u>hold securitisation positions, or are the originator or sponsor of undertake securitisations of non-trading book exposures.</u>					
...						
Note 22	Only applicable to <i>firms</i> that <u>hold securitisation positions, or are the originator or sponsor of securitisations of trading book exposures.</u>					

...

- 16.12.23 R The applicable reporting frequencies for *data items* referred to in *SUP* 16.12.22AR are set out in the table below. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise.

<i>Data item</i>	Frequency				
	Unconsolidated <i>BIPRU</i> <i>investment firm</i>	Solo consolidated <i>BIPRU</i> <i>investment firm</i>	<i>UK</i> <i>Consolidation</i> <i>Group</i> or <i>defined</i> <i>liquidity group</i>	Annual regulated business up to and including £5 million	Annual regulated business revenue over £5 million
...					
FSA046	<u>Half yearly</u> <u>Quarterly</u>	<u>Half yearly</u> <u>Quarterly</u>	<u>Half yearly</u> <u>Quarterly</u>		

...					
FSA055	...	...	...
<u>FSA058</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>		
...					

16.12.24 R The applicable due dates for submission referred to in SUP 16.12.4R are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period set out in SUP 16.12.23R, unless indicated otherwise.

<i>Data item</i>	Monthly	Quarterly	Half yearly	Annual
...						
FSA046				<u>20 business days (Note 1), 45 business days (Note 2)</u>	<u>30 business days (note 1), 45 business days (note 2)</u>	
...						
FSA055						...
<u>FSA058</u>				<u>20 business days (Note 1), 45 business days (Note 2)</u>		
...						

Regulated Activity Group 8

...

16.12.25A R The applicable *data items* referred to in SUP 16.12.4R are set out according to type of *firm* in the table below:

Description of data item	Firms <i>Firms</i> ' prudential category and applicable <i>data items</i> (note 1)							
	<i>BIPRU</i>			<i>Firms other than BIRPU firms</i>				
	730K	125K	50K	<i>IPRU (INV) Chapter 3</i>	<i>IPRU (INV) Chapter 5</i>	<i>IPRU (INV) Chapter 9</i>	<i>IPRU (INV) Chapter 13</i>	<i>UPRU</i>
...								
Large exposures	FSA008 (note Notes 2 _a)	FSA008 (note Notes 2 _a)	FSA008 (note Notes 2 _a)					

	6)	6)	6)					
...								
Securitisati on: <u>non- trading book</u>	FSA046 (note 19)	FSA046 (note 19)	FSA046 (note 19)					
...								
Systems and Controls Question- naire	...							
Securitisati- on: <u>trading book</u>	FSA058 (Note 27)	FSA058 (Note 27)	FSA058 (Note 27)					
...								
Note 6	This will not be applicable to <i>BIPRU limited activity firms</i> or <i>BIPRU limited licence firms</i> unless they have a waiver under <i>BIPRU</i> 6.1.2G.							
...								
Note 19	Only applicable to <i>firms</i> that <u>hold securitisation positions, or are the originator or sponsor of undertake securitisations of non-trading book exposures.</u>							
...								
Note 27	Only applicable to <i>firms</i> that <u>hold securitisation positions, or are the originator or sponsor of securitisations of trading book exposures.</u>							

...

16.12.26 R The applicable reporting frequencies for *data items* referred to in *SUP* 16.12.25AR are set out according to the type of *firm* in the table below. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise.

<i>Data item</i>	<i>BIPRU 730K firm</i>	<i>BIPRU 125K firm</i>	<i>BIPRU 50K firm</i>	<i>UK consolidation group or defined liquidity group</i>	<i>Firms other than BIPRU firms</i>
...					
FSA046	<u>Half yearly Quarterly</u>	<u>Half yearly Quarterly</u>	<u>Half yearly Quarterly</u>	<u>Half yearly Quarterly</u>	
...					
FSA055	...			...

<u>FSA058</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>	<u>Quarterly</u>	
...					

16.12.27 R The applicable due dates for submission referred to in *SUP* 16.12.4R are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period set out in *SUP* 16.12.26R, unless indicated otherwise.

<i>Data item</i>	Monthly	Quarterly	Half yearly	Annual
...						
FSA046				<u>20 business days (Note 1),</u> <u>45 business days (Note 2)</u>	30 business days (note 1), 45 business days (note 2)	
...						
FSA055						...
<u>FSA058</u>				<u>20 business days (Note 1),</u> <u>45 business days (Note 2)</u>		
...						

16 Annex 24R Data items for SUP 16.12

...

FSA003

Capital adequacy

The firm completing this is subject to the capital rules for (tick one only):

- 1 A UK bank or a building society
- 2 A full scope BIPRU investment firm
- 3 A BIPRU limited activity firm
- 4 A BIPRU limited licence firm, including a UCITS investment firm

5 If you are a full scope BIPRU investment firm, do you meet the conditions in BIPRU TP 12.1R?

If you are a BIPRU investment firm, are you a:

- 6 BIPRU 730K firm
- 7 BIPRU 125K firm (excluding UCITS investment firms)
- 8 UCITS investment firm
- 9 BIPRU 50K firm
- 10 Do you have an investment firm consolidation waiver under BIPRU 8.4?
- 11 Have you notified the FSA, at least one month in advance of the date of this report, that you intend to deduct illiquid assets?

12 Basis of reporting Unconsolidated/Solo-consolidated/Consolidated

If consolidated, please complete data elements 13 and 14, otherwise go straight to data element 15.

13 For consolidated reporting, provide

A	B
Group reference <input type="checkbox"/>	Group name <input type="checkbox"/>

14 For consolidated reporting, provide details of all other FSA authorised firms included in this consolidated report.

A	B
FRN <input type="checkbox"/>	Name <input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

A
Capital resources for all other purposes

B
Capital resources emitting Stage C

15 Total capital after deductions

16 Total tier one capital after deductions

17 Core tier one capital

18 Permanent share capital

19 Profit and loss account and other reserves

20 Interim net losses

21 Eligible partnership, LLP or sole trader capital

22 Share premium account

23 Externally verified interim net profits

135 Hybrid tier one capital

136 50% bucket

137 35% bucket

138 15% bucket

24 Other tier one capital

25 Perpetual non-cumulative preference shares subject to limit

26 Innovative tier one instruments subject to limit

FSA003 continued

27	Deductions from tier one capital	
28	Investments in own shares	
29	Intangible assets	
139	<u>Excess on limits for 50% bucket capital instruments</u>	
140	<u>Excess on limits for 35% bucket capital instruments</u>	
141	<u>Excess on limits for 15% bucket capital instruments</u>	
30	Excess on limits for non innovative tier one instruments	
31	Excess on limits for innovative tier one instruments	
32	Excess of drawings over profits for partnerships, LLPs or sole traders	
33	Net losses on equities held in the available-for-sale financial asset category	
34	Material holdings	
35	Total tier two capital after deductions	
36	Upper tier two capital	
37	Excess on limits for tier one capital transferred to upper tier two capital	
38	Upper tier two capital instruments	
39	Revaluation reserve	
40	General/collective provisions	
41	Surplus provisions	
42	Lower tier two capital	
43	Lower tier two capital instruments	
44	Excess on limits for lower tier two capital	
45	Deductions from tier two capital	
46	Excess on limits for tier two capital	
47	Other deductions from tier two capital	
48	Deductions from total of tiers one and two capital	
49	Material holdings	
50	Expected loss amounts and other negative amounts	
51	Securitisation positions	
52	Qualifying holdings	
53	Contingent liabilities	
54	Reciprocal cross-holdings	
55	Investments that are not material holdings or qualifying holdings	
56	Connected lending of a capital nature	
57	Total tier one capital plus tier two capital after deductions	
58	Total tier three capital	
59	Excess on limits for total tier two capital transferred to tier three capital	
60	Short term subordinated debt	
61	Net interim trading book profit and loss	
62	Excess on limit for tier three capital	
63	Unused but eligible tier three capital (memo)	
64	Total capital before deductions	
65	Deductions from total capital	
66	Excess trading book position	
67	Illiquid assets	
68	Free deliveries	
69	Base capital resources requirement	

FSA003 continued

70	Total variable capital requirement	
71	Variable capital requirement for UK banks and building societies	
72	Variable capital requirement for full scope BIPRU investment firms	
73	Variable capital requirement for BIPRU limited activity firms	
74	Variable capital requirement for BIPRU limited licence firms	
75	Variable capital requirement for UCITS investment firms	
76	Variable capital requirements to be met from tier one and tier two capital	
77	Total credit risk capital component	
78	Credit risk calculated by aggregation for UK consolidation group reporting	
79	Credit risk capital requirements under the standardised approach	
80	Credit risk capital requirements under the IRB approach	
81	Under foundation IRB approach	
82	Retail IRB	
83	Under advanced IRB approach	
84	Other IRB exposures classes	
85	Total operational risk capital requirement	
86	Operational risk calculated by aggregation for UK consolidation group reporting	
87	Operational risk basic indicator approach	
88	Operational risk standardised/alternative standardised approaches	
89	Operational risk advanced measurement approaches	
90	Reduction in operational risk capital requirement under BIPRU TP 12.1	
91	Counterparty risk capital component	
92	Capital requirements for which tier three capital may be used	
93	Total market risk capital requirement	
94	Market risk capital requirement calculated by aggregation for UK consolidation group reporting	
95	Position, foreign exchange and commodity risks under standardised approaches (TSA)	
96	Interest rate PRR	
97	Equity PRR	
98	Commodity PRR	
99	Foreign currency PRR	
100	CIU PRR	
101	Other PRR	
102	Position, foreign exchange and commodity risks under internal models (IM)	
103	Concentration risk capital component	
104	Fixed overhead requirement	
105	Capital resources requirement arising from capital floors	
106	Surplus (+) / Deficit (-) of own funds	
107	Solvency ratio (%)	
108	Individual Capital Guidance - total capital resources	
109	Individual Capital Guidance - general purpose capital	
110	Surplus/(deficit) total capital over ICG	
111	Surplus/(deficit) general purposes capital over ICG	
	MEMORANDUM ITEMS	
112	Value of portfolio under management - UCITS investment firms	

FSA003 continued

Prudential filters		
113	Unrealised gains on available-for-sale assets	
114	Unrealised gains (losses) on investment properties	
115	Unrealised gains (losses) on land and buildings	
116	Unrealised gains (losses) on debt instruments held in the available for sale category	
117	Unrealised gains (losses) on cash flow hedges of financial instruments	
118	Unrealised gains (losses) on fair value financial liabilities	
119	Defined benefit asset (liability)	
120	(Deficit reduction amount) if used	
121	Deferred acquisition costs (deferred income) (DACs/DIRs)	
Minority interests		
122	Minority interests included within capital resources	
123	of which: innovative tier one instruments	
Profits		
124	Profits not externally verified at the reporting date but subsequently verified	
125	Total capital after deductions after profits have been externally verified	
Allocation of deductions between tier one and two capital		
126	Material insurance holdings excluded from allocation	
127	Allocated to tier one capital	
128	Allocated to tier two capital	
Firms on the IRB/AMA approaches		
129	Total capital requirement under pre-CRD rules	
130	Total credit risk capital component under pre-CRD	
131	Expected loss amounts - wholesale, retail and purchased receivables	
132	Expected loss amounts - equity	
133	Total value adjustments and provisions eligible for the "EL less provisions" calculation under IRB	
134	Total deductions from tier 1 and tier 2 capital according to pre-CRD rules	

...

FSA005
Market risk

	A	B	C	D	E	F	G
	USD	GBP	EUR	CHF	YEN	Other	Total
Interest rate risk							
General interest rate risk							
1							
2							
3							
Specific interest rate risk							
Amount by risk bucket							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
Equity risk							
General equity risk (or simplified)							
19							
20							
21							

FSA005 continued

	A	B	C	D	E	F	G
Specific equity risk by risk bucket							Total
22 Qualifying equities							
23 Qualifying equity indices							
24 Other equities, equity indices or equity baskets							
25 PRR							
26 Option PRR for equity positions							
27 CAD 1 PRR for equity positions							
28 Other PRR							
29 Total Equity PRR							

	Precious metals	Base metals	softs	energy	other	Total
Commodity Risk						
30 Valuation of longs						
31 Valuation of shorts						
32 Outright PRR						
33 Spread PRR						
34 Carry PRR						
35 Simplified PRR						
36 Total PRR						
37 Option PRR for commodity positions						
38 CAD 1 PRR for commodity positions						
39 Other PRR						
40 Total Commodity PRR						

	USD	GBP	EUR	CHF	YEN	Other	Total
Foreign currency risk							
General foreign currency risk							
41 Total net long positions							
42 Total net short positions							
43 Net gold position							
44 PRR							

	A USD	B GBP	C EUR	D CHF	E YEN	F Other	G Total
45 Option PRR for foreign currency							
46 CAD 1 PRR for foreign currency							
47 Other							
48 Total foreign currency PRR							

Collective investment undertaking risk

General CIU risk

	USD	GBP	EUR	CHF	YEN	Other	Total
49 Total net long positions							
50 Total net short positions							
51 PRR							
52 Option PRR for CIU							
53 CAD 1 PRR for CIU							
54 Other PRR							
55 Total CIU PRR							

Other PRR

56 Any other PRR	
------------------	--

VaR model Risk Internal models-based charges

57 Multiplier	
58 Previous day's VaR PRR	
59 Average of previous 60 days VaR	
60 Incremental Default Risk surcharge	

Add-ons

	A Description	B Value
63 1		
2		
3		
...		
n		

64 Total Add-ons	
------------------	--

61 VaR-model-based PRR Internal models-based PRR	
--	--

62 GRAND TOTAL PRR	
--------------------	--

• • •

FSA008

Large exposures

1 Is this report by a UK consolidation group under BIPRU 8 Ann 1R? **A**

For consolidated reporters only
2 List the FSA Firm Reference Numbers of the members of the UK consolidation group

Index no	FSA FRN
1	
...	
n	

For unconsolidated/solo-consolidated reporters only
3 Is the firm a member of a UK integrated group

Part 1: Large exposures at the reporting date (other than to members of integrated groups under BIPRU 10.8 or BIPRU 10.9)

4 Capital resources under BIPRU 10.5.3R **A** Capital resources (BIPRU 10.5.4R) **B**

Exposure no	Counterparty name (or group name)	Gross exposure	% of capital resources under BIPRU 10.5.3R	Funded credit protection	Unfunded credit protection	Exposure after credit risk mitigation	Of which						Trading book concentration risk excesses			CNCOM	PD %	LGD %	EL %	Credit risk capital requirement	
							Exempt exposures		Non-exempt exposures				% of capital resources under 10.5.4R	Existed for 10 business days or less - %	Persisted for more than 10 business days - %						
							Amount	% of capital resources	Non-trading book	% of capital resources	Trading book	% of capital resources									Aggregate %
A	B	C	D	W	X	E	F	G	H	J	K	L	M	N	P	Q	R	S	T	U	V
1																					
...																					
n																					
Total																					

6 I confirm that the firm has notified the FSA under ~~BIPRU 10.5.6R~~ SUP 15.3.11R of all exposures that have exceeded, or will exceed, the limits set out in BIPRU 10.5.6R ~~or 10.5.8R~~ (tick to confirm) **A**

Part 2: Details of connected counterparties at the reporting date (excluding to members of integrated groups under BIPRU 10.8 or BIPRU 10.9)

Exposure no	Individual counterparties (each individually above 2.5% capital resources)	Gross exposure	% of capital resources under BIPRU 10.5.3R	Funded credit protection	Unfunded credit protection	Exposure after credit risk mitigation	Of which						
							Exempt exposures		Non-exempt exposures				
							Amount	%	Non-trading book	%	Trading book	%	Aggregate %
A	B	C	D	N	O	E	F	G	H	J	K	L	M
1	Individually <2.5% of capital resources												
2													
...													
n													

FSA008 continued

Part 3: Trading-book concentration risk excesses since the last reporting date (excluding any that exist in Part 1 at the reporting date)

Exposure no	Counterparty name	Gross exposure	% of capital resources under BIPRU 10.5.3R	Exposure after credit risk mitigation	Of which			Is it a member of a diverse block or residual block?
					Non-exempt exposures			
					Non-trading-book amount	Trading-book amount	Amount in excess of 25% of capital resources under BIPRU 10.5.4R	
A	B	C	D	E	F	G	H	J
1								
...								
n								

Unconsolidated or solo-consolidated reporters only

Part 4: Significant transactions with the mixed activity holding company and its subsidiaries

Transaction no	Counterparty name	Transaction or exposure value	% of capital resources
A	B	C	D
1			
...			
n			

FSA046
Securitisation: Non-Trading Book

Transaction level information - Where the firm is an originator or sponsor

	A
1	Location of the most recent Pillar 3 disclosures for securitisation (BIPRU 11.5.17R) disclosure
2	Additional capital requirement for significant risk transfer (BIPRU 9.3.1R)
21	Additional capital requirements (BIPRU 9.3.21G and BIPRU 9.15.17G)
22	Reduction in RWAs according to BIPRU 9.10.4R and BIPRU 9.10.6R

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
3	Programme Name	Asset Class	Originator's Interest	Investors' Interest	Location of Investor Reports	Assets appear on FSA001?	BIPRU 9.3.1R applied?	Conversion Factor applied? BIPRU 9.13. applies?	Exposure value before securitisation	Capital requirement before securitisation	Exposure value after securitisation	Exposure value deducted from capital resources	Capital requirement after securitisation before cap	Capital requirement after securitisation after cap	Retention of net economic interest (% to ZDP)	Method of retention of net economic interest
1																
n																

Risk positions - standardised exposures

	A	B	C	D	E	F
4	CQS1	CQS2	CQS3	CQS4 (only for credit assessments other than short term credit assessments)	CQS5 and below All other credit assessments	Deductions from capital
5	As-Originator					
6	As-Sponsor-of-an-ABCP-programme					
7	Counterparty credit risk					
7	All other exposures					

Risk positions - IRB exposures

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	P	O	
8	As-Originator	Firms applying BIPRU 9.12.16R	CQS 1	CQS2	CQS3	CQS4	CQS5	CQS6	CQS7	CQS8	CQS9	CQS10	CQS11	Below CQS11 All other credit assessments	Supervisory formula (Exposure Value)	Supervisory formula (Capital Requirement)	Deductions from capital
9		ST CQS 1	ST CQS2			ST CQS3											
10		B															
11	As-Sponsor-of-an-ABCP-programme	A															
12		B															
13		C															
14	Counterparty credit risk	A															
15		B															
16		C															
17	All other exposures	A															
18		B															
19		C															

...

Insert the following data item FSA058 into SUP 16 Annex 24R (Data items for SUP 16.7 and SUP16.12) in the appropriate numerical order. The text is all new and not underlined.

FSA058

Securitisation: Trading book

Transaction level information - Where the firm is an originator or sponsor

21	Additional capital requirements (BIPRU 7.2.47HG)	A
----	--	---

	A	B	C	D	E	F	O	P
	Programme Name	Asset Class	Originator's Interest	Investors' Interest	Location of Investor Reports	Assets appear on FSA001?	Retention of net economic interest (% to 2DP)	Method of retention of net economic interest
3								
1								
...								
n								

SUP 16 Annex 25G Guidance notes for data items in SUP 16 Annex 24R

...

FSA003 – Capital adequacy

...

Columns A and B

There are two different measures of capital resources. For the purposes of the capital resources requirement under *GENPRU 2.1.40R* onwards and for disclosure purposes under *BIPRU 11*, it is calculated and set out in Column B of this data item. This column excludes stage C in the capital resources calculation set out in *GENPRU 2 Annexes 2R, 3R, 4R, 5R and 6R*. For the purposes of *GENPRU 2.2.17R*, capital resources are set out in Column A. The difference between them is in relation to innovative tier one capital (ie Stage C) which, for the purposes of *GENPRU 2.1.9R*, cannot be included (*GENPRU 2.2.42R*). [deleted]

...

Data elements

These are referred to by row first, then by column, so data element 2B will be the element numbered 2 in column B.

...

[Editor's Note: There are no changes to data elements 1A to 13A]

...

~~13B For consolidated reporting, please provide the Group name~~

~~If 12A is completed as a consolidated report, then please enter the group name here. [deleted]~~

...

~~14B For consolidated reporting, please provide the names of the firms included~~

~~List here the names (against the FRN) of all FSA authorised firms included within the UK consolidation group. [deleted]~~

...

~~15B Total capital after deductions~~

~~This is equivalent to 15A, but excludes stage C (in *GENPRU 2 Annexes 2R, 3R, 4R, 5R and 6R*). It will only differ from 15A if the firm has issued *innovative tier one capital*. [deleted]~~

...

~~16B Total tier one capital after deductions~~

~~This is equivalent to 16A, but reflecting *GENPRU 2.2.42R* and *GENPRU 2.2.43G*. It will only differ from 16A if the firm has issued *innovative tier one capital*. [deleted]~~

...

17B ~~Core tier one capital~~

This will have the same value as 17A. ~~[deleted]~~

...

24A Other tier one capital, subject to limits

Data elements 25A and 26A should only contain items that are subject to grandfathering as they are not compliant with the hybrid capital rules. Instruments that do comply with the hybrid capital rules should be included within elements 136A to 138A, as appropriate.

[CEBS' CA 1.1.4]

24B ~~Other tier one capital, subject to limits~~

This will have the same value as in 24A. ~~(Although innovative tier one capital is not included for CRR purposes, it is included here and the disallowable portion is reported in 31B.) [deleted]~~

25A Perpetual non-cumulative preference shares

This data element (after deduction of data element 30A) is equivalent to Stage B in:

- GENPRU 2 Annex 2R for a *UK bank*;
- GENPRU 2 Annex 3R for a *building society*;
- GENPRU 2 Annex 4R for a *BIPRU investment firm deducting material holdings*;
- GENPRU 2 Annex 5R for a *BIPRU investment firm deducting illiquid assets*; and
- GENPRU 2 Annex 6R for a *BIPRU investment firm* with a waiver from consolidated supervision.

It includes perpetual non-cumulative preference shares (see GENPRU 2.2.109R) and *PIBS* (see GENPRU 2.2.111R). See also GENPRU TP 8.2R to GENPRU TP ~~8.6R~~ 8.7R.

All the preceding references to GENPRU in this note are to the version of GENPRU in force on 30 December 2010.

See also GENPRU TP 8A.

[CEBS' CA 1.1.4.1]

26A Innovative tier one instruments subject to limit

See GENPRU 2.2.113R to GENPRU 2.2.137R, before the application of GENPRU 2.2.30R. Also see GENPRU TP ~~8.7R~~ 8.8R.

This data element (after deduction of data element 31A) is equivalent to Stage C in:

- GENPRU 2 Annex 2R for a *UK bank*;
- GENPRU 2 Annex 3R for a *building society*;
- GENPRU 2 Annex 4R for a *BIPRU investment firm deducting material holdings*;
- GENPRU 2 Annex 5R for a *BIPRU investment firm* deducting *illiquid assets*; and
- GENPRU 2 Annex 6R for a *BIPRU investment firm* with a waiver from consolidated supervision.

All the preceding references to GENPRU in this note are to the version of GENPRU in force on 30 December 2010.

See also GENPRU TP 8A.

[CEBS' CA 1.1.4.2]

...

27B Deductions from tier one capital

This figure will differ from 27A only if a firm has issued *innovative tier one instruments* in 26A. [deleted]

...

28B Investments in own shares

This is the same figure as in 28A. [deleted]

...

29B Intangible assets

This is the same figure as in 29A. [deleted]

30A Excess on limits for non-innovative tier one instruments

The amount reported in 25A which is in excess of the limits set out in *GENPRU 2.2.29R*. See also *GENPRU 2.2.25R*.

All the preceding references to *GENPRU* in this note are to the version of *GENPRU* in force on 30 December 2010.

See also *GENPRU TP 8A*.

[CEBS' CA 1.1.5.2, but with the opposite sign]

30B Excess on limits for non-innovative tier one instruments

This is the same figure as in 30A. [deleted]

31A Excess on limits for innovative tier one instruments

The amount reported in 26A which is in excess of the limits set out in *GENPRU 2.2.30R*. See also *GENPRU 2.2.25R*. As set out in *GENPRU 2.2.25R* to *GENPRU 2.2.27R*, the excess is however available in *upper tier two capital* in 37A.

All the preceding references to *GENPRU* in this note are to the version of *GENPRU* in force on 30 December 2010.

See also *GENPRU TP 8A*.

[CEBS' CA 1.1.5.3, but with the opposite sign]

31B Excess on limits for innovative tier one instruments

In line with *GENPRU 2.2.42R*, *innovative tier one capital* cannot be included in *tier one capital resources*. This figure equates to the whole of the firm's *innovative tier one capital* (26A). As set out in *GENPRU 2.2.25R* to *GENPRU 2.2.27R*, the capital is however available in *upper tier two capital* in 37B.

It gives effect to Note (3) in:

- *GENPRU 2 Annex 2R* for a *UK bank*;
- *GENPRU 2 Annex 3R* for a *building society*;
- *GENPRU 2 Annex 4R* for a *BIPRU investment firm* deducting *material holdings*;
- *GENPRU 2 Annex 5R* for a *BIPRU investment firm* deducting *illiquid assets*; and
- *GENPRU 2 Annex 6R* for a *BIPRU investment firm* with a waiver from consolidated supervision. [deleted]

...

32B Excess of drawings over profits for partnerships, LLPs and sole traders

This is the same figure as reported in 32A. [deleted]

...

33B Net losses on equities held in the available-for-sale financial assets categoryThis is the same figure as reported in 33A. [deleted]

...

34B Material holdingsThis is the same figure as reported in 34A. [deleted]

...

35B Total tier two capital after deductionsThis is broadly similar to 35A, except that it takes account of *GENPRU 2.2.42R* where a firm has *innovative tier one capital* that cannot be included in tier one. [deleted]

...

36B Upper tier two capital, subject to limitsThis data element (after deducting 44B and 46B) is equivalent, after taking account of *GENPRU 2.2.42R* where a firm has *innovative tier one capital*, to Stage G in:

- *GENPRU 2 Annex 2R* for a *UK bank*;
- *GENPRU 2 Annex 3R* for a *building society*;
- *GENPRU 2 Annex 4R* for a *BIPRU investment firm* deducting *material holdings*;
- *GENPRU 2 Annex 5R* for a *BIPRU investment firm* deducting *illiquid assets*; and
- *GENPRU 2 Annex 6R* for a *BIPRU investment firm* with a waiver from consolidated supervision. [deleted]

...

37B Excess on limits for tier one capital transferred to upper tier two capitalAs 37A, but includes all *innovative tier one capital* as none of it could be included in *tier one capital resources* as a result of *GENPRU 2.2.42R*. This will not exceed the sum of 30B and 31B. [deleted]

...

38B Upper tier two capital instruments, subject to limitsThis is the same figure as reported in 38A. [deleted]

...

39B Revaluation reserveThis is the same figure as reported in 39A. [deleted]

...

40B General/collective provisionsThis is the same figure as reported in 40A. [deleted]

...

41B Surplus provisions

This is the same figure as reported in 41A. [deleted]

...

42B Lower tier two capital

This figure will differ from 42A if the firm had any *innovative tier one capital* reported in 26A. [deleted]

...

43B Lower tier two capital instruments subject to limits

This is the same figure as reported in 43A. [deleted]

...

44B Excess on limits for lower tier two capital

The amount reported in 43B that is in excess of the limits set out in *GENPRU 2.2.46R (2)*. If the firm has not reported *innovative tier one capital instruments* in 26A, this number will be the same as 44A. [deleted]

...

45B Deductions from tier two capital

If the firm has not reported *innovative tier one instruments* in 26A, this number will be the same as 45A.

Otherwise, this data element (excluding 46B) is equivalent to Stage J (after taking account of Note (3)) in:

- *GENPRU 2 Annex 2R* for a *UK bank*;
- *GENPRU 2 Annex 3R* for a *building society*;
- *GENPRU 2 Annex 4R* for a *BIPRU investment firm* deducting *material holdings*;
- *GENPRU 2 Annex 5R* for a *BIPRU investment firm* deducting *illiquid assets*; and
- *GENPRU 2 Annex 6R* for a *BIPRU investment firm* with a waiver from consolidated supervision. [deleted]

...

46B Excess on limits for tier two capital

If the firm has not reported *innovative tier one instruments* in 26A, this number will be the same as 46A. Otherwise it is the amounts reported in 36B and 42B in excess of the limits set out *GENPRU 2.2.46R (1)*. [deleted]

...

47B Other deductions from tier two capital

This is the same figure as reported in 47A. [deleted]

...

48B Deductions from total of tiers one and two

This is the same figure as reported in 48A. [deleted]

...

57B Total tier one capital plus tier two capital after deductions

This may differ from 57A if the firm reported *innovative tier one instruments* in 26A.

This is equivalent to Stage N of:

- ~~GENPRU 2 Annex 2R for a UK bank;~~
- ~~GENPRU 2 Annex 3R for a building society;~~
- ~~GENPRU 2 Annex 4R for a BIPRU investment firm deducting material holdings;~~
- ~~GENPRU 2 Annex 5R for a BIPRU investment firm deducting illiquid assets; and~~
- ~~GENPRU 2 Annex 6R for a BIPRU investment firm with a waiver from consolidated supervision.~~

Firms should note that if this figure is less than the *base capital resources requirement* (reported in data element 69A), the firm's *capital resources* are less than its *capital resources requirement*. See Note (2) in *GENPRU 2 Annexes 2R, 3R, 4R, 5R and 6R*.

~~[CEBS' CA 1.4 plus 1.5 minus 1.3.10] [deleted]~~

...

58B Total tier three capital

This is broadly similar to 58A, except that it takes account of *GENPRU 2.2.42R* where a firm has *innovative tier one capital* that cannot be included in tier one. ~~[deleted]~~

...

59B Excess on limits for tier two capital transferred to tier three capital

See *GENPRU 2.2.25R* to *GENPRU 2.2.27R*. This will be no greater than the sum of 44B and 46B. If the firm has not reported *innovative tier one instruments*, the figure should be the same as 59A. ~~[deleted]~~

...

60B Short term subordinated debt, subject to limits

This figure will be the same as 60A.

~~[CEBS' CA 1.6.3] [deleted]~~

...

61B Net interim trading book profit and loss

This figure will be the same as 61A.

~~[CEBS' CA 1.6.2] [deleted]~~

...

62B Excess on limit for tier three capital

The amount reported in 59B and 60B in excess of the limits set out in *GENPRU 2.2.49R* to *GENPRU 2.2.50R*. It will only differ from 62A if the firm has reported *innovative tier one capital* in 26A. ~~[deleted]~~

...

63B Unused but eligible tier three capital (memo)

See ~~GENPRU 2.2.47R~~.

This is the sum of data elements 58B less the amount shown in data element 92A. If the result is negative, enter 0. This is the surplus tier three capital which may only be used for the purposes set out in ~~BIPRU 2.2.47R~~.

It may differ from 63A if the firm has reported *innovative tier one capital* in 26A. ~~[deleted]~~

...

64B Total capital before deductions

This figure will differ from 64A if the firm had any innovative tier one capital reported in 26A. ~~[deleted]~~

...

65B Deductions from total capital

This will be the same value as reported in 65A. ~~[deleted]~~

...

[Editor's Note: There are no changes to data elements 66A to 106A]

...

106B Surplus/deficit of own funds

This is 15B less 70A.

This should be a positive figure, showing the amount of excess capital over that required for the risks measured at the reporting date, as well as any requirements.

Firms that have adopted the *IRB approach* for credit risk or *advanced measurement approach* for operational risk should also be monitoring data element 105A against 15B.

Firms should note that although this figure may show a surplus, if this figure reported in data element 57B is less than the *base capital resources requirement* (reported in data element 69A), the firm's *capital resources* are less than its *capital resources requirement*. See Note (2) in ~~GENPRU 2 Annexes 2R, 3R, 4R, 5R and 6R~~.

This should be a positive figure and is the calculation required in ~~GENPRU 2.1.40R~~. ~~[deleted]~~

...

107B Overall solvency ratio

This is 15B divided by 70A, multiplied by 100 and represents the firm's overall solvency for CRR purposes.

This ratio represents the firm's solvency in relation to its variable capital requirement under ~~GENPRU 2.1.9R(1)~~. In most cases, it may be the same as figure as appears in Column A, but that will not be the case if data element 15 differs between Column A and Column B because of the different treatment of *innovative tier one instruments* (see ~~GENPRU 2.2.43R~~). ~~[deleted]~~

...

[Editor's Note: There are no changes to data elements 108A to 134A]

...

135A Hybrid tier one capital

This element is equivalent to Stages B1, B2 and C in:

- GENPRU 2 Annex 2R for a UK bank;
- GENPRU 2 Annex 3R for a building society;

- GENPRU 2 Annex 4R for a BIPRU investment firm deducting material holdings;
- GENPRU 2 Annex 5R for a BIPRU investment firm deducting illiquid assets; and
- GENPRU 2 Annex 6R for a BIPRU investment firm with a waiver from consolidated supervision.

[See GENPRU 2.2.30AR to 2.2.30CR]

136A 50% Bucket

This data element (after deduction of data element 139A) is equivalent to Stage B1 in:

- GENPRU 2 Annex 2R for a UK bank;
- GENPRU 2 Annex 3R for a building society;
- GENPRU 2 Annex 4R for a BIPRU investment firm deducting material holdings;
- GENPRU 2 Annex 5R for a BIPRU investment firm deducting illiquid assets; and
- GENPRU 2 Annex 6R for a BIPRU investment firm with a waiver from consolidated supervision.

[See GENPRU 2.2.30AR]

137A 35% Bucket

This data element (after deduction of data element 140A) is equivalent to Stage B2 in:

- GENPRU 2 Annex 2R for a UK bank;
- GENPRU 2 Annex 3R for a building society;
- GENPRU 2 Annex 4R for a BIPRU investment firm deducting material holdings;
- GENPRU 2 Annex 5R for a BIPRU investment firm deducting illiquid assets; and
- GENPRU 2 Annex 6R for a BIPRU investment firm with a waiver from consolidated supervision.

[See GENPRU 2.2.30BR]

138A 15% Bucket

This data element (after deduction of data element 141A) is equivalent to Stage C in:

- GENPRU 2 Annex 2R for a UK bank;
- GENPRU 2 Annex 3R for a building society;
- GENPRU 2 Annex 4R for a BIPRU investment firm deducting material holdings;
- GENPRU 2 Annex 5R for a BIPRU investment firm deducting illiquid assets; and
- GENPRU 2 Annex 6R for a BIPRU investment firm with a waiver from consolidated supervision.

[See GENPRU 2.2.30CR]

139A Excess on limit for 50% bucket capital instruments

The amount reported in 136A which is in excess of the limit set out in GENPRU 2.2.30AR.

140A Excess on limit for 35% bucket capital instruments

The amount reported in 137A which is in excess of the limit set out in GENPRU 2.2.30BR.

141A Excess on limit for 15% bucket capital instruments

The amount reported in 138A which is in excess of the limit set out in GENPRU 2.2.30CR.

FSA003 – Capital adequacy validations

Internal validations

Data elements are referenced by row then column.

Validation number	Data element		Validation
1	1A		If (2A+3A+4A)=yes, then no, else yes
2	2A		If (1A+3A+4A)=yes, then no, else yes
3	3A		If (1A+2A+4A)=yes, then no, else yes
4	4A		If (1A+2A+3A)=yes, then no, else yes
5	5A		If 2A = no, then no
6	6A		If (3A+4A) = no, then no
7	7A		If (1A+8A+9A)=yes, then no
8	8A		If (1A+7A+9A)=yes, then no
9	9A		If (1A+7A+8A)=yes, then no
10			[deleted – replaced by validation 114]
11			[deleted – replaced by validation 115]
12			[Not used]
13	15A	=	64A – 65A
14	15B	=	64B – 65B [deleted]
15	16A	=	17A + 24A - 27A + 135A
16	16B	=	17B + 24B – 27B [deleted]
17	17A	=	18A + 19A – 20A + 21A + 22A + 23A
18	17B	=	17A [deleted]
19	24A	=	25A + 26A
20	24B	=	24A [deleted]
21	27A	=	28A + 29A + 30A + 31A + 32A + 33A+34A + 139A+140A+141A
22		=	[deleted – replaced by validation 116]
23	28B	=	28A [deleted]
24	29B	=	29A [deleted]
25	30B	=	30A [deleted]
26	31B	=	26A [deleted]
27	32B	=	32A [deleted]
28	33B	=	33A [deleted]
29	34A		If 10A = no, then 0
30	34B	=	34A [deleted]
31			[Not used]
32	35A	=	36A + 42A - 45A
33	35B	=	36B + 42B – 45B [deleted]
34	36A	=	37A + 38A + 39A + 40A + 41A
35	36B	=	37B + 38B + 39B + 40B + 41B [deleted]
36	37A	≤	30A + 31A
37	37B	≤	30B + 31B [deleted]
38	38B	=	38A [deleted]
39	39B	=	39A [deleted]
40	40B	=	40A [deleted]
41	41B	=	41A [deleted]

Validation number	Data element		Validation
42	42A	=	43A – 44A
43	42B	=	43B – 44B [deleted]
44	43B	=	43A [deleted]
45	45A	=	46A + 47A
46	45B	=	46B + 47B [deleted]
47	47B	=	47A [deleted]
48	48A	=	49A + 50A + 51A + 52A + 53A + 54A + 55A + 56A
49	48B	=	48A [deleted]
50	49A		If 11A = yes, then 0
51	52A		If 1A = no, then 0
52	53A		If 10A = no, then 0
53	55A		If 1A = no, then 0
54	56A		If 1A = no, then 0
55	57A	=	16A + 35A – 48A
56	57B	=	16B + 35B – 48B [deleted]
57	58A	=	59A + 60A + 61A - 62A
58	58B	=	59B + 60B + 61B – 62B [deleted]
59	59A	≤	44A + 46A
60	59B	≤	44B + 46B [deleted]
61	60B	=	60A [deleted]
62	61B	=	61A [deleted]
63			[deleted – replaced by validation 102]
64			[deleted – replaced by validation 103]
65	64A	=	57A + 58A
66	64B	=	57B + 58B [deleted]
67	65A	=	66A + 67A + 68A
68	65B	=	65A [deleted]
69	66A		If 1A = no, then 0
70	67A		If 11A = no, then (if 10A = no, then 0)
71	69A		If 12A = consolidated, then 0, else >0
72	70A	=	71A + 72A + 73A + 74A + 75A
72a			[deleted]
72b			[deleted]
72c			[deleted]
72d			[deleted]
72e			[deleted]
73			[deleted – replaced by validation 104]
74			[deleted – replaced by validation 105]
75			[deleted – replaced by validation 106]
76			[deleted – replaced by validation 107]
77			[deleted – replaced by validation 108]
78	76A	=	77A + 85A – 90A +91A
79			[Not used]
80	77A	=	78A + 79A + 80A
81	78A		If 12A ≠ consolidated, then 0
82	80A	=	81A + 82A + 83A + 84A
83	85A		86A + 87A + 88A + 89A

Validation number	Data element		Validation
84	86A		If 12A \neq consolidated, then 0
85	90A		If 5A = no, then 0
86			[deleted – replaced by validation 109]
87	93A	=	94A + 95A + 102A
88	94A		If 12A \neq consolidated, then 0
89	95A	=	96A + 97A + 98A + 99A + 100A + 101A
90	104A	=	If 1A = yes, then 0, else (if 2A = yes, then 0, else > 0)
91	106A	=	15A – 70A
92	106B	=	15B – 70A [deleted]
93			[deleted – replaced by validation 110]
94			[deleted – replaced by validation 111]
95	110A		If 108A = 0, then 0, else (15B – 108A) [deleted – replaced by validation 118]
96	111A		If 109A = 0, then 0, else (57B – 109A) [deleted – replaced by validation 119]
97			[deleted – replaced by validation 112]
98	123A	\leq	26A
99			[deleted – replaced by validation 113]
100	127A	\leq	16B [deleted – replaced by validation 120]
101	128A	\leq	35B [deleted – replaced by validation 121]
102	63A	=	Max (59A + 60A + 61A – 62A – 92A), 0
103	63B	=	Max (59B + 60B + 61B – 62B – 92A), 0 [deleted]
104	71A		If 1A = Yes, then 76A + 92A, else 0
105	72A		If 2A = Yes, then 76A + 92A, else 0
106	73A		If 3A = Yes, then 76A + 92A, else 0
107	74A		If 4A = Yes, then (if 8A = Yes, 0, else (Max (77A + 91A + 93A + 103A), 104A)), else 0
108	75A		If 8A = Yes, then (Max ((77A + 91A + 93A + 103A), 104A)), else 0
109	92A	=	93A + 103A + 104A
110	107A	=	(15A/70A) * 100
111	107B	=	(15B/70A) * 100 [deleted]
112	112A		If 8A = no, then 0
113	127A + 128A	=	49A + 50A + 51A – 126A
114	10A		If 1A = yes, then no
115	11A		If 1A = yes, then no
116	27B	=	28B + 29B + 30B + 31B + 32B + 33B + 34B [deleted]
117	<u>135</u>	=	<u>136A+137A+138A</u>
<u>118</u>	<u>110A</u>		<u>If 108A = 0, then 0, else (15A – 108A)</u>
<u>119</u>	<u>111A</u>		<u>If 109A = 0, then 0, else (57A – 109A)</u>
<u>120</u>	<u>127A</u>	\leq	<u>16A</u>
<u>121</u>	<u>128A</u>	\leq	<u>35A</u>

...

FSA005 – Market risk

...

56 Any other PRR

PRR arising from other non-standard transactions as required by *BIPRU 7.1.7R* to *BIPRU 7.1.13E* and that is not attributable to any of the other categories e.g. PRR arising from nonfinancial spread betting.

This will have the same value as data element 101A in FSA003.

VAR model risk Internal models-based charges

See *BIPRU 7.10*.

57 Multiplier

This is the multiplication factor set out in *BIPRU 7.10.118R* to *BIPRU 7.10.126G*.

[*CEBS' MKR IM total positions column 7*]

...

60 Incremental default risk charge

This is the incremental default risk charge under *BIPRU 7.10.116R*. It also includes the specific risk surcharge under *BIPRU 7.10.127G*.

[*CEBS' MKR IM total positions columns 3 and 4*]

61 ~~VaR model based PRR~~ Internal models-based PRR

See *BIPRU 7.10.113R* to *BIPRU 7.10.117G*.

This will have the same value as data element 102A on FSA003.

[*CEBS' MKR IM total positions column 5*]

...

Add-ons**63 Add-ons**

This comprises the add-ons to model based PRR under *BIPRU 7.10*

64 Total Add-ons

The total of items 1 to n in 63

FSA005 – Market risk validations
Internal validations

Data elements are referenced by row then column.

Validation number	Data element		Validation
...			
<u>53</u>	<u>64G</u>	≡	<u>SUM (63B)</u>

...

External validations

[Editor's Note: No changes]

FSA008 – Large exposures

This data item captures information on *large exposures*, connected exposures within that, exposures by integrated/core/non-core groups, *trading book concentration risk excesses*, and also significant transactions with mixed activity holding companies and their subsidiaries.

Unless indicated otherwise, the valuation of items should follow *GENPRU* 1.3.

...

3A Are you a member of a UK integrated group

This is only relevant for unconsolidated or solo-consolidated reporters.

The answer is either Yes or No.

If the answer to 3A is Yes, and the firm is part of a *UK integrated group*, one of the members of the *UK integrated group* is also required to submit FSA018 on behalf of all members of the *UK integrated group* for the reporting date.

Part 1 – Large exposures at the reporting date

This section should contain details of all *large exposures* at the reporting date, as defined in *BIPRU* 10.5.1R.

~~However, where~~ Where a *BIPRU* firm is relying on *BIPRU* TP 33 has established a *UK integrated group* (as defined in *BIPRU* 10.8), it should exclude from Part 1 any *large exposures* to members of a wider integrated group (as defined in *BIPRU* 10.9) or to members of each *diverse block* (~~*BIPRU* 10.9~~) and the *residual block* (~~*BIPRU* 10.8 and *BIPRU* 10.9~~) (see *BIPRU* TP 33 for further details) – these exposures will be reported separately on FSA018 by the *UK integrated group*. They should ~~obviously~~ also be excluded from Part 2 (Connected counterparties) in these circumstances.

Exposures to connected counterparties (other than members of an integrated group) should be reported here in aggregate, with a more detailed breakdown provided in Part 2.

Where a firm has established a *core UK group* (as defined in *BIPRU* 10.8.2R), it should detail these *exposures* in Part 2.

...

5B Counterparty name

List here the names of the *counterparties*, *groups of connected clients*, and *connected counterparties* (as set out in *BIPRU* 10.3) that represent *large exposures* (excluding, as indicated above, by a member of a *UK integrated group* to members of the diverse blocks and the residual block, or by a *core UK group*). Details of individual counterparties comprising the *connected counterparties* will be shown in Part 2, although the aggregate should be shown here. (Details of exposures by members of a *UK integrated group* to a ~~members~~ member of a *diverse block* within its *wider integrated group* or a member of its *residual block* will be reported in FSA018 and should be excluded from this section.)

5C Gross exposure

Report here the gross exposures calculated in accordance with *BIPRU* 10.2 and *BIPRU* 10.4.

...

5F Amount of the exposure that is exempt

That part of the amount reported in column E that is an exempt under *BIPRU* 10.6 and *BIPRU* 10.7.

...

5N Trading book concentration risk excess

This is the *trading book concentration risk excess*, arising under *BIPRU* 10.10.8R (or *BIPRU* 10.5.20R for those utilising TP33), expressed as a percentage of data element 4B. It should be entered to two decimal places, omitting the % sign.

5P Trading book concentration risk excesses that have existed for 10 business days or less

This is the amount of the *trading book concentration risk excesses* that have existed for 10 business days or less, as a percentage of data element 3B. ~~A total is given for this column to monitor it against *BIPRU* 10.5.12R.~~

5Q Trading book concentration risk excesses that have persisted for more than 10 business days

This is the amount of the *trading book concentration risk excesses* that have persisted for more than 10 business days. ~~A total for this column is given to monitor it against *BIPRU* 10.5.13R.~~

5R CNCOM

The amount of CNCOM calculated as set out in *BIPRU* 10.10.4G to 10.10.10R (or *BIPRU* 10.5.16G to 10.5.24G for those utilising TP33). It should agree with the amount reported in data element 103A on FSA003 for the same reporting date, except when the firm is a member of a *UK integrated group/core UK group* when there may be some additional CNCOM attributable to the firm.

...

5W Funded credit protection

Report here the portion of the *exposure* being covered by collateral and for which the *exposure* is assigned to the issuer of the collateral.

5X Unfunded credit protection

Report here the portion of the *exposure* which is guaranteed and is assigned to the protection provider.

6A Confirmation

Firms should confirm that we have been notified under ~~BIPRU 10.5.9R~~ SUP 15.3.11R of all exposures that have exceeded, or will exceed, the limits set out in ~~BIPRU 10.5.6R or 10.5.8R~~.

Part 2 – Details of connected counterparties at the reporting date

Details of connected counterparties

This part sets out details of any *connected counterparties* reported in aggregate in Part 1, but this time showing each counterparty whose individual exposure exceeds 2.5% of the capital resources calculated under *BIPRU 10.5.3R* (data element 4A). As with Part 1, this figure should exclude exposures by a member of a *UK integrated group* to members of a wider integrated group or to members of the diverse blocks and the residual block (which are reported in FSA018).

If a firm has a core UK group, its exposures should be included here.

...

7B Individual counterparty names, each individually above 2.5% of capital resources

Report here the individual counterparty names that make up a group of connected counterparties (see *BIPRU 10.3.9R*), where each counterparty's exposure is individually 2.5% or more of *capital resources* (data element 4A).

If a firm has a core UK group, its exposures should be included here.

As with Part 1, this figure should exclude exposures by a member of a *UK integrated group* to members of the diverse blocks and the residual block.

...

7F Amount of the exposure that is exempt

That part of the amount reported in column E that is an exempt under *BIPRU 10.6* and *BIPRU 10.7*.

...

7N Funded credit protection

Report here the portion of the *exposure* being covered by collateral and for which the *exposure* is assigned to the issuer of the collateral.

7O Unfunded credit protection

Report here the portion of the *exposure* which is guaranteed and is assigned to the protection provider.

...

Part 3 Trading book concentration risk excesses since the last reporting date

This part provides an analysis of those *trading book concentration risk excesses* that have occurred since the previous reporting date. It should therefore:

- ~~exclude exposures to those counterparties that, at the reporting date, give rise to a *trading book concentration risk excess* (and are shown in Part 1);~~
- ~~include exposures to counterparties that do not, at the reporting date, give rise to a *trading book concentration risk excess* but are nevertheless shown in Part 1 as there is a *large exposure* at that date; and~~
- ~~include exposures to counterparties that do not appear in Part 1 (as they did not give rise to a *large exposure* at the reporting date).~~

If a counterparty gives rise to a *trading book concentration risk excess* on a number of separate occasions during the quarter, it should only be reported once in this Part. The highest gross exposure should be reported. This fulfils the requirements of *BIPRU 10.5.13R*.

8A Exposure number

Please number each large exposure consecutively.

8B Counterparty names

List here the names of the *counterparties, groups of connected clients, and connected counterparties* (as set out in *BIPRU 10.3*) that account for *trading book concentration risk excesses* that have occurred since the previous reporting date but do not exist at the current reporting date.

For those firms that are member so of a *UK integrated group*, they should report those exposures to individual members of the diverse and residual blocks that gave rise to a *trading book concentration risk excess* during the period.

8C Gross exposure

Report here the gross exposures calculated in accordance with *BIPRU 10.2*. This should be the highest value in the period.

8D % of capital resources

This is column C as a percentage of data element 4A and should be more than 25%. It should be entered to two decimal places, omitting the % sign.

8E Exposure after credit risk mitigation techniques

This is the figure reported in column D after *credit risk mitigation*.

8F Non-exempt exposures in the non-trading book

This is the amount of the non-exempt exposures that were in the non-trading book.

8G Non-exempt exposures in the trading book

This is the amount of the non-exempt exposures that were in the trading book.

8H Amount of non-exempted exposures in excess of 25% of capital resources under *BIPRU 10.5.4R*

This is the amount reported in columns F and G that was in excess of 25% of data element 4B.

8J Is it a member of a diverse block or residual block

This will only be relevant to a firm that answers Yes to data element 3A.

~~If the firm had a *trading book concentration risk excess* to a member (of the diverse blocks or residual block), it should be marked with an X to show it is a member of one of these blocks. [deleted]~~

FSA008 – Large exposures validations

Internal validations

Data elements are referenced by row then column.

Validation number	Data element		Validation
...			
33	8E	≠	8C[deleted]
34	8F	≠	8E[deleted]
35	8F+8G	≠	8E[deleted]
36	8H	≡	8F + 8G - (4B/4) [deleted]
...			

FSA046 – Securitisation – non-trading book

This data item allows a greater understanding of the prudential risk profile of the ~~firm~~ firm and ~~avoids~~ reduces the need for ad hoc data requests from ~~firms~~ firms. It also enables the FSA to lead debate on credit risk transfer in international discussions.

This data item captures information on a firm's non-trading book securitisation positions which fall under BIPRU 9 where they are acting as originator, sponsor or investor. Trading book securitisations are captured in FSA058.

...

Data elements

These are referred to by row first, then by column, so data element 2B will be the element numbered 2 in column B.

Transaction level information - Where the firm is an originator or sponsor

All securitisations where you have acted as an originator or sponsor where the assets are held in the non-trading book should be shown in this section, irrespective of whether you meet BIPRU 9.3.1 R.

3A Programme name

Enter the common name of the programme in the market.

[COREP CR SEC Details column 2]

3B Asset class

This is the class of assets securitised in accordance with the options in FSA004 with an additional entry for "Asset Backed Commercial Paper Programme". Where the underlying exposures consist of different types of assets, a firm should indicate the most important type.

[COREP CR SEC Details column 9]

3C Originator's interest

For the purposes of reporting, originator's interest means the exposure value of the notional part of a pool of drawn amounts sold into a securitisation, the proportion of which in relation to the amount of the total pool sold into the structure determines the proportion of the cash-flows generated by principal and interest collections and other associated amounts which are not available to make payments to those having securitisation positions in the securitisation. The originator's interest may not be subordinate to the investors' interest.

See BIPRU 9.13.4R (1). The exposure value should be used.

3D Investors' interest

Investors' interest means the exposure value of the remaining notional part of the pool of drawn amounts.

~~See BIPRU 9.13.4R (3). The exposure value should be used.~~

[COREP CR SEC Details 7]

...

3G BIPRU 9.3.1 applied?

Yes/No to indicate whether the assets have been excluded from the calculation of *risk weighted exposure amounts* under BIPRU 9.3.1R.

[COREP CR SEC Details 25]

~~3H BIPRU 9.13 applies~~ Conversion factor applied?

Yes/No to indicate whether the transaction is a *securitisation of revolving exposures* with an *early amortisation* provision to which a conversion factor is applied under BIPRU 9.13.

[COREP CR SEC Details 26]

Insert the following additional data elements.

3I Exposure Value before securitisation

Total exposure value of the *exposures* or pool of *exposures* which have been securitised.

[COREP CR SEC Details 7]

3J Capital requirement before securitisation

Total capital requirements held against the *exposures* or pool of *exposures* before they are securitised. For these purposes, where appropriate, firms should specify the capital requirements against the "investors' interest" as defined above.

[COREP CR SEC Details 14]

3K Exposure Value after securitisation

Total exposure value subject to risk weights under BIPRU 9.

[COREP CR SEC Details 16-26]

3L Exposure value deducted from capital resources

Exposure value applying BIPRU 9.10.2 R

[COREP CR SEC Details 27]

3M Capital requirement after securitisation before cap

Capital requirements derived from the *risk weighted exposure amount* without taking into account the provisions in BIPRU 9.11.5 R, BIPRU 9.12.8 R or BIPRU 9.13.9R regarding the maximum *risk-weighted exposure amounts*.

[COREP SR SEC Details 28]

3N - Capital requirement after securitisation after cap

Total capital requirements subject to *securitisation* treatment after applying the cap as specified in BIPRU 9.11.5 R, BIPRU 9.12.8 R or BIPRU 9.13.9R.

[COREP SR SEC Details 29]

3O – Retention of net economic interest (% to 2DP)

Percentage of the nominal value of the securitised *exposures* retained by an *originator* or *sponsor* as calculated under BIPRU 9.15.4R. Show the percentage to two decimal places (2DP).

3P – Method of retention of net economic interest

Please detail a number according to the method of retention as calculated under BIPRU 9.15.4R.

1. = BIPRU 9.15.4R(1);

2. = BIPRU 9.15.4R(2);

3. = BIPRU 9.15.4R(3);

4. = BIPRU 9.15.4R(4).

Risk positions – standardised exposures

All *exposures* that are treated under BIPRU 9.11 should be shown in this section broken down by credit quality and how the *exposure* arose.

Row 4: Originator

This is for *exposures* where the *firm* originated the underlying assets.

Row 5: Sponsor

This is for *exposures* to *asset backed commercial paper programmes*.

Row 6: Counterparty credit risk

This is the *exposure* values generated under *BIPRU 13* ~~where the exposure is also a securitisation position.~~

Row 7: All other exposures

This is for any standardised *exposures* not included in *data elements 4 – 6* above.

Columns A – DE

Positions should be split by credit rating according to *BIPRU 9.11.2R* and *BIPRU 9.11.3R*.

Column EF

This is for positions deducted from capital at part 1 of stage M of the capital calculations in *GENPRU 2*, Annexes 2R, 3R, 4R, 5R or 6R as appropriate.

Risk positions – IRB exposures

All *exposures* that are treated under *BIPRU 9.12* should be shown in this section, broken down by credit quality, granularity and how the *exposure* arose.

Rows 8 – 10: Originator

This is for *exposures* where the *firm* originated the underlying *exposures*.

Rows 11 – 13: Sponsor

This is for *exposures* to *asset backed commercial paper programmes*.

Rows 14 – 16: Counterparty credit risk

This is for exposure values generated under *BIPRU 13* where the *exposure* is also a *securitisation position*.

Rows 17 – 19: All other exposures

This covers any IRB *exposures* not included above.

Columns AB – M

This should be split by credit rating according to *BIPRU 9.12.11R* and *BIPRU 9.12.12R*.

Column N

~~This is for positions calculated~~ Firms should state the exposure value calculated under *BIPRU 9.12.21R* to *BIPRU 9.12.23R*.

Column O

This is for positions deducted from capital at part 1 of stage M of the capital calculations in *GENPRU 2*, Annexes 2R, 3R, 4R, 5R or 6R as appropriate.

Column P

Firms should state the capital requirement calculated under *BIPRU 9.12.21R* to *BIPRU 9.12.23R*.

...

FSA046 – Securitisation: non-trading book validations

There are no validations for this data item.

External validations

There are no validations for this data item.

...

Insert the following new text as a new Data Item FSA058. The text is not underlined.

FSA058 – Securitisation: trading book

This data item allows a greater understanding of the prudential risk profile of the *firm*. It also enables the *FSA* to lead debate on credit risk transfer in international discussions.

This data item captures information on the *firm's trading book securitisation positions* which fall under *BIPRU 7.2* where they are acting as *originator, sponsor* or investor. *Non-trading book securitisations* are captured in FSA046.

Currency

You should report in the currency of your annual audited accounts i.e. in Sterling, Euro, US dollars, Canadian dollars, Swedish Kroner, Swiss Francs or Yen. Figures should be reported in 000s.

Data elements

These are referred to by row first, then by column, so data element 2B will be the element numbered 2 in column B.

Transaction level information - Where the firm is an originator or sponsor

All *securitisations* where you have acted as an *originator* or *sponsor* where the assets are held in the *trading book* should be shown in this section, irrespective of whether you meet *BIPRU 9.3.1R*.

3A Programme name

Enter the common name of the programme in the market.

[COREP CR SEC Details column 2]

3B Asset class

This is the class of assets securitised in accordance with the options in FSA004 with an additional entry for "Asset Backed Commercial Paper Programme". Where the underlying *exposures* consist of different types of assets, a *firm* should indicate the most important type.

[COREP CR SEC Details column 9]

3C Originator's interest

For the purposes of reporting, *originator's* interest means the exposure value of the notional part of a pool of drawn amounts sold into a *securitisation*, the proportion of which in relation to the amount of the total pool sold into the structure determines the proportion of the cash-flows generated by principal and interest collections and other associated amounts which are not available to make payments to those having *securitisation positions* in the *securitisation*. The *originator's* interest may not be subordinate to the investors' interest.

3D Investors' interest

Investors' interest means the exposure value of the remaining notional part of the pool of drawn amounts.

[COREP CR SEC Details 7]

3E Location of investor reports

Provide either a URL to the location of the investor reports published on the performance of the assets or, if not available via the internet, a description of where to find the investor reports.

3F Assets appear in FSA001?

Yes/No to indicate whether the assets appear on the balance sheet provided in FSA001.

3O– Retention of net economic interest (% to 2DP)

Percentage of the nominal value of the securitised exposures retained by an *originator* or *sponsor* as calculated under *BIPRU* 9.15.4R.

3P– Method of retention of net economic interest

Please detail a number according to the method of retention as calculated under *BIPRU* 9.15.4R.

1. = *BIPRU* 9.15.4R(1);
2. = *BIPRU* 9.15.4R(2);
3. = *BIPRU* 9.15.4R(3);
4. = *BIPRU* 9.15.4R(4).

FSA058 – Securitisation: non-trading book validations

Internal validations

There are no validations for this data item.

External validations

There are no validations for this data item.

PRUDENTIAL SOURCEBOOK FOR BANKS, BUILDING SOCIETIES AND INVESTMENT FIRMS (LIQUIDITY) (AMENDMENT) INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 150(2) (Actions for damages); and
 - (3) section 156 (General supplementary powers).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 6 August 2010.

Amendments to the Handbook

- D. The Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Prudential Sourcebook for Banks, Building Societies and Investment Firms (Liquidity) (Amendments) Instrument 2010.

By order of the Board
22 July 2010

Annex

Amendments to the Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Simplified ILAS conditions

- 12.6.6 R The first condition is that:
- (1) no less than 75% of the *firm's* total liabilities are accounted for by retail *deposits* and:
 - (a) the *firm's* total assets do not exceed £250 million; or
 - (b) the *firm's* total assets do not exceed £1 billion and no less than 70% of those assets are accounted for by:
 - (i) assets of the kind that fall into BIPRU 12.7.2R and which the *firm* counts towards its *simplified buffer requirement*; and
 - (ii) retail loans; or
 - (c) no less than 70% of ~~its~~ the *firm's* total assets are accounted for by retail loans; or
 - (d) no less than 70% of the *firm's* total assets are accounted for by:
 - (i) *money-market instruments* with a residual contractual maturity of three *months* or less; or
 - (ii) *sight deposits* held with a *credit institution*; or
 - (iii) *term deposits* with a residual contractual maturity of three *months* or less held with a *credit institution*; or
 - (2) ~~no less than 75% of the *firm's* total liabilities are accounted for by retail *deposits* and no less than 70% of the *firm's* total assets are accounted for by;~~
 - (a) ~~*money-market instruments* with a residual contractual maturity of three *months* or less; or~~
 - (b) ~~*sight deposits* held with a *credit institution*; or~~
 - (c) ~~*term deposits* with a residual contractual maturity of three *months* or less held with a *credit institution*; or~~

no less than 80% of the *firm's* total liabilities are accounted for by liabilities owed to its *parent undertaking* and the amount of the *firm's* total assets does not exceed £1 billion.

- (3) ~~no less than 80% of the *firm's* total liabilities are accounted for by liabilities owed to its *parent undertaking* and the amount of the *firm's* total assets does not exceed £1 billion. [deleted]~~

12.6.6A R For the purpose of BIPRU 12.6.6R, a *firm* must calculate:

- (1) its total assets by reference to its most recent FSA001 *data item*;
and
- (2) its retail loans as the total of its lending to the retail sector recorded in cell 11A in its most recent FSA015 *data item*.

12.6.7 R In this section, a “*retail deposit*” is a *deposit* accepted from a *consumer*.

- (1) ~~a “*retail deposit*” is a *deposit* accepted from a *consumer*; and [deleted]~~
- (2) ~~a “*retail loan*” is a loan to a *consumer*. [deleted]~~

FINANCIAL PROMOTIONS (AMENDMENT) INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 145 (Financial promotion rules);
 - (3) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 6 August 2010.

Amendments to the Handbook

- D. The Conduct of Business sourcebook (COBS) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Financial Promotions (Amendment) Instrument 2010.

By order of the Board
22 July 2010

Annex

Amendments to the Conduct of Business sourcebook (COBS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 4.1.2 G (1) This chapter applies in relation to an *authorised professional firm* in accordance with *COBS 18* (Specialist regimes).
- (2) This chapter applies, to a limited extent, in relation to communicating or approving a financial promotion that relates to a deposit if the deposit is a structured deposit, cash deposit ISA or cash deposit CTF.

...

- 4.3.1 R (1) ...
- (2) ~~In the case of~~ If a financial promotion that relates to ~~the~~ a firm's MiFID or equivalent third country business, this rule does not apply to the extent that ~~a~~ the financial promotion is a *third party prospectus*.
- (3) ~~In the case of~~ If a financial promotion that does not relate relates to the a firm's business that is not MiFID or equivalent third country business, this rule applies to *communicating or approving a the financial promotion* but does not apply:

...

...

- 4.5.1 R (1) ...
- (2) ~~This section does not apply in relation to~~ If a communication that is made by relates to a firm in relation to its firm's MiFID or equivalent third country business, this section does not apply:
- (a) to the extent that it is a *third party prospectus*; ~~or~~
- (b) if it is *image advertising*.
- (3) ~~This section does not apply in relation to~~ If a communication that is not made by relates to a firm firm's business that is not in relation to its MiFID or equivalent third country business, this section does not apply:

...

...

- 4.6.1 R (1) ...
- (2) ~~This section does not apply in relation to~~ If a communication by relates to a firm in relation to its firm's MiFID or equivalent third country business, this section does not apply:
- (a) to the extent that the communication is a *third party prospectus*; ~~or~~
- (b) if it is *image advertising*.
- (3) ~~This section does not apply in relation to~~ If a communication by relates to a firm's business that is not other than in relation to its MiFID or equivalent third country business, this section does not apply:

...

- 4.7.1 R ...
- (3) ~~This rule does not apply in relation to~~ If a communication made by relates to a firm in relation to firm's MiFID or equivalent third country business, this section does not apply:
- ...
- (4) ~~This section does not apply in relation to~~ If a communication that is not made by relates to a firm's business that is not in relation to MiFID or equivalent third country business, this section does not apply:

...

- 4.8.1 R This section applies to a *firm* in relation to the communication of a financial promotion that is not in writing, but it does not apply:

...

- 4.8.3 R ~~A firm must not initiate a non-written financial promotion communicated to a particular person~~ communicate a solicited or unsolicited financial promotion that is not in writing, to a client outside the *firm's* premises, unless the *person communicating* it:

...

4.9.1 R (1) Subject to (2) and (3), this section applies to a firm in relation to the communication or approval of a financial ~~promotions~~ promotion that ~~relate~~ relates to the business of an overseas person.

(2) ...

(3) ~~This section does not apply to~~ If a communication ~~by~~ relates to a firm's business that is not other than in relation to its MiFID or equivalent third country business, this section does not apply:

...

...

4.9.3 R A firm must not *communicate* or *approve* a financial promotion which relates to a particular *relevant investment* or *relevant business* of an overseas person, unless:

(1) ...

(2) the firm has ~~no reason to doubt~~ taken reasonable steps to satisfy itself that the overseas person will deal with *retail clients* in the *United Kingdom* in an honest and reliable way.

...

4.11.1 R ...

(4) ~~This rule does not apply in relation to~~ If a communication that is made by ~~relates to~~ a firm in relation to its firm's MiFID or equivalent third country business, this section does not apply:

...

(5) ~~This rule does not apply in relation to~~ If a communication ~~made by~~ relates to a firm's business that is not other than in relation to MiFID or equivalent third country business, this section does not apply:

...

CLIENT ASSETS SOURCEBOOK (AMENDMENT NO 3) INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power); and
 - (2) section 139 (Miscellaneous ancillary matters).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 6 August 2010.

Amendments to the Handbook

- D. The Client Assets sourcebook (CASS) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Client Assets Sourcebook (Amendment No 3) Instrument 2010.

By order of the Board
22 July 2010

Annex

Amendments to the Client Assets sourcebook (CASS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

7.7 Statutory trust

...

Requirement

- 7.7.2 R A *firm* receives and holds *client money* as trustee (or in Scotland as agent) on the following terms:
- (1) for the purposes of and on the terms of the *client money rules* and the *client money distribution rules*;
 - (2) subject to ~~(3)~~ (4), for the *clients* (other than *clients* which are *insurance undertakings* when acting as such with respect of *client money* received in the course of *insurance mediation activity* and that was opted in to this chapter) for whom that *money* is held, according to their respective interests in it;
 - (3) after all valid claims in (2) have been met, for *clients* which are *insurance undertakings* with respect of *client money* received in the course of *insurance mediation activity* according to their respective interests in it;
 - (4) on *failure* of the *firm*, for the payment of the costs properly attributable to the distribution of the *client money* in accordance with (2); and
 - (5) after all valid claims and costs under (2) to (4) have been met, for the *firm* itself.

**SUPERVISION MANUAL (CONTROLLED FUNCTIONS) (AMENDMENT NO 3)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the power in section 157(1) (Guidance) of the Financial Services and Markets Act 2000.

Commencement

- B. This instrument comes into force on 6 August 2010.

Amendments to the Handbook

- C. The Supervision manual (SUP) is amended in accordance with the Annex to this instrument.

Citation

- D. This instrument may be cited as the Supervision Manual (Controlled Functions) (Amendment No 3) Instrument 2010.

By order of the Board
22 July 2010

Annex

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

10 Approved Persons

10 Annex 1G Frequently asked questions

	Question	Answer
	Requirements of the regime	
...		
21	How long will the <i>FSA</i> take to process an application for <i>approved person</i> status?	<p>Generally the <i>FSA</i> will handle this within seven business days for significant influence functions and four business days for customer functions. <u>The length of time taken to process the application will vary as it is dependent upon the application under consideration. The <i>FSA</i> publishes standard response times on its website at www.fsa.gov.uk setting out how long the application process is expected to take in practice. From time to time, the <i>FSA</i> also publishes its performance against these times. However, if, for example, information is missing from the application, or the information provided gives the <i>FSA</i> cause for concern, or the <i>FSA</i> already has in its possession relevant information which gives rise to concerns, processing time will almost always be longer. In each case, the <i>FSA</i> will notify the <i>firm</i> of any extension to the processing times.</u></p>

**SUPERVISION MANUAL (PAYMENT SERVICES) (REPORTING)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of its powers under regulation 82 (Reporting requirements) and regulation 93 (Guidance) of the Payment Services Regulations 2009.

Commencement

- B. This instrument comes into force on 23 July 2010.

Amendments to the Handbook

- C. The Supervision manual (SUP) is amended in accordance with the Annex to this instrument.

Citation

- D. This instrument may be cited as the Supervision Manual (Payment Services) (Reporting) Instrument 2010.

By order of the Board
22 July 2010

Annex

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

- 16.1.1 R This chapter applies to every *firm* within a category listed in column (2) of the table in SUP 16.1.3R and in accordance with column (3) of that table.
- 16.1.1A D The directions and guidance in SUP 16.13 apply to an authorised payment institution and a small payment institution.
- ...
- 16.3.2 G This chapter has been split into the following sections, covering:
- ...
- (8) product sales data reporting (*SUP 16.11*); ~~and~~
- (9) integrated regulatory reporting (*SUP 16.12*); and
- (10) reporting under the *Payment Services Regulations*.

Insert the following new section after SUP 16.12. The text is not underlined.

16.13 Reporting under the Payment Services Regulations

Application

- 16.13.1 G This section applies to *authorised payment institutions* and *small payment institutions* (see SUP 16.1.1AD).

Purpose

- 16.13.2 G The purpose of this section is to give directions to *authorised payment institutions* and *small payment institutions* under regulation 82 (Reporting requirements) of the *Payment Services Regulations* in relation to:
- (1) the information in respect of their provision of *payment services* and their compliance with requirements imposed by or under Parts 2 to 6 of the *Payment Services Regulations* that they must provide to the *FSA*; and
 - (2) the time at which and the form in which they must provide that information.

Reporting requirement

- 16.13.3 D (1) An *authorised payment institution* or a *small payment institution* must submit to the *FSA* the duly completed return applicable to it as set out in column (2) of the table in *SUP 16.13.4D*.
- (2) An *authorised payment institution* or a *small payment institution* must submit the return referred to in (1):
- (a) in the format specified as applicable in column (3) of the table in *SUP 16.13.4D*;
- (b) at the frequency and in respect of the periods specified in column (4) of that table;
- (c) by the due date specified in column (5) of that table; and
- (d) by electronic means made available by the *FSA*.
- 16.13.4 D The table below sets out the format, reporting frequency and due date for submission in relation to regulatory returns that apply to *authorised payment institutions* and *small payment institutions*.

(1)	(2)	(3)	(4)	(5)
Type of firm	Return	Format	Reporting Frequency	Due date
<i>Authorised Payment Institution</i>	Authorised Payment Institution Capital Adequacy Return	FSA056 (Note 1)	Annual (Note 2)	30 <i>business days</i> (Note 3)
<i>Small Payment Institution</i>	Payment Services Directive Transactions	FSA057 (Note 4)	Annual (Note 5)	1 month (Note 3)
Note 1	When submitting the completed return required, the <i>authorised payment institution</i> must use the format of the return set out in <i>SUP 16 Annex 27AD</i> . Guidance notes for the completion of the return are set out in <i>SUP 16 Annex 27BG</i> .			
Note 2	This reporting frequency is calculated from an <i>authorised payment institution's accounting reference date</i> .			
Note 3	The due dates are the last day of the periods given in column (5) of the table above following the relevant reporting frequency period set out in column (4) of the table above.			

Note 4	When submitting the completed return required, the <i>small payment institution</i> must use the format of the return set out in SUP 16 Annex 28AD. Guidance notes for the completion of the return are set out in SUP 16 Annex 28BG.
Note 5	This reporting frequency is calculated from 31 December each calendar year.

After SUP 16 Annex 26 insert the following new Annex as SUP 16 Annex 27AD. The text is not underlined.

16 Annex 27AD Authorised Payment Institution Capital Adequacy Return

FSA056 Authorised Payment Institution Capital Adequacy Return

	A	B
		yes/no
1	Is the firm included in the consolidated supervision of a parent credit institution pursuant to the Banking Consolidation Directive?	<input type="checkbox"/>
2	If 'yes', please give the Firm Reference Number of the firm that submitted the most recent consolidated capital statement to the FSA	<input type="checkbox"/>

Part One: CAPITAL REQUIREMENT

Initial Capital Requirement

3	Initial capital requirement at authorisation	<input type="checkbox"/>
---	--	--------------------------

Own Funds Requirement

4 – 6	Please indicate which method your firm uses to calculate its own funds requirement	<input type="checkbox"/>
----------	--	--------------------------

Method A

7	Total fixed overheads for preceding year	
8	Own funds requirement (10% of fixed overheads for preceding year)	
9	Total capital requirement (higher of initial capital and own funds requirement)	

Method B

10	Total payment volume (in Euro)	
11	4% of first €5m of payment volume	
12	2.5% of payment volume between €5m and €10m	
13	1% of payment volume between €10m and €100m	
14	0.5% of payment volume between €100m and €250m	
15	0.25% of any remaining payment volume	
16	Total	
17	Scaling factor	
18	Own funds requirement	
19	Total capital requirement (higher of initial capital and own funds requirement)	

Method C**Relevant Indicator**

20	Interest income	
21	Interest expenses	
22	Gross commissions and fees received	
23	Gross other operating income	

24 Total Relevant Indicator

--

Multiplication Factor

25 10% of the first €2.5m of the total relevant indicator

--

26 8% of the total relevant indicator between €2.5m and €5m

--

27 6% of the total relevant indicator between €5m and €25m

--

28 3% of the total relevant indicator between €25m and €50m

--

29 1.5% of any remaining amount of the total relevant indicator

--

30 Total

--

31 Scaling factor

--

32 Own funds requirement

--

33 Total capital requirement (higher of initial capital and own funds requirement)

--

Part Two: TOTAL CAPITAL RESOURCES

34 Paid up capital

--

35 Reserves

--

36 Retained profit/loss

--

37 Revaluation reserves

--

38 Eligible general or collective provisions

--

39 Eligible securities and instruments

--

40 Cumulative preference shares (other than fixed term)

--

41 Eligible members' commitments

--

42 Eligible borrowers' commitments

--

43 Eligible fixed term cumulative preference shares and subordinated loans

--



44 Total resources

Deductions

45	Own shares at book value	
46	Intangible assets	
47	Material losses	
48	Deductible holdings of shares	
49	Deductible participations	
50	Deductible instruments	
51	Total deductions	
52	Total capital resources	
53	£/€ exchange rate	
54	Total capital resources (Euro equivalent)	
55	Total capital requirement (in Euro)	
56	Capital surplus/deficit (in Euro)	

Part Three: SUPPLEMENTARY INFORMATION

AUDITED ACCOUNTS

57 If your firm is incorporated, does your firm qualify for the Companies House small firms' exemption from having its accounts audited?

58 If the firm is required to submit audited accounts, please report the date on which your accounts were last audited

59 Does your firm have an obligation to submit separate accounts for PSD business only?

60 If yes, please confirm when these were last submitted to the

FSA _____

SAFEGUARDING OF CLIENT ASSETS

Please indicate which method the firm uses to safeguard client assets (tick at least one box)

- | | | |
|----|---|--------------------------|
| 61 | Placed in a separate account with an authorised credit institution | <input type="checkbox"/> |
| 62 | Invested in approved secure liquid assets held in a separate account with an authorised custodian | <input type="checkbox"/> |
| 63 | Covered by an insurance policy with an authorised insurer | <input type="checkbox"/> |
| 64 | Covered by a guarantee from an authorised insurer | <input type="checkbox"/> |
| 65 | Covered by a guarantee from an authorised credit | <input type="checkbox"/> |

NUMBER OF AGENTS

- | | | |
|----|---|--------------------------|
| 66 | Please report the number of agents the firm has | <input type="checkbox"/> |
|----|---|--------------------------|

After SUP 16 Annex 27AD insert the following new Annex as SUP 16 Annex 27BG. The text is not underlined.

16 Annex 27BG **Notes on Completing FSA056 (Authorised Payment Institution Capital Adequacy Return – SUP 16 Annex 27AD)**

NOTES ON COMPLETING FSA056 AUTHORISED PAYMENT INSTITUTION CAPITAL ADEQUACY RETURN
Valuation

Firms should follow their normal accounting practice wherever possible.

Currency

Elements 3 to 33 and 54 to 56 should be completed in Euros. Elements 34 to 52 should

be completed in GBP.

Data elements

These are referred to by row first, then by column, so data element 2B will be the element numbered 2 in column B.

- 1B Answer 'Yes' if your firm is included in the consolidated supervision of a parent credit institution. If your firm is not part of a banking group subject to consolidated supervision, you should answer this question 'No'.
-
- 2B Firms that answer 'Yes' to question 1 should input the FSA 'Firm reference number' of the parent credit institution. If you answered 'No' to question 1, you should not answer this question.
-

Please note that if you have answered 'Yes' to question 1 and have input the FSA reference number of your parent credit institution in Element 2B, you can proceed straight to question 61.

Part One: CAPITAL REQUIREMENT

Initial Capital Requirement

- 3B Firms should insert the firm's initial capital requirement at authorisation.
-

Own Funds Requirement

- 4B – Firms should indicate which of the three methods they use to calculate their own funds requirement.
-
- 6B
-

Method A: these questions should only be answered by firms that have indicated Method A at 4B-6B

- 7B Insert the total fixed overheads (in Euros) for the preceding year.
-
- 8B Insert the figure equal to 10% of the figure you have reported in 'Element 7B'.
-
- 9B Insert the larger of the two figures you have reported in 'Element 3B' and 'Element 8B'.
-

Method B: These questions should only be answered by firms that have indicated Method B at elements 4B-6B

- 10B Insert the total value (in Euros) of payment services transactions for the year.
-
- 11B Insert the figure that equals 4% of the first €5m of payment volume.
-
- 12B Insert the figure that equals 2.5% of payment volume between €5m and €10m. If the firm has undertaken less than €5m in payment volume, insert a zero in this box.
-
- 13B Insert the figure that equals 1% of payment volume between €10m and €100m. If the firm has undertaken less than €10m in payment volume, insert a zero in this box.
-

-
- 14B Insert the figure that equals 0.5% of payment volume between €100m and €250m. If the firm has undertaken less than €100m in payment volume, insert a zero in this box.
-
- 15B Insert the figure that equals 0.25% of all payment volume over €250m and €250m. If the firm has undertaken less than €250m in payment volume, insert a zero in this box.
-
- 16B This figure must be the sum of 'Elements 11B to 15B'.
-
- 17B The 'scaling factor' is:
- 0.50 for firms that only undertake the 'Money remittance' payment service.
- 0.80 for firms that undertake only the 'The execution of payment transactions where the consent of the payer to execute the payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, IT system or network operator acting only as an intermediary between the payment service user and the supplier of the goods or services' activity.
- 1.00 for firms that undertake any other payment service.
- The scaling factor should be entered to 2 decimal places.
-
- 18B This figure is calculated using the following equation - 'Element 16B x Element 17B'.
-
- 19B Insert the larger of the two figures you have reported in 'Element 3B' and 'Element 18B'.
-

Method C: These questions should only be answered by firms that have indicated Method C at elements 4B-6B

Relevant indicator

- 20B Insert the firm's total interest income (in Euros).
-
- 21B Insert the firm's total interest expenses (in Euros).
-
- 22B Insert the firm's total gross commission and fees (in Euros).
-
- 23B Insert the total of any other operating income generated by the firm (in Euros).
-
- 24B This figure must be the sum of 'Elements 20B - 23B'.
-

Multiplication factor

- 25B Insert the figure that equals 10% of the first €2.5m of the 'total relevant indicator'.
-
- 26B Insert the figure that equals 8% of the 'total relevant indicator' between €2.5m
-

and €5m (if your firm's total relevant indicator is less than or equal to €2.5m, you should enter zero in this box).

27B Insert the figure that equals 6% of the 'total relevant indicator' between €5m and €25m (if your firm's total relevant indicator is less than or equal to €5m, you should enter zero in this box).

28B Insert the figure that equals 3% of the 'total relevant indicator' between €25m and €50m (if your firm's total relevant indicator is less than or equal to €25m, you should enter zero in this box).

29B Insert the figure that equals 1.5% of all of the 'total relevant indicator' over €50m (if your firm's total relevant indicator is less than or equal to €50m, you should enter zero in this box).

31B The 'scaling factor' is:

0.50 for firms that only undertake the 'Money remittance' payment service.

0.80 for firms that undertake only the 'The execution of payment transactions where the consent of the payer to execute the payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, IT system or network operator acting only as an intermediary between the payment service user and the supplier of the goods or services' activity.

1.00 for firms that undertake any other payment service.

The scaling factor should be entered to 2 decimal places.

32B This figure is calculated using the following equation - 'Element 30B x Element 31B'.

33B Insert the larger of the two figures you have reported in 'Element 3B and Element 32B'.

Part Two: TOTAL CAPITAL RESOURCES (answer all of these questions in GBP)

34B Insert the total paid up capital, including share premium accounts, but excluding amounts arising in respect of cumulative preference shares.

35B Insert the total of all reserves, except revaluation reserves (unincorporated and LLP firms should include capital in members' capital and current accounts in this element).

36B Insert the retained profit (or loss). Please note that a firm subject to statutory audits may only include interim profits if they have been verified by the firm's auditor. Retained profit should be reported net of any foreseeable charge or dividend.

37B Insert the total revaluation reserves.

-
- 38B Insert the total eligible provisions (general and collective provisions are only eligible if they are freely available to the firm, they are fully disclosed in internal accounting records, and the amount of provisions have been verified by a statutory auditor or audit firm.
-
- 39B Insert the total eligible securities and instruments (securities and instruments are only eligible if they may not be reimbursed at the bearer's initiative or without the agreement of the FSA, the firm must have the option to defer any interest payments on the debt, and the debt is subordinated to those of non-subordinated creditors.
-
- 40B Insert the total of non-fixed term cumulative preference shares.
-
- 41B This field applies only to 'co-operative' firms. These institutions should insert the total amount of uncalled capital, and the total amount of non-refundable payments that can be demanded of members to offset any losses that the institution incurs.
-
- 42B This field applies only to APIs organised as funds. These institutions should insert the total amount of uncalled capital, and the total amount of non-refundable payments that can be demanded of borrowers to offset any losses that the institution incurs.
-
- 43B Insert the total of all fixed term cumulative preference shares and subordinated loans.
-
- 44B This figure is the sum of 'Elements 34B to 43B'.
-

Deductions (Answer all of these questions in GBP except where stated otherwise)

-
- 45A Insert the total of own shares at book value held by the authorised payment institution.
-
- 46A Insert the total of intangible assets.
-
- 47A Insert the total of material losses in the current financial year.
-
- 48A Insert the total holdings of shares in credit and financial institutions that exceed 10% of their capital.
-
- 49A Insert deductible participations - these are participations which the authorised payment institution holds in an insurance undertaking, reinsurance undertaking or insurance holding company.
-
- 50A Insert deductible instruments - these include shares held in another credit institution, insurance undertaking, reinsurance undertaking or insurance holding company that are temporarily held for the purposes of a financial assistance operation designed to reorganise and save that entity.
-
- 51A This is the sum of 'Elements 45A to 50 A'.
-
- 52B This is calculated by the following equation; 'Element 44A - 51A'.
-

- 53B Input the £/€ exchange rate as at the end of the reporting period.
- 54B Insert the 'Euro equivalent' of 'Element 52B'.
- 55B Insert the same figure as you have reported in 'Element 9B', 'Element 19B' or 'Element 33B' (depending on the method your firm uses to calculate its capital requirement).
- 56B This figure is calculated by the following equation; 'Element 54B - Element 55B'.

Part Three: SUPPLEMENTARY INFORMATION

Audited Accounts

- 57B Answer this question 'yes' or 'no'.
- 58B This question should only be answered if you answered 'no' to Element 57B. The format of the date entered should be dd/mm/yyyy.
- 59B All firms that undertake other types of business as well as payment services activities must submit separate PSD only accounts to the FSA. If your firm falls into this category, you must answer this question 'yes'. If your firm only undertakes payment services activities, you should answer 'no'.
- 60B This question should only be answered if you answered 'yes' to Element 59B. The format of the date entered should be dd/mm/yyyy.

Safeguarding of client assets

- 61B - Tick the relevant box(es) to identify the method(s) used by the firm to safeguard
65B client assets. At least one method must be selected.

Number of agents

- 66B Insert the number of agents in the UK
(i.e. sole traders/partnerships/companies) that undertake payments services activities under your firm's registration.

After SUP 16 Annex 27BG insert the following new Annex as SUP 16 Annex 28AD. The text is not underlined.

16 Annex 28AD Small Payment Institution Return

- D This annex consists only of one or more forms. Forms are to be found through the following address:

FSA057 PAYMENT SERVICES DIRECTIVE TRANSACTIONS

A

1 Please report the total number of Payment Services Directive transactions the firm has undertaken in the last calendar year

2 Please report the total value of these transactions (this figure must be entered in Euro)

000s

3 How many full calendar months are covered by this return?

SAFEGUARDING OF CLIENT ASSETS

4 Has your firm voluntarily adopted safeguarding arrangements?

If you have answered YES to question 4, please indicate which method(s) the firm uses to safeguard client assets (tick at least one box)

5 Placed in a separate account with an authorised credit institution

6 Invested in approved secure liquid assets held in a separate account with an authorised custodian

7 Covered by an insurance policy with an authorised insurer

8 Covered by a guarantee from an authorised insurer

9 Covered by a guarantee from an authorised credit institution

NUMBER OF AGENTS

10 Please report the number of agents the firm has

After SUP 16 Annex 28AD insert the following new Annex as SUP 16 Annex 28BG. The text is not underlined.

16 Annex 28BG Notes on Completing FSA057 (Payment Services Directive Transactions – SUP 16 Annex 28AD)

NOTES ON COMPLETING FSA057 PAYMENT SERVICES DIRECTIVE TRANSACTIONS

1A Insert the number of payment transactions your firm has undertaken during the last calendar year. (Please note: if your firm was not FSA-registered for the entire calendar year, you should only include transactions made since your firm was FSA-registered.)

2A Insert the total value of all transactions made during the calendar year. (Please note: it is the total value of transactions that is required, not the income generated by them, and, again, if your firm was not FSA-registered for the entire calendar year, you should only include transactions made since your firm was FSA-registered.

"The figure should be entered in Euros and rounded to the nearest thousand - e.g. 1,000,250.50 is entered as 1000"

3A Insert the number of months during the last calendar year that your firm was FSA registered. (If your firm was registered midway through a month, you should count a part month as if it were a full one.)

SAFEGUARDING OF CLIENT ASSETS

4A – If your firm has opted in to the voluntary safeguarding arrangements, you should answer Yes and tick the applicable method(s) (Elements 5A 9A) that your firm use(s) to safeguard client assets. If you answer No to this question, move straight to Element 10A.

NUMBER OF AGENTS

10A Insert the number of agents in the UK (i.e. sole traders/partnerships/companies) that undertake payments services activities under your firm's registration.

Amend the following as shown.

Schedule 2 Notification requirements

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
<i>SUP 16.10.4R</i>	...			
<u><i>SUP 16.13.3 D to 16.13.4 D</i></u>	<u>Reporting – authorised payment institution</u>	<u>FSA056 Capital Adequacy Return</u>	<u>Annually</u>	<u>30 business days</u>
<u><i>SUP 16.13.3 D to 16.13.4 D</i></u>	<u>Reporting – small payment institution</u>	<u>FSA057 Payment Services Directive Transactions</u>	<u>Annually</u>	<u>1 month</u>
<i>SUP 17</i>	...			

...

Schedule 4 Powers exercised

Insert the following text after SUP Schedule 4.3G. The text is new and is not underlined.

4.4G

The following additional powers and related provisions have been exercised by the <i>FSA</i> to give the directions and make the <i>guidance</i> in <i>SUP</i> :	
	Regulation 82 (Reporting requirements) of the <i>Payment Services Regulations</i>
	Regulation 93 (Guidance) of the <i>Payment Services Regulations</i>

**INTEGRATED REGULATORY REPORTING (AMENDMENT NO 6)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in or under the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 156 (General supplementary powers); and
 - (3) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purposes of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 6 August 2010.

Amendments to the Handbook

- D. The Supervision manual (SUP) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Integrated Regulatory Reporting (Amendment No 6) Instrument 2010.

By order of the Board
22 July 2010

Annex

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

16 Annex 25 G Guidance notes for data items in SUP 16 Annex 24R

...

FSA015 – Sectoral information, including arrears and impairment

...

Columns B-G, rows 1 – 11: “Balances of accounts in arrears/default by band”

The balance of the account in arrears should be reported within these columns, rather than the amount of the arrears. This should be reported after deducting write-offs but before deducting provisions.

Columns B to F are headed with the following:

Column B: $1.5 < 2.5\%$

Column C: $2.5 < 5\%$

Column D: $5.0 < 7.5\%$

Column E: $7.5 < 10\%$

Column F: $\geq 10\%$

"<" means less than, ">" means greater than and " \geq " means an amount greater than or equal to.

For example where accounts are 2.5% in arrears this will go into column C which is headed for amounts from 2.5% to less than 5%.

The analysis is based on ~~expressing~~ working out the amount of arrears on each loan as a percentage of the balance outstanding on the loan and then reporting the total balance of the account in the, ~~allocating cases to relevant arrears bands band~~, providing details of cases moving up into more serious arrears bands.....arrears of cases.)

...

(ii) for these purposes...cases in this table.

In some cases there may be loans where the security has been taken and is in the process of being realised (a ‘property in possession’). While this is happening it is likely the underlying loan continues to exist and may be accruing arrears. Therefore the loan balance should still be included within the relevant arrears band in columns B-F.

Column B rows 12-26

Include ...contractually due.

Where a proportion of the balance is past due, this column should be populated with the total balance of the exposure for which a portion is past due. For example, for a loan of £100,000 where a payment of £5,000 is contractually past due, a value of £100,000 should be recorded in column B, not £5,000.

Column C rows 12 – 26

Include here...deemed to be impaired.

Where a proportion of the balance is impaired, this column should be populated with the total balance of the exposure, not just the amount by which the account is deemed impaired.

Column D rows 12 – 26

Include here the ~~amount by which~~ total balance of any other *exposures* which, whilst not past due, are deemed to be impaired. Do not just record the amount of the impairment charge.

Where a *firm* is using UK GAAP rather than IFRS any balances in columns D and E should relate to exposures which, even though they are not past due, have been deemed to require either a general or specific provision.

...

Column H: All balances (accounting) at period end

This is the total value of the on balance sheet ~~exposures~~ exposures in each category, valued in line with the *firm's* accounting policies.

A *firm* should report here the balance sheet valuation of its *exposures* valued in accordance with IFRS or UK GAAP as appropriate.

Whether the balances in column H are reported net or gross of impairments or provisions, they should be consistent with how balances are calculated for the *firm's* statutory accounts.

FSA015 is intended to relate to on balance sheet arrears. That means that securitisations that attract off-balance sheet treatment should not be included. However, if a securitisation attracts on-balance sheet treatment (for instance because there is recourse to the *firm* or, in the case of consolidated returns, the securitisation SPV is included in the scope of the consolidation), it should be included. The appropriate rows of column H should be completed for all the sectors to which the *firm* has an exposure, even if these are all fully performing and there are no associated write-offs or impairment charges.

...

Column M: Other Adjustments

...

The “in period” for columns J to M means the amount of write-offs or impairment charges since the last reported FSA015.

...

Sectors (rows)

UK and Non-UK

Where For Retail and Corporate sectors (lines 1-20), where a split of *exposures* between UK and non-UK is required, this should be done based on the location of the lending entity.

Financial sector and Non-financial institutions categories (lines 21-26) should be split by domicile of the counterparty to which the *firm* has an *exposure*. If the *firm* does not have details of the counterparty then it should report the UK/Non-UK split in the same way as done for Retail and Corporate sectors i.e. using the location of the lending entity.

**DISPUTE RESOLUTION: COMPLAINTS (PAYMENT PROTECTION
INSURANCE) INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 149 (Evidential provisions); and
 - (3) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 December 2010.

Amendments to the Handbook

- D. The Dispute Resolution: Complaints sourcebook (DISP) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Dispute Resolution: Complaints (Payment Protection Insurance) Instrument 2010.

By order of the Board
22 July 2010

Annex

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

In this Annex, underlining indicates new text, unless otherwise stated.

Introduction

...

Appendix 3: FSA's rules and guidance on handling payment protection insurance complaints

This appendix sets out the approach which *firms* should use when handling *complaints* relating to the sale of *payment protection contracts*.

...

1.4 Complaints resolution rules

...

- 1.4.6 G *DISP* App 3 sets out the approach which *respondents* should use in assessing *complaints* relating to the sale of *payment protection contracts* and determining appropriate redress where a *complaint* is upheld.

Insert the following new Appendix after DISP Appendix 2 (which is currently deleted). The text is not underlined.

Appendix 3 Handling Payment Protection Insurance complaints

3.1 Introduction

- 3.1.1 G (1) This appendix sets out how a *firm* should handle *complaints* relating to the sale of a *payment protection contract* by the *firm* which express dissatisfaction about the sale, or matters related to the sale, including where there is a rejection of claims on the grounds of ineligibility or exclusion (but not matters unrelated to the sale, such as delays in claims handling).
- (2) It relates to the sale of any *payment protection contract* whenever the sale took place and irrespective of whether it was on an advised or non-advised basis; conducted through any sales channel; in connection with any type of loan or credit product, or none; and for a regular premium or single premium payment. It applies whether the *policy* is currently in force, was cancelled during the *policy* term or ran its full term.

- 3.1.2 G The aspects of *complaint* handling dealt with in this appendix are how the *firm* should:
- (1) assess a *complaint* in order to establish whether the *firm*'s conduct of the sale failed to comply with the *rules*, or was otherwise in breach of the duty of care or any other requirement of the general law (taking into account relevant materials published by the *FSA*, other relevant regulators, the *Financial Ombudsman Service* and *former schemes*). In this appendix this is referred to as a "breach or failing" by the *firm*;
 - (2) determine the way the complainant would have acted if a breach or failing by the *firm* had not occurred; and
 - (3) determine appropriate redress (if any) to offer to a complainant.
- 3.1.3 G Where the *firm* determines that there was a breach or failing, the *firm* should consider whether the complainant would have bought the *payment protection contract* in the absence of that breach or failing. This appendix establishes presumptions for the *firm* to apply about how the complainant would have acted if there had instead been no breach or failing by the *firm*. The presumptions are:
- (1) for some breaches or failings (see *DISP* App 3.6.2E), the *firm* should presume that the complainant would not have bought the *payment protection contract* he bought; and
 - (2) for certain of those breaches or failings (see *DISP* App 3.7.7E), where the complainant bought a single premium *payment protection contract*, the *firm* may presume that the complainant would have bought a regular premium *payment protection contract* instead of the *payment protection contract* he bought.
- 3.1.4 G There may also be instances where a *firm* concludes after investigation that, notwithstanding breaches or failings by the *firm*, the complainant would nevertheless still have proceeded to buy the *payment protection contract* he bought.
- 3.1.5 G In this appendix:
- (1) "historic interest" means the interest the complainant paid to the *firm* because a single premium *payment protection contract* was added to a loan or credit product;
 - (2) "simple interest" means a non-compound rate of 8% per annum; and
 - (3) "claim" means a claim by a complainant seeking to rely upon the *policy* under the *payment protection contract* that is the subject of the *complaint*.

3.2 The assessment of a complaint

- 3.2.1 G The *firm* should consider, in the light of all the information provided by the complainant and otherwise already held by or available to the *firm*, whether there

was a breach or failing by the *firm*.

- 3.2.2 G The *firm* should seek to establish the true substance of the *complaint*, rather than taking a narrow interpretation of the issues raised, and should not focus solely on the specific expression of the *complaint*. This is likely to require an approach to *complaint* handling that seeks to clarify the nature of the *complaint*.
- 3.2.3 G A *firm* may need to contact a complainant directly to understand fully the issues raised, even where the *firm* received the *complaint* from a third party acting on the complainant's behalf. The *firm* should not use this contact to delay the assessment of the *complaint*.
- 3.2.4 G Where a *complaint* raises (expressly or otherwise) issues that may relate to the original sale or a subsequently rejected claim then, irrespective of the main focus of the *complaint*, the *firm* should pro-actively consider whether the issues relate to both the sale and the claim, and assess the *complaint* and determine redress accordingly.
- 3.2.5 G If, during the assessment of the *complaint*, the *firm* uncovers evidence of a breach or failing not raised in the *complaint*, the *firm* should consider those other aspects as if they were part of the *complaint*.
- 3.2.6 G The *firm* should take into account any information it already holds about the sale and consider other issues that may be relevant to the sale identified by the *firm* through other means, for example, the root cause analysis described in *DISP* App 3.4.
- 3.2.7 G The *firm* should consider all of its sales of *payment protection contracts* to the complainant in respect of re-financed loans that were rolled up into the loan covered by the *payment protection contract* that is the subject of the *complaint*. The *firm* should consider the cumulative financial impact on the complainant of any previous breaches or failings in those sales.

3.3 The approach to considering evidence

- 3.3.1 G Where a *complaint* is made, the *firm* should assess the *complaint* fairly, giving appropriate weight and balanced consideration to all available evidence, including what the complainant says and other information about the sale that the *firm* identifies. The *firm* is not expected automatically to assume that there has been a breach or failing.
- 3.3.2 G The *firm* should not rely solely on the detail within the wording of a *policy's* terms and conditions to reject what a complainant recalls was said during the sale.
- 3.3.3 G The *firm* should recognise that oral evidence may be sufficient evidence and not dismiss evidence from the complainant solely because it is not supported by documentary proof. The *firm* should take account of a complainant's limited ability fully to articulate his *complaint* or to explain his actions or decisions made at the time of the sale.

- 3.3.4 G Where the complainant's account of events conflicts with the *firm's* own records or leaves doubt, the *firm* should assess the reliability of the complainant's account fairly and in good faith. The *firm* should make all reasonable efforts (including by contact with the complainant where necessary) to clarify ambiguous issues or conflicts of evidence before making any finding against the complainant.
- 3.3.5 G The *firm* should not reject a complainant's account of events solely on the basis that the complainant signed documentation relevant to the purchase of the *policy*.
- 3.3.6 G The *firm* should not reject a *complaint* because the complainant failed to exercise the right to cancel the *policy*.
- 3.3.7 G The *firm* should not consider that a successful claim by the complainant is, in itself, sufficient evidence that the complainant had a need for the *policy* or had understood its terms or would have bought it regardless of any breach or failing by the *firm*.
- 3.3.8 G The *firm* should not draw a negative inference from a complainant not having kept documentation relating to the purchase of the *policy* for any particular period of time.
- 3.3.9 G In determining a particular *complaint*, the *firm* should (unless there are reasons not to because of the quality and plausibility of the respective evidence) give more weight to any specific evidence of what happened during the sale (including any relevant documentation and oral testimony) than to general evidence of selling practices at the time (such as training, instructions or sales scripts or relevant audit or compliance reports on those practices).
- 3.3.10 G The *firm* should not assume that because it was not authorised to give advice (or because it intended to sell without making a recommendation) it did not in fact give advice in a particular sale. The *firm* should consider the available evidence and assess whether or not it gave advice or made a recommendation (explicitly or implicitly) to the complainant.
- 3.3.11 G The *firm* should consider in all situations whether it communicated information to the complainant in a way that was fair, clear and not misleading and with due regard to the complainant's information needs.
- 3.3.12 G In considering the information communicated to the complainant and the complainant's information needs, the evidence to which a *firm* should have regard includes:
- (1) the complainant's individual circumstances at the time of the sale (for example, the *firm* should take into account any evidence of limited financial capability or understanding on the part of the complainant);
 - (2) the complainant's objectives and intentions at the time of the sale;
 - (3) whether, from a reasonable *customer's* perspective, the documentation provided to the complainant was sufficiently clear, concise and presented

fairly (for example, was the documentation in plain and intelligible language?);

- (4) in a sale that was primarily conducted orally, whether sufficient information was communicated during the sale discussion for the *customer* to make an informed decision (for example, did the *firm* give an oral explanation of the main characteristics of the *policy* or specifically draw the complainant's attention to that information on a computer screen or in a document and give the complainant time to read and consider it?);
- (5) any evidence about the tone and pace of oral communication (for example, was documentation read out too quickly for the complainant to have understood it?); and
- (6) any extra explanation or information given by the *firm* in response to questions raised (or information disclosed) by the complainant.

3.3.13 G The *firm* should not reject a *complaint* solely because the complainant had held a *payment protection contract* previously.

3.4 Root cause analysis

3.4.1 G *DISP* 1.3.3R requires the *firm* to put in place appropriate management controls and take reasonable steps to ensure that in handling *complaints* it identifies and remedies any recurring or systemic problems. If a *firm* receives *complaints* about its sales of *payment protection contracts* it should analyse the root causes of those *complaints* including, but not limited to, the consideration of:

- (1) the concerns raised by complainants (both at the time of the sale and subsequently);
- (2) the reasons for both rejected claims and *complaints*;
- (3) the *firm's* stated sales practice(s) at the relevant time(s);
- (4) evidence available to the *firm* about the actual sales practice(s) at the relevant time(s) (this might include recollections of staff and complainants, compliance records, and other material produced at the time about specific transactions, for example call recordings and incentives given to *advisers*);
- (5) relevant regulatory findings; and
- (6) relevant decisions by the *Financial Ombudsman Service*.

3.4.2 G Where consideration of the root causes of *complaints* suggests recurring or systemic problems in the *firm's* sales practices for *payment protection contracts*, the *firm* should, in assessing an individual *complaint*, consider whether the problems were likely to have contributed to a breach or failing in the individual case, even if those problems were not referred to specifically by the complainant.

- 3.4.3 G Where a *firm* identifies (from its *complaints* or otherwise) recurring or systemic problems in its sales practices for a particular type of *payment protection contract*, either for its sales in general or for those from a particular location or sales channel, it should (in accordance with *Principle 6* (Customers' interests) and to the extent that it applies), consider whether it ought to act with regard to the position of *customers* who may have suffered detriment from, or been potentially disadvantaged by such problems but who have not complained and, if so, take appropriate and proportionate measures to ensure that those *customers* are given appropriate redress or a proper opportunity to obtain it. In particular, the *firm* should:
- (1) ascertain the scope and severity of the consumer detriment that might have arisen; and
 - (2) consider whether it is fair and reasonable for the *firm* to undertake proactively a redress or remediation exercise, which may include contacting *customers* who have not complained.

3.5 Re-assessing rejected claims

- 3.5.1 E Where a *complaint* is about the sale of a *policy*, the *firm* should, as part of its investigation of the *complaint*, determine whether any claim on that *policy* was rejected, and if so, whether the complainant may have reasonably expected that the claim would have been paid.
- 3.5.2 G For example, the complainant may have reasonably expected that the claim would have been paid where the *firm* failed to disclose appropriately an exclusion or limitation later relied on by the *insurer* to reject the claim and it should have been clear to the *firm* that that exclusion or limitation was relevant to the complainant.

3.6 Determining the effect of a breach or failing

- 3.6.1 E Where the *firm* determines that there was a breach or failing, the *firm* should consider whether the complainant would have bought the *payment protection contract* in the absence of that breach or failing.
- 3.6.2 E In the absence of evidence to the contrary, the *firm* should presume that the complainant would not have bought the *payment protection contract* he bought if the sale was substantially flawed, for example where the *firm*:
- (1) pressured the complainant into purchasing the *payment protection contract*; or
 - (2) did not disclose to the complainant, in good time before the sale was concluded, and in a way that was fair, clear and not misleading, that the *policy* was optional; or
 - (3) made the sale without the complainant's explicit agreement to purchase the *policy*; or

- (4) did not disclose to the complainant, in good time before the sale was concluded, and in a way that was fair, clear and not misleading, the significant exclusions and limitations, i.e. those that would tend to affect the decisions of *customers* generally to buy the *policy*; or
- (5) did not, for an advised sale (including where the *firm* gave advice in a non-advised sales process) take reasonable care to ensure that the *policy* was suitable for the complainant's demands and needs taking into account all relevant factors, including level of cover, cost, and relevant exclusions, excesses, limitations and conditions; or
- (6) did not take reasonable steps to ensure the complainant only bought a *policy* for which he was eligible to claim benefits; or
- (7) found, while arranging the *policy*, that parts of the cover did not apply but did not disclose this to the *customer*, in good time before the sale was concluded, and in a way that was fair, clear and not misleading; or
- (8) did not disclose to the complainant, in good time before the sale was concluded, and in a way that was fair, clear and not misleading, the total (not just monthly) cost of the *policy* separately from any other prices (or the basis for calculating it so that the complainant could verify it); or
- (9) recommended a single premium *payment protection contract* without taking reasonable steps, where the *policy* did not have a pro-rata refund, to establish whether there was a prospect that the complainant would repay or refinance the loan before the end of the term; or
- (10) provided misleading or inaccurate information about the *policy* to the complainant; or
- (11) sold the complainant a *policy* where the total cost of the *policy* (including any interest paid on the premium) would exceed the benefits payable under the *policy* (other than benefits payable under life cover); or
- (12) in a sale of a single premium *payment protection contract*, failed to disclose to the complainant, in good time before the sale was concluded, and in a way that was fair, clear and not misleading:
 - (a) that the premium would be added to the amount provided under the credit agreement, that interest would be payable on the premium and the amount of that interest; or
 - (b) (if applicable) that the term of the cover was shorter than the term of the credit agreement and the consequences of that mismatch; or
 - (c) (if applicable) that the complainant would not receive a pro-rata refund if the complainant were to repay or refinance the loan or otherwise cancel the single premium *policy* after the cooling-off period.

- 3.6.3 E Relevant evidence might include the complainant's demands, needs and intentions at the time of the sale and any other relevant evidence, including any testimony by the complainant about his reasons at the time of the sale for purchasing the *payment protection contract*.

3.7 Approach to redress

General approach to redress: all contract types

- 3.7.1 E Where the *firm* concludes in accordance with *DISP* App 3.6 that the complainant would still have bought the *payment protection contract* he bought, no redress will be due to the complainant in respect of the identified breach or failing, subject to *DISP* App 3.7.6E.
- 3.7.2 E Where the *firm* concludes that the complainant would not have bought the *payment protection contract* he bought, and the *firm* is not using the alternative approach to redress (set out in *DISP* App 3.7.7E to 3.7.15E) or other appropriate redress (see *DISP* App 3.8), the *firm* should, as far as practicable, put the complainant in the position he would have been if he had not bought any *payment protection contract*.
- 3.7.3 E In such cases the *firm* should pay to the complainant a sum equal to the total amount paid by the complainant in respect of the *payment protection contract* including historic interest where relevant (plus simple interest on that amount). If the complainant has received any rebate, for example if the *customer* cancelled a single premium *payment protection contract* before it ran full term and received a refund, the *firm* may deduct the value of this rebate from the amount otherwise payable to the complainant.
- 3.7.4 E Additionally, where a single premium was added to a loan:
- (1) for live *policies*:
 - (a) subject to *DISP* App 3.7.5E, where there remains an outstanding loan balance, the *firm* should, where possible, arrange for the loan to be restructured (without charge to the complainant but using any applicable cancellation value) with the effect of:
 - (i) removing amounts relating to the *payment protection contract* (including any interest and charges); and
 - (ii) ensuring the number and amounts of any future repayments (including any interest and charges) are the same as would have applied if the complainant had taken the loan without the *payment protection contract*; or
 - (b) where the *firm* is not able to arrange for the loan to be restructured (e.g. because the loan is provided by a separate *firm*), it should pay the complainant an amount equal to the difference between the actual loan balance and what the loan balance would have been if the *payment protection contract* (including any interest and

charges) had not been added, deducting the current cancellation value. The *firm* should offer to pay any charges incurred if the complainant uses this amount to reduce his loan balance; and

- (2) for cancelled *policies*, the *firm* should pay the complainant the difference between the actual loan balance at the point of cancellation and what the loan balance would have been if no premium had been added (plus simple interest) minus any applicable cancellation value.
- 3.7.5 E Where a claim was previously paid on the *policy*, the *firm* may deduct this from redress paid in accordance with *DISP* App 3.7.3E. If the claim is higher than the amount to be paid under *DISP* App 3.7.3E then the *firm* may also deduct the excess from the amount to be paid under *DISP* App 3.7.4E.
- 3.7.6 E Where the *firm* concludes that the complainant may have reasonably expected that a rejected claim would have been paid (see *DISP* App 3.5) then:
- (1) if the value of the claim exceeds the amount of the redress otherwise payable to the complainant for a breach or failing identified in accordance with this appendix, the *firm* should pay to the complainant only the value of the claim (and simple interest on it as appropriate); and
- (2) if the value of the claim is less than the amount of the redress otherwise payable to the complainant for a breach or failing identified in accordance with this appendix, the *firm* should pay to the complainant the value of that redress.

Alternative approach to redress: single premium policies

- 3.7.7 E Where the only breach or failing was within *DISP* App 3.6.2E(9) and/or *DISP* App 3.6.2E(12), and in the absence of evidence to the contrary, the *firm* may presume that instead of buying the single premium *payment protection contract* he bought, the complainant would have bought a regular premium *payment protection contract*.
- 3.7.8 E If a *firm* chooses to make this presumption, then it should do so fairly and for all relevant complainants in a relevant category of sale. It should not, for example, only use the approach for those complainants it views as being a lower underwriting risk or those complainants who have cancelled their *policies*.
- 3.7.9 E Where the *firm* presumes that the complainant would have purchased a regular premium *payment protection contract*, the *firm* should offer redress that puts the complainant in the position he would have been if he had bought an alternative regular premium *payment protection contract*.
- 3.7.10 E The *firm* should pay to the complainant a sum equal to the amount in *DISP* App 3.7.3E less the amount the complainant would have paid for the alternative regular premium *payment protection contract*.
- 3.7.11 E The *firm* should consider whether it is appropriate to deduct the value of any paid claims from the redress.

- 3.7.12 E Additionally, where a single premium was added to a loan, *DISP* App 3.7.4E applies except that in respect of *DISP* 3.7.4E(1)(a) the cancellation value should only be used if the complainant expressly wishes to cancel the *policy*.
- 3.7.13 E The *firm* should, for the purposes of redressing the *complaint*, use the value of £9 per £100 of benefits payable as the monthly price of the alternative regular premium *payment protection contract*. For example, if the monthly repayment amount in relation to the loan only is to be £200, the price of the alternative regular premium *payment protection contract* will be £18.
- 3.7.14 E Where the *firm* presumes that the complainant would have purchased a regular premium *payment protection contract* and if the complainant expressly wishes it, the existing cover should continue until the end of the existing *policy* term. The complainant should pay the price of the alternative regular premium *payment protection contract* (at *DISP* App 3.7.13E) and should be able to cancel at any time. This pricing does not apply where *DISP* App 3.7.4E(1)(b) applies.
- 3.7.15 E So that the complainant can make the decision on the continuation of cover from an informed position, the *firm* should:
- (1) offer to provide details of the existing *payment protection contract*;
 - (2) inform the complainant that he may be able to find similar cover more cheaply from another provider in the event that he chooses to cancel the *policy* and take an alternative but remind the complainant that if his circumstances (for example, his health or employment prospects) have changed since the original sale, he may not be eligible for cover under any new *policy* he buys;
 - (3) make the complainant aware of the changes to the cancellation arrangements if cover continues;
 - (4) explain how the future premium will be collected and the cost of the future cover; and
 - (5) refer the complainant to www.moneymadeclear.org.uk as a source of information about a range of alternative *payment protection contracts*.

3.8 Other appropriate redress

- 3.8.1 E The remedies in *DISP* App 3.7 are not exhaustive.
- 3.8.2 E When applying a remedy other than those set out in *DISP* App 3.7, the *firm* should satisfy itself that the remedy is appropriate to the matter complained of and is appropriate and fair in the individual circumstances.

3.9 Other matters concerning redress

- 3.9.1 G Where the complainant's loan or credit card is in arrears the *firm* may, if it has the contractual right to do so, make a payment to reduce the associated loan or credit card balance, if the complainant accepts the *firm*'s offer of redress. The

firm should act fairly and reasonably in deciding whether to make such a payment.

- 3.9.2 G In assessing redress, the *firm* should consider whether there are any other further losses that flow from its breach or failing that were reasonably foreseeable as a consequence of the *firm's* breach or failing, for example, where the *payment protection contract's* cost or rejected claims contributed to affordability issues for the associated loan or credit which led to arrears charges, default interest, penal interest rates or other penalties levied by the lender.
- 3.9.3 G Where, for single premium *policies*, there were previous breaches or failings (see *DISP* App 3.2.7G) the redress to the complainant should address the cumulative financial impact.
- 3.9.4 G The *firm* should make any offer of redress to the complainant in a fair and balanced way. In particular, the *firm* should explain clearly to the complainant the basis for the redress offered including how any compensation is calculated and, where relevant, the rescheduling of the loan, and the consequences of accepting the offer of redress.

3.10 Application: evidential provisions

- 3.10.1 E The *evidential provisions* in this appendix apply in relation to *complaints* about sales that took place on or after 14 January 2005.
- 3.10.2 G For *complaints* about sales that took place prior to 14 January 2005, a *firm* should take account of the *evidential provisions* in this appendix as if they were *guidance*.
- 3.10.3 E Contravention of an *evidential provision* in this appendix may be relied upon as tending to establish contravention of *DISP* 1.4.1R.

Amend the following as shown.

Schedule 4 Powers Exercised

...

Sch 4.1G	The following powers and related provisions in or under the <i>Act</i> have been exercised by the <i>FSA</i> to make the <i>rules</i> in <i>DISP</i> :
	...
	Section 139(4) (Miscellaneous ancillary matters)
	<u>Section 149 (Evidential provisions)</u>

	...
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LISTING RULES SOURCEBOOK (AMENDMENT NO 6) INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000:
- (1) section 73A (Part 6 rules);
 - (2) section 75 (Applications for listing);
 - (3) section 96 (Obligations of issuers of listed securities);
 - (4) section 101 (Part 6 rules: general provisions);
 - (5) section 138 (General rule-making power);
 - (6) section 156 (General supplementary powers);
 - (7) section 157(1) (Guidance); and
 - (8) schedule 7 (The Authority as Competent Authority for Part VI).

Commencement

- B. This instrument comes into force on 6 August 2010.

Amendments to the Handbook

- C. The Listing Rules sourcebook (LR) is amended in accordance with the Annex to this instrument.

Citation

- D. This instrument may be cited as the Listing Rules Sourcebook (Amendment No 6) Instrument 2010.

By order of the Board
22 July 2010

Annex

Amendments to the Listing Rules sourcebook (LR)

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 1.6.1 G ~~Under other provisions of LR an issuer must comply with the rules that are applicable to every security in the category of listing which applies to each security the issuer has listed. The categories of listing are:~~
- ~~(1) premium listing (commercial company);~~
 - ~~(2) premium listing (closed-ended investment fund);~~
 - ~~(3) premium listing (open-ended investment companies);~~
 - ~~(4) standard listing (shares);~~
 - ~~(5) standard listing (debt and debt like securities);~~
 - ~~(6) standard listing (certificates representing certain securities);~~
 - ~~(7) standard listing (securitised derivatives);~~
 - ~~(8) standard listing (miscellaneous securities). [deleted]~~
- 1.6.1A R An issuer must comply with the rules that are applicable to every security in the category of listing which applies to each security the issuer has listed. The categories of listing are:
- (1) premium listing (commercial company);
 - (2) premium listing (closed-ended investment fund);
 - (3) premium listing (open-ended investment companies);
 - (4) standard listing (shares);
 - (5) standard listing (debt and debt-like securities);
 - (6) standard listing (certificates representing certain securities);
 - (7) standard listing (securitised derivatives);
 - (8) standard listing (miscellaneous securities).

...

Pre-emption rights

- 9.3.11 R A *listed company* proposing to issue *equity ~~shares~~ securities* for cash or to sell *treasury shares* that are *equity shares* for cash must first offer those *equity ~~shares~~ securities* in proportion to their existing holdings to:
- ...
- 9.3.12 R *LR 9.3.11R* does not apply to:
- (1) a *listed company* incorporated in the *United Kingdom* if a disapplication of statutory pre-emption rights has been authorised by shareholders in accordance with section 570 (Disapplication of pre-emption rights: directors acting under general authorisation) or section 571 (Disapplication of pre-emption rights by special resolution) of the Companies Act 2006 and the issue of *equity ~~shares~~ securities* or sale of *treasury shares* that are *equity shares* by the *listed company* is within the terms of the authority; or
 - (2) a *listed company* undertaking a *rights issue* or *open offer* provided the disapplication of pre-emption rights is with respect to:
 - (a) *equity ~~shares~~ securities* representing fractional entitlements; or
 - (b) *equity ~~shares~~ securities* which the *company* considers necessary or expedient to exclude from the offer on account of the laws or regulatory requirements of a territory other than its country of incorporation unless that territory is the *United Kingdom*; or
- ...
- (4) an *overseas company* with a *premium listing* that has obtained the consent of its shareholders to issue *equity ~~shares~~ securities* other than in accordance with *LR 9.3.11R* either:
 - (a) within the terms of an authority equivalent to that required by section 570 or 571 of the Companies Act 2006; or
 - (b) in accordance with the law of its country of incorporation provided that the country has implemented Article 29 of Directive 77/91/EEC.

...

~~Increase in authorised share capital~~

- 13.8.3 R ~~A circular relating to a resolution proposing to increase the company's authorised share capital must include:~~

- ~~(1) a statement of the proposed percentage increase in the authorised share capital of the relevant class; and~~
- ~~(2) a statement of the reason for the increase. [deleted]~~

Reduction of capital

- 13.8.4 R A *circular* relating to a resolution proposing to reduce the *company's* capital, other than a reduction of capital pursuant to section 626 of the Companies Act 2006 (Reduction of capital in connection with redenomination), must include a statement of the reasons for, and the effects of, the proposal.

**DISCLOSURE RULES AND TRANSPARENCY RULES SOURCEBOOK
(AMENDMENT NO 3) INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in or under the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 73A (Part 6 rules);
 - (2) section 89O (Corporate governance rules);
 - (3) section 101 (Part 6 rules: general provisions);
 - (4) section 156 (General supplementary powers);
 - (5) section 157(1) (Guidance); and
 - (6) schedule 7 (The Authority as Competent Authority for Part VI).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 6 August 2010.

Amendments to the Handbook

- D. The Disclosure Rules and Transparency Rules sourcebook (DTR) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Disclosure Rules and Transparency Rules Sourcebook (Amendment No 3) Instrument 2010.

By order of the Board
22 July 2010

Annex

Amendments to the Disclosure and Transparency Rules sourcebook (DTR)

In this Annex, underlining indicates new text.

Application: Corporate governance statements

...

1B.1.5A G LR 9.8.7AR, LR 14.3.24R and LR 18.4.3R(2) extend the application of DTR 7.2 (Corporate governance statements) for certain overseas companies which have securities admitted to the official list maintained by the FSA in accordance with section 74 (The official list) of the Act.

**UK CORPORATE GOVERNANCE CODE (HANDBOOK AMENDMENTS)
INSTRUMENT 2010**

Powers exercised

A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 ('the Act'):

- (1) section 73A (Part 6 Rules);
- (2) section 96 (Obligations of listed issuers);
- (3) section 89O (Corporate governance rules);
- (4) section 101 (Part 6 rules: general provisions);
- (5) section 138 (General rule-making power);
- (6) section 156 (General supplementary powers);
- (7) section 157(1) (Guidance);
- (8) Schedule 7 (The authority as competent authority for Part VI).

B. The rule-making powers listed above are specified for the purposes of section 153(2) (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force on 6 August 2010.

Amendments to the Handbook

D. The modules of the FSA's Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Senior Management Systems and Controls sourcebook (SYSC)	Annex B
Statements of Principle and Code of Practice for Approved Persons (APER)	Annex C
Listing Rules sourcebook (LR)	Annex D
Disclosure Rules and Transparency Rules sourcebook (DTR)	Annex E

Amendments to material outside the Handbook

E. The Building Societies Regulatory Guide (BSOG) is amended in accordance with Annex F to this instrument.

Citation

- F. This instrument may be cited as the UK Corporate Governance Code (Handbook Amendments) Instrument 2010.

By order of the Board
22 July 2010

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text.

<i>Combined Code</i>	(in <i>LR</i> and <i>DTR</i>), in relation to an <i>issuer</i> :
	<ul style="list-style-type: none"> (1) in respect of a reporting period commencing on or after 29 June 2008, the Combined Code on Corporate Governance published in June 2008 by the Financial Reporting Council; or (2) in respect of a reporting period commencing before 29 June 2008, the Combined Code on Corporate Governance published in June 2006 by the Financial Reporting Council.
...	
<u><i>UK Corporate Governance Code</i></u>	<u>(in <i>LR</i> and <i>DTR</i>) the UK Corporate Governance Code published in May 2010 by the Financial Reporting Council.</u>

Annex B

Amendments to the Senior Management Systems and Controls sourcebook (SYSC)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

2.1.6 G Frequently asked questions about allocation of functions in SYSC 2.1.3R

This table belongs to SYSC 2.1.5G

	Question	Answer
...		
14	What if generally accepted principles of good corporate governance recommend that the <i>chief executive</i> should not be involved in an aspect of corporate governance?	The Note to SYSC 2.1.4R provides that the <i>chief executive</i> or other executive director or <i>senior manager</i> need not be involved in such circumstances. For example, the <u>UK Corporate Governance Code</u> Combined Code developed by the Committee on Corporate Governance recommends that the board of a listed company should establish an audit committee of non-executive directors to be responsible for oversight of the audit. That aspect of the oversight function may therefore be allocated to the members of such a committee without involving the <i>chief executive</i> . Such individuals may require approval by the FSA in relation to that function (see Question 1).
...		

...

3.1.3 G Where the ~~Combined Code developed by the Committee on Corporate Governance~~ UK Corporate Governance Code is relevant to a *firm*, the FSA, in considering whether the *firm*'s obligations under SYSC 3.1.1R have been met, will give it due credit for following corresponding provisions in the ~~Code~~ code and related guidance.

...

After SYSC TP 3 insert the following new transitional provision. The text is not underlined.

Transitional Provision 4 Combined Code

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provisions: coming into force
1.	SYSC 2.1.6G and SYSC 3.1.3G	R	References to provisions in the <i>UK Corporate Governance Code</i> are to be read as references to the equivalent provisions in the <i>Combined Code</i> for accounting periods beginning before 29 June 2010.	From 29 June 2010 to 28 December 2011	6 August 2010

Annex C

Amendments to the Statements of Principle and Code of Practice for Approved Persons (APER)

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 3.1.9 G *UK domestic firms listed on the London Stock Exchange are subject to the ~~Combined Code developed by the Committee on Corporate Governance~~ UK Corporate Governance Code, whose *internal control* provisions are amplified in the publication entitled “Internal Control: Revised Guidance for Directors on the Combined Code (October 2005)” ~~Guidance for Directors~~ issued by the ~~Institute of Chartered Accountants in England and Wales Financial Reporting Council~~. *FSA-regulated firms* in this category will thus be subject to that code as well as to the requirements and standards of the *regulatory system*. In forming an opinion whether *approved persons* have complied with its requirements, the *FSA* will give due credit for their following corresponding provisions in the ~~Combined Code~~ UK Corporate Governance Code and related *guidance*.*

...

TP 1 Transitional Provisions

TP 1.1

~~There are no transitional provisions in APER. However, In addition to the transitional provision below,~~ *GEN* contains some technical transitional provisions that apply throughout the ~~Handbook~~ Handbook and which are designed to ensure a smooth transition at commencement.

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision coming into force
1.	<u>APER 3.1.9G</u>	<u>R</u>	References to provisions in the <u>UK Corporate Governance Code</u> are to be read as references to the equivalent provisions in the <u>Combined Code</u> for accounting periods beginning before <u>29 June 2010</u> .	From <u>29 June 2010</u> to <u>28 December 2011</u>	<u>6 August 2010</u>

Annex D

Amendments to the Listing Rules sourcebook (LR)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

- 9.8.6 R In the case of a *listed company* incorporated in the *United Kingdom*, the following additional items must be included in its annual financial report:
- ...
- (5) a statement of how the *listed company* has applied the Main Principles set out in ~~Section 1~~ of the ~~Combined Code~~ UK Corporate Governance Code, in a manner that would enable shareholders to evaluate how the principles have been applied;
- (6) a statement as to whether the listed company has:
- (a) complied throughout the accounting period with all relevant provisions set out in ~~Section 1~~ of the ~~Combined Code~~ UK Corporate Governance Code; or
- (b) not complied throughout the accounting period with all relevant provisions set out in ~~Section 1~~ of the ~~Combined Code~~ UK Corporate Governance Code and if so, setting out:
- ...
- ...
- 9.8.10 R A *listed company* must ensure that the auditors review each of the following before the annual report is published:
- ...
- (2) the parts of the statement required by LR 9.8.6R(6) (corporate governance) that relate to the following provisions of the ~~Combined Code~~ UK Corporate Governance Code:
- (a) C~~1~~.1.1;
- (b) C.2.~~4~~2; and
- (c) C~~2~~.3.1 to C~~2~~.3.7.
- ...
- 15.6.6 R (1) This *rule* applies to a *closed-ended investment fund* that has no

executive *directors*.

- (2) A *closed-ended investment fund's* statement required by LR 9.8.6R(6) need not include details about the following principles and provisions of the *Combined Code* except to the extent that those principles or provisions relate specifically to non-executive *directors*:
 - (a) Principle ~~BD~~.1 (including Code Provisions ~~BD~~.1.1 to ~~BD~~.1.5); and
 - (b) Principle ~~BD~~.2 (including Code Provisions ~~BD~~.2.1 to ~~BD~~.2.4).

...

Appendix 1

1.1 Relevant definitions

Combined Code in relation to an *issuer*:

- ~~(1) in respect of a reporting period commencing on or after 29 June 2008, the Combined Code on Corporate Governance published in June 2008 by the Financial Reporting Council;~~
- ~~(2) in respect of a reporting period commencing before 29 June 2008, the Combined Code on Corporate Governance published in June 2006 by the Financial Reporting Council.~~

...

UK Corporate Governance Code in relation to an *issuer*, the UK Corporate Governance Code published in May 2010 by the Financial Reporting Council.

After LR TP 7 insert the following new transitional provision. The text is not underlined.

LR TR 8 Transitional Provisions for the Combined Code

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision coming into force
1.	LR 9.8.6R(5) and (6)	R	References to provisions in the <i>UK Corporate Governance Code</i> are to be	From 29 June 2010 to 28 December	6 August 2010

	<p><i>LR 9.8.10R(2)</i></p> <p><i>LR 15.6.6R(2)</i></p>	<p>read as references to the equivalent provisions in the <i>Combined Code</i> for accounting periods beginning before 29 June 2010. For the avoidance of doubt, in <i>LR 9.8.10R(2)(b)</i> <i>Combined Code</i> provision C.2.1 became <i>UK Corporate Governance Code</i> provision C.2.2; <i>Combined Code</i> Principles B.1 and B.2 became <i>UK Corporate Governance Code</i> Principles D.1 and D.2 respectively; and <i>Combined Code</i> provisions B.1.1 to B.1.5 and B.2.1 to B.2.4 became <i>UK Corporate Governance Code</i> provisions D.1.1 to D.1.5 and D.2.1 to D.2.4 respectively.</p>	2011	
--	---	--	------	--

Annex E

Amendments to the Disclosure Rules and Transparency Rules sourcebook (DTR)

In this Annex, underlining indicates new text and striking through indicates deleted text.

7.1.7 G In the *FSA's* view, compliance with provisions A.1.2, C.3.1, C.3.2 and C.3.3 of the ~~Combined Code~~ UK Corporate Governance Code will result in compliance with *DTR* 7.1.1R to *DTR* 7.1.5R.

...

7.2.4 G A *listed company* which complies with *LR* 9.8.6R(6) (the comply or explain rule in relation to the ~~Combined Code~~ UK Corporate Governance Code) will satisfy the requirements of *DTR* 7.2.2R and *DTR* 7.2.3R.

...

7.2.8 G In the *FSA's* view, the information specified in provisions A.1.1, A.1.2, ~~A.4.6~~, ~~B.2.4~~, ~~BD.2.1~~ and C.3.3 of the ~~Combined Code~~ UK Corporate Governance Code will satisfy the requirements of *DTR* 7.2.7R.

TP 1 Disclosure and transparency rules

DTR sourcebook – Transitional Provisions

(1)	(2) Material to which the Transitional provisions applies	(3)	(4) Transitional provision	(5) Transitional Provision: dates in force	(6) Handbook Provision coming into force
...					
18	<u><i>DTR</i> 7.1.7G</u> <u><i>DTR</i> 7.2.4G</u> <u><i>DTR</i> 7.2.8G</u>	<u>R</u>	<u>References to provisions in the <i>UK Corporate Governance Code</i> are to be read as references to the equivalent provisions in the <i>Combined Code</i> for accounting periods beginning before 29 June 2010. For the avoidance of doubt, in <i>DTR</i> 7.2.8G, <i>Combined Code</i> provision A.4.6 and B2.1 became <i>UK Corporate Governance Code</i> provisions B.2.4 and D.2.1 respectively.</u>	<u>From 29 June 2010 to 28 December 2011</u>	<u>6 August 2010</u>

Annex F

The Building Societies Regulatory Guide (BSOG)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1.1.3 G The following terms are used in this Guide and have the meaning described here:

“the Combined Code” the Combined Code on Corporate Governance, developed by the Corporate Governance Committee of the Financial Reporting Council for accounting periods beginning before 29 June 2010

...

“Trustee Account Holder” ...

“the UK Corporate Governance Code” the UK Corporate Governance Code, published by the Financial Reporting Council

1.3.2 G Although societies are not publicly quoted, they should have regard to the UK Corporate Governance Code or the Combined Code as appropriate when they establish and review their corporate governance arrangements.

...

1.4.4 G The Accounts Regulations and the 1986 Act require a building society to disclose to its members, by its annual report and accounts:

- (1) the interests of the society’s directors;
- (2) the interests of its chief executive (on the matter of service contracts) and other officers (on the matter of options to subscribe for shares or debentures);
- (3) individual directors’ remuneration;
- (4) particulars of service contracts for the directors and chief executive;
- (5) current and past directors’ additional retirement benefits; and
- (6) directors’ interests in the shares or debentures of a connected undertaking.

In the interests of transparency, a building society should also explain whether it adheres to some or all of the UK Corporate Governance Code or

the Combined Code as appropriate and, if so, in what respects.

HANDBOOK ADMINISTRATION (NO 19) INSTRUMENT 2010**Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 6 October 2010.

Amendments to the Handbook

- D. The modules of the FSA's Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex B
Threshold Conditions (COND)	Annex C
The Fit and Proper test for Approved Persons (FIT)	Annex D
General Provisions (GEN)	Annex E
General Prudential sourcebook (GENPRU)	Annex F
Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)	Annex G
Mortgages and Home Finance: Conduct of Business sourcebook (MCOB)	Annex H
Supervision manual (SUP)	Annex I
Dispute Resolution: Complaints sourcebook (DISP)	Annex J
Collective Investment Schemes sourcebook (COLL)	Annex K
Listing Rules sourcebook (LR)	Annex L

Amendments to material outside the Handbook

- E. The Perimeter Guidance manual (PERG) is amended in accordance with Annex M to this instrument.

Citation

- F. This instrument may be cited as the Handbook Administration (No 19) Instrument 2010.

By order of the Board
23 September 2010

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical place. This text is not underlined.

staff mortgage a *regulated mortgage contract* between an employer, or an *undertaking* in the same *group* as the employer, as lender and the employee (alone or with another *person*) as borrower to defray money applied for any of the following purposes:

- (a) acquiring any residential land which was intended, at the time of the acquisition, for occupation by the employee as their home;
- (b) carrying out repairs or improvements to any residential land which was intended, at the time of taking out the loan, for occupation by the employee as their home; or
- (c) payments in respect of a loan (whether of interest or capital).

work-related insurance work-related insurance, including:

- (a) life assurance;
- (b) long term disability insurance (also known as *permanent health insurance*); and
- (c) accidental death, injury, critical illness, medical, dental, income protection or travel insurance.

Amend the following as shown.

disclosure disclosure of a *disclosable short position* which:

- (a) is made on a *RIS* by no later than 3.30pm on the *business day* following the day on which the position reaches, or exceeds ~~or falls below~~ a *disclosable short position* of 0.25% of the issued capital of a *company*; and
- (b) includes the name of the *person* who has the *disclosable short position*, the amount of the *disclosable short position* and the name of the *company* in relation to which the *person* has that position.

Annex B

Amendments to the Senior Management Arrangements, Systems and Controls sourcebook (SYSC)

In this Annex, underlining indicates new text and striking through indicates deleted text.

3.2.6D G A *firm* may also have separate obligations to comply with relevant legal requirements, including the Terrorism Act 2000, the Proceeds of Crime Act 2002 and the *Money Laundering Regulations*. SYSC 3.2.6R to SYSC 3.2.6JG are not relevant for the purposes of regulation ~~3(3)~~ 42(3) or 45(2) of the *Money Laundering Regulations*, section 330(8) of the Proceeds of Crime Act 2002 or section 21A(6) of the Terrorism Act 2000.

...

6.3.4 G A *firm* may also have separate obligations to comply with relevant legal requirements, including the Terrorism Act 2000, the Proceeds of Crime Act 2002 and the *Money Laundering Regulations*. SYSC 6.1.1R and SYSC 6.3.1R to SYSC 6.3.10G are not relevant for the purposes of regulation ~~3(3)~~ 42(3) or 45(2) of the *Money Laundering Regulations*, section 330(8) of the Proceeds of Crime Act 2002 or section 21A(6) of the Terrorism Act 2000.

...

6.3.9 R A *firm* (with the exception of a *sole trader* who ~~does not employ any person who is required to be approved under section 59 of the Act (Approval for particular purposes)~~ has no employees) must:

- (1) appoint an individual as *MLRO*, with responsibility for oversight of its compliance with the *FSA's rules* on systems and controls against *money laundering*; and
- (2) ensure that its *MLRO* has a level of authority and independence within the *firm* and access to resources and information sufficient to enable him to carry on that responsibility.

Annex C**Amendments to the Threshold Conditions (COND)**

In this Annex, underlining indicates new text and striking thorough indicates deleted text.

- 2.5.6 G In determining whether a *firm* will satisfy, and continue to satisfy, threshold condition 5 in respect of conducting its business with integrity and in compliance with proper standards, the relevant matters, as referred to in *COND* 2.5.4G(2), may include but are not limited to whether:
- ...
- (6) the *firm* has taken reasonable care to establish and maintain effective systems and controls for compliance with applicable requirements and standards under the regulatory system that apply to the *firm* and the *regulated activities* for which it has, or will have, *permission* (see *SYSC* 3.2.6R to *SYSC* 3.2.8R (Compliance) and *SYSC* 6.1.1R to *SYSC* 6.1.5R and *SYSC* 6.3);
- ...

Annex D**Amendments to the Fit and Proper test for Approved Persons (FIT)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 1.2.4A G Under Article 5(1)(d) of the *MiFID Implementing Directive* and Article 31 and 32 of *MiFID*, the requirement to employ personnel with the knowledge, skills and expertise necessary for the discharge of the responsibilities allocated to them is reserved to the *firm's Home State*. Therefore, in assessing the fitness and propriety of a *person* to perform a *controlled function* solely in relation to the *MiFID business* of an *incoming EEA firm*, the *FSA* will not have regard to that *person's* competence and capability. Where the *controlled function* relates to matters outside the scope of *MiFID*, for example ~~money laundering~~ money laundering responsibilities (see CF11), or to business outside the scope of the *MiFID* business of an *incoming EEA firm*, for example *insurance mediation activities* in relation to *life policies*, the *FSA* will have regard to a *candidate's* competence and capability as well as his honesty, integrity, reputation and financial soundness.

Annex E

Amendments to the General Provisions (GEN)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Sch 4 Powers exercised

...

4.2

G

The following powers and related provisions in or under the <i>Act</i> have been exercised by the <i>FSA</i> to make the <i>rules</i> in <i>GEN</i> :	
	...
	Section 118(8) ...
	<u>Section 131B (Short selling rules)</u>
	...
	Section 223 ...
	<u>Section 223C (Payments in error)</u>
	<u>Section 224F (Rules about relevant schemes)</u>
	...

...

4.5

G

The following powers and related provisions in the <i>Act</i> have been exercised by the <i>FSA</i> to issue the parts of the statements in <i>GEN</i> :	
	...
	Section 124 ...
	<u>Section 165B(6) (Safeguards etc in relation to exercise of power under section 165A)</u>
	...

Annex F

Amendments to the General Prudential sourcebook (GENPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text.

[*Editor's Note:* The change to GENPRU 2 Annex 3R shown below confirms an amendment which has already been made administratively.]

2 Annex 3R Capital resources table for a building society

The capital resources calculation for a building society		
Type of capital	Related text	Stage
...
Hybrid capital		
Stage B1	<i>GENPRU <u>2.2.115AR</u> to <i>GENPRU</i> 2.2.117BR</i>	(B1)
...		
...		

Annex G**Amendments to the Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

[*Editor's Note:* The change to BIPRU 5.5.7R(2) shown below confirms an amendment which has already been made administratively.]

- 5.5.7 R (1) ...
- (2) In case of a currency mismatch, the current *surrender value* must be reduced according to *BIPRU 5.7.17R* and *BIPRU ~~5.5.18R~~ 5.7.18R*, the value of the credit protection being the current *surrender value* of the life insurance policy.

...

Annex H

**Amendments to the Mortgages and Home Finance: Conduct of Business sourcebook
(MCOB)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 2.2.8B G The following guidance may be relevant to a *firm* that *communicates* or *approves a financial promotion* of a home purchase plan:
- ...
- ~~**Note:** A comparative *financial promotion* will need to comply with regulation 4A of the Control of Misleading Advertisements Regulations 1988.~~
- ...
- 3.5.3 G A *firm communicating a financial promotion* may also be subject to other regulations and guidelines, outside the remit of the *FSA*, such as:
- ...
- (5) ~~the Consumer Protection Act 1987~~ Consumer Protection from Unfair Trading Regulations 2008 (SI 2008/1277), ~~or Consumer Protection (Northern Ireland) Order 1987 (SI 1987/2049 (N.I.20))~~.
- ...
- 3.8A.2 G The guidance on the clear, fair and not misleading standard at *MCOB* 3.6.5G, *MCOB* 3.6.10G and *MCOB* 3.6.14G may be relevant.
- ~~**Note:** A comparative *financial promotion* will need to comply with regulation 4A of the Control of Misleading Advertisements Regulations 1988.~~
- ...
- 3.8B.2 G The guidance on the clear, fair and not misleading standard at *MCOB* 3.6.5G, *MCOB* 3.6.10G and *MCOB* 3.6.14G may be relevant.
- ~~**Note:** A comparative *financial promotion* will need to comply with regulation 4A of the Business Protection from Misleading Marketing Regulations 2008.~~

Annex I

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

10.7.13B G ~~A firm's obligations in respect of its money laundering reporting officer are set out in SYSC 3.2.61 R and SYSC 6. [deleted]~~

...

15.7.1 R A notification required from a *firm* under any *notification rule* must be given in writing, and in English, and must be submitted on the form specified for that *notification rule*, or if no form is specified, on the form in SUP 15 Ann ~~3RR~~ 4R (Notification form), and must give the *firm's* FSA Firm Reference Number unless:

...

16 Annex 19AR Mortgage Lending and Administration Return ('MLAR')

Summary of Contents

Table

...

Sale & Rent Back (SRB Business)

K

...

K SALE & RENT BACK (SRB) BUSINESS		<u>Regulated</u>	
		Regulated Number	Amount
K1	Overall business summary (opening & closing stocks with key transactions)		
K1.1	SRB agreements at start of quarter	_____	_____
K1.2	New sales in quarter	_____	_____
K1.3	Disposals in quarter	_____	_____
K1.4	Business transfer: acquisitions	_____	_____
K1.5	Business transfer: sales	_____	_____
K1.6	Other	_____	_____
K1.7	SRB agreements at end of quarter	_____	_____
K1.8	SRB agreements arranged for unauthorised person <u>persons</u>	_____	_____

K SALE & RENT BACK (SRB) BUSINESS

		<u>Regulated</u> Regulated Number	<u>Regulated</u> Amount
K2	New business in Quarter		
	Sales : analysed by discount on open market value (OMV)		
K2.1	0% – 30%	_____	_____
K2.2	30% – 40%	_____	_____
K2.3	> 40%	_____	_____
K2.4	Weighted average <u>Average</u> of all sales		<input type="text"/>
	Sales : analysed by provider fees charged		
K2.5	Over £1000	_____	_____
K2.6	Under £1000	_____	_____
K2.7	Weighted average <u>Average</u> fees charged		<input type="text"/>
	Sales : analysed by annual rent as % sale value		
K2.8	Average annual <u>Total new agreements and average</u> rent per month	_____	_____
K2.9	Average rental yield (<u>shown as a %</u>)		<input type="text"/>

SALE & RENT BACK (SRB) BUSINESS

K3 SRB agreements terminated or transferred in the quarter:

<u>Total agreements terminated</u>		Agreements Terminated by Firm	Agreements Terminated by Seller
K3.1	< 12 Months	_____	_____
K3.2	12 - 36 Months	_____	_____
K3.3	36 - 60 Months	_____	_____
K3.4	60 - 72 Months	_____	_____
K3.5	> 72 Months	_____	_____
K3.6	Avg Duration of Agreement	<input type="text"/>	<input type="text"/>

<u>Total Sales (Transfers & Disposals)</u>		<u>Transfers</u>		<u>Disposals</u>	
		Transfers Number	Amount	Number	Amount
K3.7	Original SRB values	_____	_____	_____	_____
K3.8	Current SRB book values	_____	_____	_____	_____
K3.9	Actual disposal/transfer values	_____	_____	_____	_____

SALE & RENT BACK (SRB) BUSINESS

K4 SRB agreements at end of quarter: cases 10% or more in arrears

		<u>Regulated</u> Number	<u>Regulated</u> Cases in arrears at end quarter Amount of arrears	Annual rentals
	Arrears categorisation			
K4.1	10 < 20 %	_____	_____	_____
K4.2	20 < 30 %	_____	_____	_____
K4.3	30 < 40 %	_____	_____	_____
K4.4	40 < 50 %	_____	_____	_____
K4.5	50 < 75 %	_____	_____	_____
K4.6	75% or more	_____	_____	_____
K4.7	All cases			

SALE & RENT BACK (SRB) BUSINESS

K5	SRB administrators	<u>Number</u>
K5.1	Regulated SRB agreements administered	<input type="text"/>
K5.2	Number of <u>Non-regulated</u> SRB agreements administered	<input type="text"/>
K5.3	Number of SRB agreements administered for other firms	<input type="text"/>
Number of SRB agreements administered for other firms - top 5 firms		
	Firm Ref Number (FRN)	Number of SRB agreements administered
K5.4	1: _____	1: _____
K5.5	2: _____	2: _____
K5.6	3: _____	3: _____
K5.7	4: _____	4: _____
K5.8	5: _____	5: _____

16 Annex 19BG Notes for Completion of the Mortgage Lending and Administration Return ('MLAR')

NOTES FOR COMPLETION OF THE MORTGAGE LENDING & ADMINISTRATION RETURN ('MLAR')

...

SECTION K: SALE AND RENT BACK BUSINESS (SRB)

Introduction

This section must be completed as follows:

- *SRB agreement providers* must complete K1 to ~~K5~~ K4
- *SRB administrators* must complete ~~K6~~ K5
- *Firms* that are both *SRB agreement providers* and *SRB administrators* must complete K1 to ~~K6~~ K5.

K SRB: Residential sales by individuals

It is expected that *firms* will have the following to report:

...

- non-regulated SRB agreements: in respect of transactions of a similar nature entered into before SRB became a *regulated activity* which are still being administered; and also any new contract that, while not meeting the precise conditions for a regulated contract, nonetheless has similar characteristics (for example cases where the purchaser is not regulated or where the firm has purchased a property under value and rents an alternative property to the seller).

This approach means that all new and existing sale and rent back agreements, – whether regulated or not, and whether transacted before or after SRB became a *regulated activity* – must be included in the information reported by the *firm* in section K.

...

K1 Overall business summary

...

- K1.6 Other:** include any other amounts which affect the balances reported in K1.1 and K1.7, that is which reflect any change in the book value of any SRB agreements during the quarter. This is to capture any 'amounts' that will affect the overall position but is not covered by K1.2-K1.5. A value is required to be recorded in the 'Amount' column only.

...

K1.8 SRB agreements arranged for unauthorised persons: The number of SRB agreements arranged where an unauthorised person has obtained title to the property and monies have been paid to the SRB seller. The 'Amount' is the sale value (paid to seller) and should be reported gross, that is, before the deduction of any fees and charges.

K2 New business in the quarter

...

K2.1 to ~~2.4~~2.3 Sales: analysed by **discount on open market value** (OMV)

Here SRB transactions are classified into different bands, according to the amount of **discount** expressed as a percentage of the open market value of the property that is subject to the SRB contract. Discount is the open market value minus the sales value.

Values are required to be recorded in both the 'Number' and 'Amount' columns. So for example, for those SRB agreements where the discount is 30% to under 40%, enter the total number of such sales and the total sales values of those agreements in the relevant boxes on the K2.2 line.

K2.4 Average of all sales

The average discount is recorded as an amount. This value should therefore be recorded in the 'Amount' column only. For example, if 4 properties with an open market value of £100,000 were bought at a 25% discount and 4 properties with an open market value of £120,000 at a 35% discount, the average amount of discount is £33,500.

K2.5 to ~~2.7~~2.6 Sales: analysed by **provider fees charged**

Here, SRB transactions are classified into two different bands, according to the amount of provider fees charged to the SRB agreement. Enter the total number of such sales in the 'Number' column and the total sales values of those agreements in the 'Amount' column.

K2.7 Average fees charged

The average amount of provider fees are recorded here. This value should be recorded in the 'Amount' column only. For example, if 8 new agreements were entered into during the quarter with provider fees totalling £4000, enter £500 (£4000 divided by 8) in the 'Amount' column.

K2.8 to 2.9 Sales: analysed by **annual rent as ~~percent~~ percentage of sale value**

K2.8 Here the total number of new SRB agreements (entered in the 'Number' column) and the amount of average monthly rent being charged at the outset of the agreements (entered in the 'Amount' column) is recorded.

K2.9 The average rental yield percentage is calculated as the **total** annual rent for all new SRB agreements in the quarter divided by the total sales values, entered in the 'Amount' column.

...

K3.1 to K3.6 **Agreements terminated:**

...

For each time band, enter the total number of such transactions ~~and the total original sales values of those agreements.~~

...

~~In the supplementary analysis, provide summary totals for:~~

- ~~• original SRB values: the gross sales value paid to the seller~~
- ~~• current SRB values: the book value of the contract at time of re-sale~~
- ~~• actual resale values (i.e. the price at which either the property was sold back to the seller, or the seller left the property after giving notice) inclusive of any fees or charges levied as part of this resale transaction.~~

K3.7 to K3.9 **Transfers and Disposals**

...

The analysis looks into the status of each SRB agreement when it is sold or transferred, ~~distinguishing between:~~

- ~~• agreements which are fully performing, and~~
- ~~• those where the seller is not currently meeting the terms and conditions of the contract.~~

~~For both types of contract, *firms* Firms should report:~~

- original SRB values: the gross sales value paid to the seller;
- current SRB values: the book value of the contract at time of sale/transfer; and
- actual disposal/transfer values: the value of the contract as recognised in the agreement with the acquiring party.

...

K5 **SRB administrators**

Firms holding SRB administration permissions must complete the number of regulated SRB agreements that they administer, the number of non-regulated SRB agreements that they administer and as well as the number of regulated SRB agreements that they administer for ~~third parties~~ other firms.

...

Annex J

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1 Annex 1BR Complaints publication report

This table belongs to *DISP* 1.10A.2R.

Complaints publication report

Firm name:

Group: (if applicable):

Other firms included in this report (if any):

Period covered in this report: [e.g. 1 January – 30 June 2010]

Brands/trading names covered:

1	A	B	C	D	E
		Number of complaints opened	Number of complaints closed	Complaints closed within 8 weeks (%)	Closed complaints upheld by firm (%)
2	Banking				
3	Home finance				
4	General insurance and pure protection				
5	Decumulation, life and pensions				
6	Investments				

Annex K

Amendments to the Collective Investment Schemes sourcebook (COLL)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Table: contents of the prospectus

4.2.5 R This table belongs to *COLL* 4.2.2R (Publishing the prospectus).

...		
17	The following particulars:	
	...	
	(f)	the circumstances and conditions for issuing <i>units</i> in an <i>authorised fund</i> which limit the <i>issue</i> of any <i>class</i> of <i>units</i> in accordance with <i>COLL</i> 6.2.21 <u>6.2.18R</u> (Limited issue);
	(g)	the circumstances and procedures for the limitation or deferral of <i>redemptions</i> in accordance with <i>COLL</i> 6.2.16 <u>6.2.19R</u> (Limited redemption) or <i>COLL</i> 6.3.8 <u>6.2.21R</u> (Deferred redemption);
	...	
...		

Annex L**Amendments to the Listing Rules sourcebook (LR)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

[*Editor's Note:* The change to LR 9.8.10R shown below confirms an amendment which has already been made administratively.]

9.8.10 R A *listed company* must ensure that the auditors review each of the following before the annual report is published:

...

- (2) the parts of the statement required by *LR 9.8.6R(6)* (corporate governance) that relate to the following provisions of the *UK Corporate Governance Code*:
- (a) C.1.1;
 - (b) C.2.~~2~~1; and
 - (c) C.3.1 to C.3.7.

Annex M

Amendments to the Perimeter Guidance manual (PERG)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1.5.1 G General *guidance* on the perimeter is also contained in various *FSA* documents (mainly fact sheets and frequently asked questions) that are available on the *FSA* website at www.fsa.gov.uk. These documents, and the URL on which they may be accessed, include:

- (1) ~~{deleted}~~ *FSA* Guidance Note GN9 (2010) on financial regulation for social housing providers which is available at <http://www.fsa.gov.uk/pubs/guidance/guidance9.pdf>;

...

Communications by employers and contracted service providers to ~~their~~ employees

8.4.34 G Employers and their contracted service providers may *communicate* with ~~their~~ employees on matters which involve *controlled investments*. For example, *work-related insurance, staff mortgages, personal pension schemes* (including *stakeholder schemes*) and other employee benefit schemes other than *occupational pension schemes*. Interests under the trusts of an *occupational pension scheme* are not a *controlled investment* (see paragraph 27(2) of Schedule 1 to the *Financial Promotion Order*). ~~Such~~

In the case of *personal pension schemes* (including *stakeholder schemes*), such communications will only be invitations or inducements to *engage in investment activity* if they seek to persuade or incite employees to do things such as:

...

- (2) exercise certain rights under such a scheme, ~~include~~ including making additional contributions or exercising options.

Communications which seek to persuade or incite employees to subscribe for *work-related insurance* or enter into *staff mortgages* may also be invitations or inducements to *engage in investment activity*.

Communications which are intended to educate or give employees information with no element of persuasion or incitement will not be invitations or inducements under section 21. Employers may wish to give their employees investment material prepared and *approved* by an

authorised person. This material may be given under cover of a communication from the employer. If so, the covering communication will not itself be an inducement if all it does is to refer employees to the material and explain what they should do if they wish to act on it, without seeking to persuade or incite them to act. Where the covering communication is itself a *financial promotion* it will need to be *approved* by an *authorised person* provided it is a *non-real time financial promotion* unless an exemption applies. If it is a *real time financial promotion* it cannot be *approved* (see, for example, COBS 4.10.4R). In such cases, an exemption would need to apply. Where employee share schemes are concerned, the exemption in article 60 of the *Financial Promotion Order* (Participation in employee share schemes) is likely to apply to any *financial promotions* made by employers or members of their *group*. Where an employer's *financial promotions* relate to such things as *company* health or general insurance benefit packages, the exemptions in article 24 (Relevant insurance activity: non real time communications) or 26 (Relevant insurance activity: real time communications) of the *Financial Promotion Order* may apply. Employers who promote pension products, *work-related insurance or staff mortgages* to their employees will be able to use the ~~exemption~~ exemptions in article 72 (~~Pension products offered by employers~~), article 72B and article 72D and contracted service providers who promote pension products, *work-related insurance or staff mortgages* to employees will be able to use the exemptions in article 72A, article 72C and article 72E, provided certain conditions are met. These conditions are explained in PERG 8.14.40AG to PERG 8.14.40AEG. ...

...

Certified high net worth individuals (article 48)

- 8.14.21 G This exemption disapplies the restriction in section 21 of the *Act* from *non-real time financial promotions* or *solicited real time financial promotions* which are made to a *person* who the communicator believes on reasonable grounds to be a certified high net worth individual and which relate to certain *investments*. These *investments* must be either:
- (1) *shares* in or *debentures* or *alternative debentures* of an unlisted company; or
 - (2) *warrants*, *certificates representing certain securities*, *options*, *futures* or *contracts for differences* relating to *shares* in or *debentures* ~~or alternative debentures~~ of an unlisted company; or
 - (3) units in collective investment schemes investing predominantly in *shares* in or *debentures* ~~or alternative debentures~~ of an unlisted company.

...

Pension product offers offered to employees by employers (article 72) and third parties (article 72A)

8.14.40A G Article 72 exempts any *financial promotion* made by an employer to an employee in relation to a *group personal pension scheme* or a *stakeholder pension scheme*. This is subject to certain requirements as follows:

...

- (2) the employer must not receive or have received any direct financial benefit ~~from that scheme (such as commission from, or a reduction in the amount of the premium payable by the employer in respect of any insurance policy issued to the employer by, the provider of the scheme)~~ (including any commission, discount, remuneration or reduction in premium) as a result of making the communication;
- (3) the employer must notify the employee in writing, prior to the employee becoming a member, of the amount of the contribution that the employer will make to the scheme in respect of that employee or the basis on which the contribution will be calculated; and

...

~~This exemption should enable employers to promote pension schemes to their employees without undue concern that they may be breaching the restriction in section 21 of the Act. PERG 8.4.34 G (Communications by employers to their employees) has further *guidance* about the application of section 21 to employers generally.~~

8.14.40AA G Article 72A exempts any *financial promotion* made to an employee by or on behalf of a person (“A”) in relation to a *group personal pension scheme* or a *stakeholder pension scheme*. This is subject to certain requirements as follows:

- (1) the employer and A must have entered into a written contract specifying the terms on which the communication may be made;
- (2) in the case of a communication made by a person (“B”) on behalf of A, A and B must also have entered into a written contract specifying the terms on which the communication may be made;
- (3) the employer must not receive or have received, any direct financial benefit (including any commission, discount, remuneration or reduction in premium) as a result of the communication being made;
- (4) the employer must make a contribution to the scheme in the event of the employee becoming a member of the scheme and the communication must contain a statement informing the employee of this;
- (5) where the communication is a *non-real time financial promotion*,

it must contain, or be accompanied by, a statement informing the employee of his right to seek advice from an *authorised person* or an *appointed representative*; and

- (6) the employer or A must notify the employee in writing prior to the employee becoming a member of the *scheme* of:
- (a) the amount of the contribution that the employer will make to the *scheme* in respect of that employee, or the basis on which the contribution will be calculated; and
 - (b) any remuneration A or B has received, or will receive, as a consequence of the employee becoming a member of the *scheme*, or the basis on which any such remuneration will be calculated.

Insurance product offers communicated to employees by employers (article 72B) and third parties (article 72C)

8.14.40AB G Article 72B exempts any *financial promotion* made by an employer to an employee in relation to *work-related insurance*. This is subject to certain requirements as follows:

- (1) where the provider of the insurance is not the employer, the employer must not receive or have received, any direct financial benefit (including any commission, discount, remuneration or reduction in premium) as a result of making the communication; and
- (2) where the communication is a *non-real time financial promotion*, it must contain, or be accompanied by, a statement informing the employee of his right to seek advice from an *authorised person* or an *appointed representative*.

8.14.40AC G Article 72C exempts any *financial promotion* made to an employee by or on behalf of a person (“A”) in relation to *work-related insurance*. This is subject to certain requirements as follows:

- (1) the employer and A must have entered into a written contract specifying the terms on which the communication may be made;
- (2) in the case of a communication made by a person (“B”) on behalf of A, A and B must also have entered into a written contract specifying the terms on which the communication may be made;
- (3) the employer must not receive or have received, any direct financial benefit (including any commission, discount, remuneration or reduction in premium) as a result of the communication being made;
- (4) where the communication is a *non-real time financial promotion*, it must contain, or be accompanied by, a statement informing the

employee of his right to seek advice from an *authorised person* or an *appointed representative*; and

- (5) the employer or A must notify the employee in writing prior to the employee entering into a contract for the *work-related insurance* of any remuneration A or B has received, or will receive, as a consequence of the employee entering into the contract, or the basis on which any such remuneration will be calculated.

Staff mortgage offers communicated to employees by employers (article 72D) and third parties (article 72E)

8.14.40AD G Article 72D exempts any *financial promotion* made by an employer to an employee in relation to a *staff mortgage*. This is subject to certain requirements as follows:

- (1) where the provider of the *staff mortgage* is an undertaking in the same group as the employer, the employer must not receive or have received, any direct financial benefit (including any commission, discount, remuneration or reduction in premium) as a result of making the communication; and
- (2) where the communication is a *non-real time financial promotion*, it must contain, or be accompanied by, a statement informing the employee of his right to seek advice from an *authorised person* or an *appointed representative*.

8.14.40AE G Article 72E exempts any *financial promotion* made to an employee by or on behalf of a person (“A”) in relation to a *staff mortgage*. This is subject to certain requirements as follows:

- (1) the employer and A must have entered into a written contract specifying the terms on which the communication may be made;
- (2) in the case of a communication made by a person (“B”) on behalf of A, A and B must also have entered into a written contract specifying the terms on which the communication may be made;
- (3) where the provider of the *staff mortgage* is an undertaking in the same group as the employer, the employer must not receive or have received, any direct financial benefit (including any commission, discount, remuneration or reduction in premium) as a result of the communication being made;
- (4) in the case of a *non-real time communication*, the communication must contain, or be accompanied by, a statement informing the employee of his right to seek advice from an *authorised person* or an *appointed representative*; and
- (5) the employer or A must notify the employee in writing prior to the employee entering into the *staff mortgage* of any remuneration A or B has received, or will receive, as a consequence of the

employee entering into the *staff mortgage*, or the basis on which any such remuneration will be calculated.

8.14.40AF G The exemptions described in PERG 8.14.40AG to PERG 8.14.40AEG should enable employers (and their contracted service providers) to promote employee benefits packages that include any *pension schemes*, *work-related insurance* schemes and *staff mortgages* to employees without undue concern that they may be breaching the restriction in section 21 of the Act. PERG 8.14.34G (Communications by employers and contracted service providers to employees) has further *guidance* about the application of section 21 to employers and contracted service providers generally.

...

8.36.6 G Table Application of Exemptions to Forms of Promotions

Financial Promotion Order		Applies to		
Article No.	Title and PERG 8 reference (where applicable)	Unsolicited real time	Solicited real time	Non-real time (solicited or unsolicited)
72	Pension products offered by employers (8.14.40AG)	*	*	*
<u>72A</u>	<u>Pension product offers communicated to employees by third parties (8.14.40AAG)</u>	<u>*</u>	<u>*</u>	<u>*</u>
<u>72B</u>	<u>Insurance product offers communicated to employees by employers (8.14.40ABG)</u>	<u>*</u>	<u>*</u>	<u>*</u>
<u>72C</u>	<u>Insurance products offers communicated to employees by</u>	<u>*</u>	<u>*</u>	<u>*</u>

...

	<u>third parties</u> (8.14.40ACG)			
<u>72D</u>	<u>Staff mortgage offers communicated to employees by employers</u> (8.14.40ADG)	*	*	*
<u>72E</u>	<u>Staff mortgage offers communicated to employees by third parties</u> (8.14.40AEG)	*	*	*
...				

...

10.5 Employers and affinity groups (such as trade unions)

...

Q48. What are the exemptions that are available to employers?

...

- the employer informs the employee in any written promotion of his right to seek independent financial advice from a regulated person.

Q48A. What are the exemptions that are available to contracted service providers that make financial promotions to employees?

There is a specific exemption for contracted service providers (or *persons* acting on their behalf) that make financial promotions to employees in article 72A of the *Financial Promotion Order*. This applies in circumstances broadly similar to those set out in Q48. Further details of the exemption are set out in *PERG 8.14.40AAG*.

...

10 Annex 5 Table summarising regulatory position concerning financial promotions by trustees, employers and affinity groups.

Person communicating	Subject or purpose of communication	Need for approval or exemption available
...		
Employer,	To persuade employees or	Approval or exemption needed

<p>affinity group or trustee</p>	<p>members to join a stakeholder pension scheme or a <i>group personal pension scheme</i>.</p>	<p>as rights under a stakeholder pension scheme and rights under a group pension scheme are themselves investments.</p> <p>...</p> <p>Employers <u>and contracted service providers</u> may be able to use the specific <u>exemption exemptions</u> for promotions made to employees if the conditions in the exemption exemptions are satisfied (see Q48 <u>and Q48A</u>).</p> <p>...</p>
<p>...</p>		
<p>Employer, affinity group or trustee</p>	<p>To persuade members of a pension scheme to switch funds by reference to which their benefits are calculated.</p>	<p>...</p> <p>Employers <u>and contracted service providers</u> may be able to use the specific <u>exemption exemptions</u> for promotions made to employees where the promotion relates to switching rights under a group personal pension scheme or a stakeholder pension scheme and the other conditions in the <u>exemption exemptions</u> are satisfied (see Q48 <u>and Q48A</u>).</p> <p>...</p>
<p>...</p>		

**CAPITAL REQUIREMENTS DIRECTIVE (LARGE EXPOSURES)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 150(2) (Actions for damages);
 - (3) section 156 (General supplementary powers); and
 - (4) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 31 December 2010.

Amendments to the Handbook

- D. The modules of the Financial Services Authority’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
General Prudential sourcebook (GENPRU)	Annex B
Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)	Annex C

**Amendments to the Capital Requirements Directive (Handbook Amendments)
Instrument 2010 (FSA 2010/29)**

- E. The Supervision manual (SUP) was amended in Annex D to the Capital Requirements Directive (Handbook Amendments) Instrument 2010 (FSA 2010/29). These amendments, which have not come into force as at the date of this instrument, are further amended in accordance with Annex D to this instrument.

Notes

- F. In the Annexes to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- G. This instrument may be cited as the Capital Requirements Directive (Large Exposures) Instrument 2010.

By order of the Board
23 September 2010

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

- | | |
|--|---|
| <p><i>core concentration risk group counterparty</i></p> | <p>(in relation to a <i>firm</i>) a counterparty which is its <i>parent undertaking</i>, its <i>subsidiary undertaking</i> or a <i>subsidiary undertaking</i> of its <i>parent undertaking</i>, provided that (in each case) both the counterparty and the <i>firm</i> are:</p> <ul style="list-style-type: none"> (a) included within the scope of consolidation on a full basis with respect to the same <i>UK consolidation group</i>; and (b) (where relevant) held by one or more intermediate <i>parent undertaking</i> or <i>financial holding company</i>, all of which are incorporated in the <i>United Kingdom</i>. |
| <p><i>core UK group</i></p> | <p>(in relation to a <i>firm</i>) all <i>undertakings</i> which, in relation to the <i>firm</i>, satisfy the conditions set out in <i>BIPRU</i> 3.2.25R (Zero risk-weighting for intra-group exposures: core UK group) and <i>BIPRU</i> 10.8A.2R (Definition of core UK group).</p> |
| <p><i>core UK group waiver</i></p> | <p>a <i>waiver</i> that has the result of requiring a <i>firm</i> to apply:</p> <ul style="list-style-type: none"> (a) (in relation to the <i>credit risk capital requirement</i>) <i>BIPRU</i> 3.2.25R (Zero risk-weighting for intra-group exposures: core UK group), which in summary allows a <i>firm</i> to assign a <i>risk weight</i> of 0% to <i>exposures</i> to members of its <i>core UK group</i> instead of complying with <i>BIPRU</i> 3.2.20R (Calculation of risk-weighted exposure amounts under the standardised approach); or (b) (in relation to <i>large exposures</i>) <i>BIPRU</i> 10.8A (Intra-group exposures: core UK group), which in summary exempts all <i>exposures</i> between members of a <i>core UK group</i> from the limits described in <i>BIPRU</i> 10.5 (Limits on exposures). |
| <p><i>non-core concentration risk group counterparty</i></p> | <p>(in accordance with Article 113(4)(c) of the <i>Banking Consolidation Directive</i>) has the meaning in <i>BIPRU</i> 10.9A.4R (Definition of non-core concentration risk group counterparty), which is in summary (in relation to a <i>firm</i>) each counterparty which is its <i>parent undertaking</i>, its <i>subsidiary undertaking</i> or a <i>subsidiary undertaking</i> of its <i>parent undertaking</i>, provided that (in each case) both the counterparty and the <i>firm</i> satisfy the conditions in <i>BIPRU</i> 10.9A.4R (Definition of</p> |

non-core concentration risk group counterparty).

non-core large exposures group

(in relation to a *firm*) has the meaning in *BIPRU* 10.9A.3R (Definition of non-core large exposures group), which is in summary each *non-core concentration risk group counterparty* that is not a member of the *core UK group* but satisfies all the conditions for membership of the *firm's core UK group* except for *BIPRU* 10.8A.2R(1) (Core concentration risk group counterparty), *BIPRU* 10.8A.2R(5) (Establishment in the United Kingdom) and *BIPRU* 10.8A.5R(2) (Capital maintenance arrangements).

non-core large exposures group waiver

a *waiver* that has the result of requiring a *firm* to apply *BIPRU* 10.9A (Intra-group exposures: non-core large exposures), which in summary exempts partially or fully exposures between members of the *core UK group* and members of the *non-core large exposures group* from the limits described in *BIPRU* 10.5 (Limits on exposures).

sovereign large exposure waiver

a *waiver* that has the result of requiring the *firm* to apply *BIPRU* 10.6.35R, which in summary exempts partially or fully any of the *exposures* listed in *BIPRU* 10.6.36R constituting claims on *central banks* or central governments from the limits in *BIPRU* 10.5 (Limits on exposures).

Amend the following as shown.

capital resources

(1) in relation to a *BIPRU firm* or an *insurer*, the *firm's* capital resources as calculated in accordance with the *capital resources table*, including, in relation to a *BIPRU firm*, as that calculation is adjusted under *BIPRU* 10.5 for the purposes of *BIPRU* 10 (~~Concentration risk~~ Large exposures requirements); or

...

concentration risk capital component

the part of the *credit risk capital requirement* calculated in accordance with *BIPRU* ~~10.5.20R~~ 10.10A.8R (How to calculate the concentration risk capital component).

connected counterparty

(for the purpose of *BIPRU* 10 (~~Concentration risk~~ Large exposures requirements) and in relation to a *firm*) has the meaning set out in *BIPRU* 10.3.8R (Connected counterparties), which is in summary a *person* to whom the *firm* has an *exposure* and who fulfils at least one of the conditions set out in *BIPRU* 10.3.8R.

credit institution

(1) (except in *REC*) (in accordance with articles 4(1) and 107 of the *BCD*):

...

	(d) for the purpose of <i>BIPRU</i> 10 (Concentration risk <u>Large exposures</u> requirements) it means:
	...
	...
<i>exposure</i>	...
	(3) (for the purpose of <i>BIPRU</i> 10 (Concentration risk <u>Large exposures</u> requirements) has the meaning in <i>BIPRU</i> 10.2 (<u>Identification of exposures and recognition of credit risk mitigation</u>).
<i>group of connected clients</i>	(in accordance with Article 4(45) of the <i>Banking Consolidation Directive</i> (Definitions)) one of the following: <ul style="list-style-type: none"> (a) two or more <i>persons</i> who, unless it is shown otherwise, constitute a single risk because one or more of them is the <i>parent undertaking</i>, direct or indirect, of the other or others; or (b) two or more <i>persons</i> between whom there is no relationship as set out in (a) but who are to be regarded as constituting a single risk because they are so interconnected that, if one of them were to experience financial problems, <u>in particular funding or repayment difficulties</u>, the other or all of the others would be likely to encounter <u>funding or repayment difficulties</u>.
<i>individual CNCOM</i>	the amount calculated with respect to an individual <i>exposure</i> under <i>BIPRU</i> 4.5.20R <u>10.10A.8R</u> (How to calculate the concentration risk capital component).
<i>individual counterparty CNCOM</i>	has the meaning in <i>BIPRU</i> 4.5.20R <u>10.10A.8R</u> (How to calculate the concentration risk capital component), which is in summary the sum of a <i>firm's individual CNCOMs</i> with respect to a counterparty or group of connected clients or to its connected counterparties .
<i>option</i>	... <p>but so that for the purposes of calculating capital requirements for <i>BIPRU firms</i> and <i>BIPRU</i> 10 (Concentration risk <u>Large exposures</u> requirements) it also includes any of the items listed in the table in <i>BIPRU</i> 7.6.18R (Option PRR: methods for different types of option) and any cash settled option.</p>
<i>parent undertaking</i>	(1) (in accordance with section 420 of the <i>Act</i> (Parent and subsidiary undertaking) and section 1162 of the Companies Act 2006 (Parent and subsidiary undertakings)):

	...	
		(c) (for the purposes of <i>BIPRU</i> , <i>GENPRU</i> and <i>INSPRU</i> as they apply on a consolidated basis, for the purposes <i>BIPRU</i> 10 (Concentration risk <u>Large exposures</u> requirements) and ...
	...	
<i>solo capital resources</i>	(1)	...
	(2)	for the purpose of <i>BIPRU</i> 10 (Concentration risk <u>Large exposures</u> requirements) the definition in (1) is adjusted in accordance with <i>BIPRU</i> 10.8.13R <u>10.8A.10R</u> (Calculation of capital resources for a UK integrated group <u>core UK group</u>) so that it means <i>capital resources</i> calculated in accordance with the <i>rules</i> applicable to the category of <i>BIPRU firm</i> identified by applying the procedure in <i>BIPRU</i> 8.6.6R to <i>BIPRU</i> 8.6.9R (Consolidated capital resources).
<i>standardised approach</i>		one of the following:
	...	
	(c)	(where not expressed to relate to any risk and used in <i>BIPRU</i> 3, <i>BIPRU</i> 4 (IRB approach), <i>BIPRU</i> 5 (Credit risk mitigation), <i>BIPRU</i> 9 (Securitisation) or <i>BIPRU</i> 10 (Concentration risk <u>Large exposures</u> requirements)) it has the meaning in (a);
	...	
<i>trading book concentration risk excess</i>		has the meaning in <i>BIPRU</i> 10.5.20R <u>10.10A.8R</u> (How to calculate the concentration risk capital component).

Delete the following definitions. The deleted text is not shown.

concentration risk group counterparty

consolidation concentration risk group counterparty

counterparty exposure

diverse block

issuer exposure

residual block

UK integrated group

wider integrated group

wider integrated group waiver

Annex B

Amendments to the General Prudential sourcebook (GENPRU)

In this section, underlining indicates new text and striking through indicates deleted text.

1 Application

...

1.2 Adequacy of financial resources

...

Outline of other related provisions

...

1.2.24 G ~~BIPRU 10.6.22R~~ 10.2.22R (Stress testing of credit risk concentrations) sets out further stress tests that a *firm* should carry out if it uses certain approaches to collateral for the purposes of the rules about ~~concentration risk~~ large exposures.

...

1.2.33 R (1) ...

(2) In the case of a *BIPRU firm* the processes, strategies and systems relating to concentration risk must include those necessary to ensure compliance with *BIPRU 10* (~~Concentration risk~~ Large exposures requirements).

...

...

2 Capital

...

2.2 Capital resources

...

2.2.226 G *BIPRU 10.3.13G* (Guidance on ~~*BIPRU 10.3.12R*~~ exposures to trustees) applies to *GENPRU 2.2.225R* as it applies to ~~*BIPRU 10.3.12R*~~ (~~Exposures to trustees for concentration risk purposes~~).

...

3 Cross sector groups

3.1 Application

...

Risk concentration and intra-group transactions: Table of applicable sectoral rules

3.1.36 R Table: application of sectoral rules

This table belongs to *GENPRU 3.1.35R*

The most important financial sector	Applicable sectoral rules	
	Risk concentration	Intra-group transactions
<i>Banking and investment services sector</i>	<i>BIPRU 8.9</i> <u><i>8.9A</i></u> (Consolidated concentration risk <u>large exposure</u> requirements) including <i>BIPRU TP</i> as it applies to a <i>UK consolidation group</i> .	<i>BIPRU 10 (Concentration Risk Large exposures requirements)</i> including <i>BIPRU TP</i> as it applies on a solo basis and relates to <i>BIPRU 10</i> .
...		

...

3.1.38 R (1) This rule applies for the purposes of the definitions of:

- (a) a core concentration risk group *counterparty*; and
- (b) a ~~consolidated~~ non-core concentration risk group *counterparty*;

as they apply for the purposes of the rules for the *banking and investment services sector* as applied by *GENPRU 3.1.36R*.

- (2) For the purpose of ~~*BIPRU 3.2.27R(1)(a) and (b)*~~ *10.9A.4R(1) and (2)* (as they apply to the ~~definition~~ definitions in *GENPRU 3.1.38R(1)(a)*), the conditions are also satisfied if the *counterparty* and the *firm* are included within the scope of consolidated supervision on a full basis with respect to the same *financial conglomerate* under *GENPRU 3.1* or the relevant implementation measures in another *EEA State* for the *Financial Groups Directive*.
- (3) ~~Subject to (4), for the purposes of *BIPRU 8.9.11R(3)* (as it applies to the definition in *GENPRU 3.1.38(1)(b)*), the conditions are also satisfied if the *counterparty* and the *firm* are included within the scope of consolidated supervision on a full basis with respect to the same *financial conglomerate* under *GENPRU 3.1* or the relevant~~

~~implementation measures in another EEA State for the *Financial Groups Directive*. [deleted]~~

- (4) ~~*BIPRU* 8.9.11R(3)(a) does not apply. [deleted]~~

Annex C

Amendments to the Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)

In this section, underlining indicates new text and striking through indicates deleted text, unless otherwise indicated.

1 Application

1.1 Application

...

1.1.23 R (1) ...

(2) In accordance with ~~Article~~ article 5(2) of the *Capital Adequacy Directive* (Definition of dealing on own account), a *CAD investment firm* that executes investors' orders for *financial instruments* and holds such *financial instruments* for its own account does not for that reason *deal on its own account* if the following conditions are met:

...

(c) (in the case of a *BIPRU investment firm*) it complies with the *main BIPRU firm Pillar 1 rules* and *BIPRU 10* (~~Concentration risk~~ Large exposures requirements);

...

...

1.3 Application for advanced approaches and waivers

...

1.3.2 G ...

(2) A *firm* should apply for a *waiver* if it wants to:

(a) ... ; or

(b) ... ; or

(c) ... ; or

(d) apply the treatment in *BIPRU 2.1* (Solo-consolidation waiver); or

(da) apply the treatment for a *core UK group* in *BIPRU 3.2.25R* (*Zero risk-weighting for intra-group exposures*) or in *BIPRU*

10.8A (Intra-group exposures: core UK group); or

- (e) apply the treatment for a non-core large exposures group in BIPRU 10.9 10.9A (Wider integrated groups Intra-group exposures: non-core large exposures group); or
- (f) apply the treatment in BIPRU 10.6.35R (Sovereign large exposure waiver).

...

2 Capital

2.1 Solo consolidation

...

- 2.1.7 R A *firm* that has a *solo consolidation waiver* must incorporate in the calculation of its requirements under the *main BIPRU firm Pillar 1 rules* and *BIPRU 10 (Concentration risk requirement Large exposure requirements)* each *subsidiary undertaking* to which the *solo consolidation waiver* applies. This does not apply to the *base capital resources requirement*.

...

- 2.1.16 R A *firm* must apply *BIPRU 10 (Concentration risk requirement Large exposure requirements)* in accordance with *BIPRU 8.9 8.9A (Consolidated concentration risk large exposures requirements)*. Accordingly the *firm* must apply *BIPRU 8.9 8.9A* to the group made up of the *firm* and the *subsidiary undertakings* referred to in *BIPRU 2.1.7R* in the same way as *BIPRU 8.9 8.9A* applies to a *UK consolidation group* or *non-EEA sub-group*.

- 2.1.17 G One effect of *BIPRU 2.1.16R* is that *BIPRU 10.8 10.8A (UK integrated groups Core UK groups)* and *BIPRU 10.9 10.9A (Wider integrated groups Non-core large exposures groups)* do not apply. The corresponding provisions of *BIPRU 8.9 8.9A (Consolidated concentration risk large exposures requirements)* apply instead.

...

2.2 Internal capital adequacy standards

...

- 2.2.54 G In relation to the *BIPRU 10 (Concentration risk Large exposures requirements)*, a *bank* or *building society* should take into account factors such as future business growth and cyclicity when it assesses the amount of capital which it will need to remain in compliance with those *rules*. A *firm* may also consider in its assessment whether any *large exposures* that it has identified are positively correlated.

...

3 Standardised credit risk

...

3.2 The central principles of the standardised approach to credit risk

...

Zero risk-weighting for intra-group exposures: core UK group

- 3.2.25 R (1) Subject to *BIPRU* 3.2.35R, with the exception of *exposures* giving rise to liabilities in the form of the items referred to in *BIPRU* 3.3.26R, a *firm* is not required to comply with *BIPRU* 3.2.20R (Calculation of risk-weighted exposure amounts under the standardised approach) in the case of the *exposures* of the *firm* to a counterparty which is its *parent undertaking*, its *subsidiary undertaking* or a *subsidiary undertaking* of its *parent undertaking* ~~or to which the *firm* is linked by a *consolidation Article 12(1) relationship*~~ provided that the following conditions are met:
- (a) the counterparty is:
 - (i) ~~an *institution* whose head office is in an *EEA State*; or a *core concentration risk group counterparty*; and~~
 - (ii) an *institution* ~~not within (a)(i)~~, *financial holding company*, *financial institution*, *asset management company* or *ancillary services undertaking* subject to appropriate prudential requirements;
 - (b) ~~the condition in *BIPRU* 3.2.27R is satisfied; [deleted]~~
 - (ba) (in relation to a *subsidiary undertaking*) 100% of the voting rights attaching to the *shares* in the counterparty's capital is held by the *firm* or a *financial holding company* (or a *subsidiary undertaking* of the *financial holding company*), whether individually or jointly, and that the *firm* or *financial holding company* (or its *subsidiary undertaking*) must have the right to appoint or remove a majority of the members of the board of *directors*, committee of management or other governing body of the counterparty;
 - (c) the counterparty is subject to the same risk evaluation, measurement and control procedures as the *firm*;
 - (d) the counterparty is ~~established in the *United Kingdom* and either it is incorporated in the *United Kingdom* or (if that counterparty is of a type that falls within the scope of that Regulation) the centre of its main interests is situated within the *United Kingdom* within the meaning of the Council Regulation of 29 May 2000 on insolvency proceedings~~

~~(Regulation 1346/2000/EC); and~~

- (e) there is no current or foreseen material practical or legal impediment to the prompt transfer of *capital resources* or repayment of liabilities from the counterparty to the *firm*.
- (2) Where a *firm* chooses under (1) not to apply *BIPRU* 3.2.20R, it must assign a *risk weight* of 0% to the *exposure*.
- (3) A *firm* need not apply the treatment in (1) and (2) to every *exposure* that is eligible for that treatment.

[~~Note: BCD Article 80(7), part~~]

3.2.25A G (1) *Firms* are referred to *BIPRU* 10.8A (Intra-group exposures: core UK group) under which *exposures* within the *core UK group* are exempt from the limits described in *BIPRU* 10.5 (Limits on exposures) if they would be assigned a *risk weight* of 0% under *BIPRU* 3.2.25R.

(2) Therefore, a *firm* that is applying for a *core UK group waiver* should demonstrate that it meets the conditions in *BIPRU* 3.2.25R and *BIPRU* 10.8A for establishing a *core UK group*. A *firm* that is granted a *core UK group waiver* may rely on it for the purpose of assigning a *risk weight* of 0% to *exposures* within its *core UK group* and for the purpose of exempting the *exposures* within the *core UK group* from the 25% large exposure limit.

...

3.2.27 R (1) ~~The condition referred to in *BIPRU* 3.2.25R(1)(b) is that both the counterparty and the *firm* are:~~

- ~~(a) included within the scope of consolidation on a full basis with respect to the same *UK consolidation group* and *BIPRU* 8.3.1R applies to the *firm* with respect to that *UK consolidation group*; or~~
- ~~(b) included within the scope of consolidation on a full basis with respect to the same *group* by a *competent authority* of an *EEA State* other than the *United Kingdom* under the *CRD implementation measures* about consolidated supervision for that *EEA State*; or~~
- ~~(c) (provided that this consolidation is carried out to standards equivalent to those in (a) and (b)) included within the scope of consolidation on a full basis with respect to the same *group* by a *third country competent authority* under prudential rules for the *banking sector* or *investment services sector* or administered by that *third country competent authority*. [deleted]~~

- (2) ~~A group is subject to consolidation to equivalent standards for the purpose of (1)(c) only of the *firm* or another *EEA firm* in that group has been notified in writing by the *FSA* or a *competent authority* of another *EEA State* pursuant to Article 143 of the *Banking Consolidation Directive* that the group is subject to equivalent supervision.~~

~~[Note: BCD Article 80(7), part] [deleted]~~

3.2.27A R (1) For the purpose of BIPRU 3.2.25R(1)(e), a firm must be able on an ongoing basis to demonstrate fully to the FSA the circumstances and arrangements, including legal arrangements, by virtue of which there are no material practical or legal impediments, and none are foreseen, to the prompt transfer of capital resources or repayment of liabilities from the counterparty to the firm.

- (2) In relation to a counterparty that is not a firm, the arrangements referred to in (1) must include a legally binding agreement with each firm that is a member of the core UK group that it will promptly on demand by the firm increase the firm's capital resources by an amount required to ensure that the firm complies with GENPRU 2.1 (Calculation of capital resources requirements), BIPRU 10 (Large exposures) and any other requirements relating to capital resources or concentration risk imposed on a firm by or under the regulatory system.

...

3.2.29 G ~~An~~ In relation to a core concentration risk group counterparty, an undertaking is included within the scope of consolidation of a group on a full basis as referred to in BIPRU 3.2.27R(1) if it is at the head of the group or if its assets and liabilities are taken into account in full as referred to in BIPRU 8.5.2G (Basis of inclusion of undertakings in consolidation).

3.2.29A G (1) In relation to BIPRU 3.2.25R(1)(ba), a subsidiary undertaking should generally be 100% owned and controlled by a single shareholder. However, if a subsidiary undertaking has more than one shareholder, that undertaking may be a member of the core UK group if all its shareholders are also members of the same core UK group.

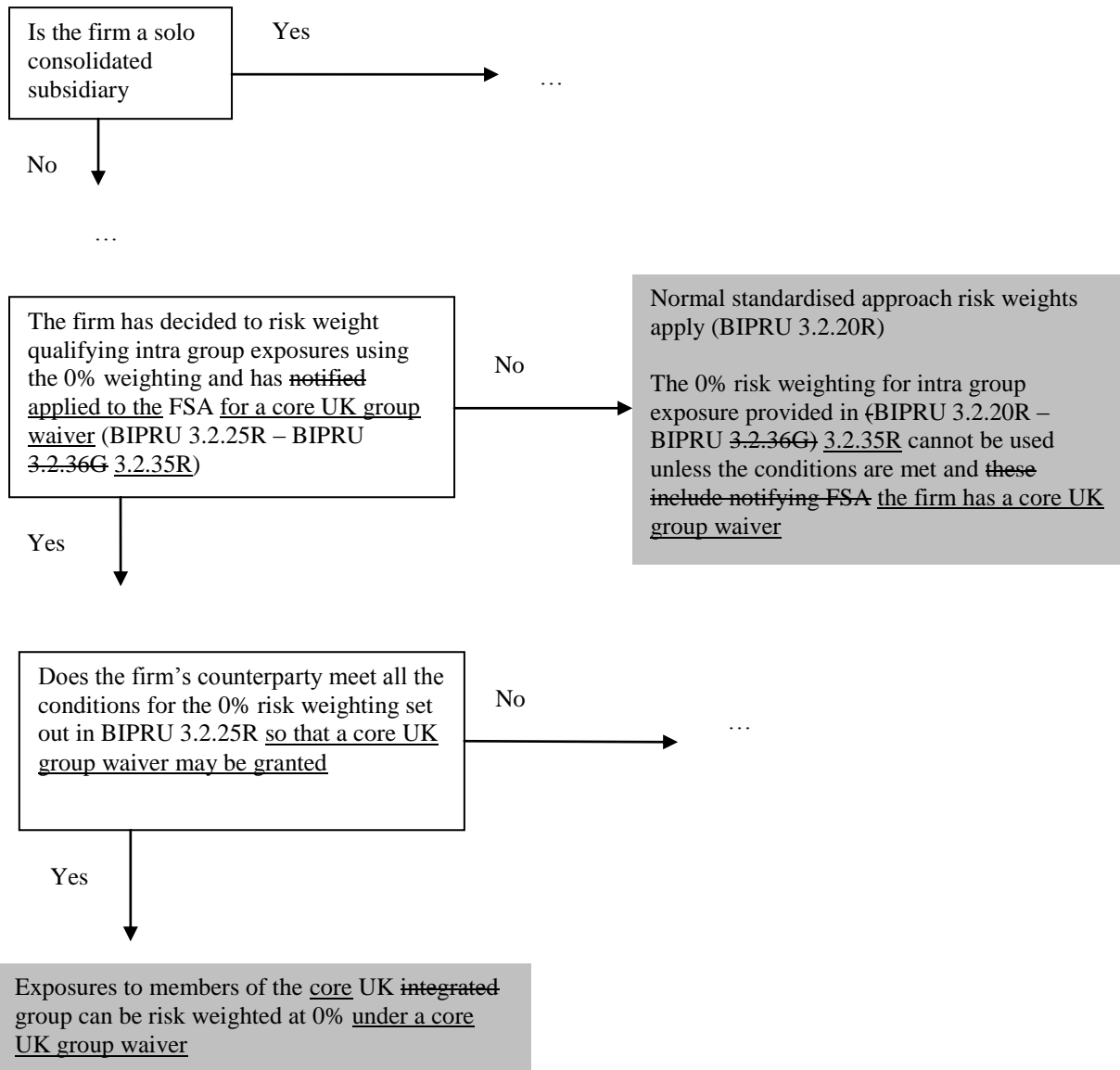
- (2) For the purpose of BIPRU 3.2.25R(1)(d) (Incorporation in the UK), if a counterparty is of a type that falls within the scope of the Council Regulation of 29 May 2000 on insolvency proceedings (Regulation 1346/2000/EC) and it is established in the United Kingdom other than by incorporation, a firm wishing to include that counterparty in its core UK group may apply to the FSA for a waiver of this condition if it can demonstrate fully to the FSA that the counterparty's centre of main interests is situated in the United Kingdom within the meaning of that Regulation.

- 3.2.30 G For the purpose of BIPRU 3.2.25R(1)(e) (Prompt transfer of capital resources):
- (1) ~~In~~ in the case of an *undertaking* that is a *firm* the requirement in BIPRU 3.2.25R(1)(e) for the prompt transfer of *capital resources* refers to *capital resources* in excess of the capital and financial resources requirements to which it is subject under the *regulatory system*; and
 - (2) the following guidance relating to the condition in BIPRU 10.8A.2R(6) requiring the prompt transfer of *capital resources* within a *core UK group* as applicable for the exemption from *large exposure* limits is also relevant:
 - (a) BIPRU 10.8A.6G in respect of the criteria that the FSA will consider when assessing whether the condition requiring the prompt transfer of *capital resources* is going to be met; and
 - (b) BIPRU 10.8A.7G(2) in respect of the counterparty's obligation to increase the *firm's capital resources* and the limitations that may be permitted.
- ...
- 3.2.35 R (1) A *firm* may not apply BIPRU 3.2.25R unless it has ~~given one month's~~ prior notice to the FSA that it intends ~~do so~~ a *core UK group waiver*.
- (2) ~~A *firm* need only give the FSA the notice required in (1) once rather than with respect to each exposure.~~ [deleted]
- (3) A *firm* may stop applying BIPRU 3.2.25R or may stop applying it to some *exposures*.
- (4) ~~If a *firm* stops applying BIPRU 3.2.25R it may start to apply it again if it notifies the FSA under (1) that it intends do so.~~ [deleted]
- (5) A *firm* must notify the FSA if it becomes aware that any *exposure* that it has treated as exempt under BIPRU 3.2.25R has ceased to meet the conditions for exemption or if the *firm* ceases to treat an *exposure* under that *rule*.
- 3.2.36 G ~~The FSA may discuss with a *firm* that makes the notification required in BIPRU 3.2.25R(1) the reasons why the *firm* believes it meets the conditions in BIPRU 3.2.25R(1).~~ [deleted]
- ...

3 Annex 1G Guidance on the standardised approach zero risk weighting for intra-group exposures

This flow chart belongs to *BIPRU 3.2.25R – BIPRU 3.2.35R*

Flowchart – zero risk weighting for intra-group exposures



4 The IRB approach

4.1 The IRB approach: Application, purpose and overview

...

Link to standard rules: Incorporation of the IRB output into the capital calculation

...

- 4.1.23 R If a provision of the *Handbook* relating to the *IRB approach* says that a *firm* may do something if its *IRB permission* allows it, a *firm* may do that thing unless its *IRB permission* expressly says that it may not do so except that:

...

- (4) if a *firm* uses its own estimates of *LGD* and *conversion factors* it may only recognise the effects of financial collateral under *BIPRU 10.6.17R 10.2.19R (Exemptions for firms Firms using own estimates of LGD and conversion factors under the IRB approach)* in the manner set out in its *IRB permission*;

...

...

4.2 The IRB approach: High level material

...

- 4.2.34 G (1) ...
- (2) *Exposures* excluded under (1) will be eligible for a 0% *risk weight* under the *standardised approach* if they satisfy the conditions in *BIPRU 3.2.25R to BIPRU 3.2.27R 3.2.27AR (Zero risk weight for certain intra-group exposures)*.

...

...

8 Group risk consolidation

...

8.2 Scope and basic consolidation requirements for UK consolidation groups

Main consolidation rule for UK consolidation groups

- 8.2.1 R A *firm* that is a member of a *UK consolidation group* must comply, to the extent and in the manner prescribed in *BIPRU 8.5*, with the obligations laid

down in *GENPRU* 1.2 (Adequacy of financial resources), the *main BIPRU firm Pillar 1 rules* (but not the *base capital resources requirement*) and *BIPRU* 10 (~~Concentration risk~~ Large exposures requirements) on the basis of the consolidated financial position of:

...

...

8.3 Scope and basic consolidation requirements for non-EEA sub-groups

Main consolidation rule for non-EEA sub-groups

- 8.3.1 R (1) A *BIPRU firm* that is a *subsidiary undertaking* of a *BIPRU firm* or of a *financial holding company* must apply the requirements laid down in *GENPRU* 1.2 (Adequacy of financial resources), the *main BIPRU firm Pillar 1 rules* (but not the *base capital resources requirement*) and *BIPRU* 10 (~~Concentration risk~~ Large exposures requirements) on a sub-consolidated basis if the *BIPRU firm*, or the *parent undertaking* where it is a *financial holding company*, have a *third country banking or investment services undertaking* as a *subsidiary undertaking* or hold a *participation* in such an *undertaking*.

...

...

8.5 Basis of consolidation

...

Basis of inclusion of UCITS investment firms in consolidation

- 8.5.7 R *GENPRU* 2.1.46R (Adjustment of the variable capital requirement calculation for UCITS investment firms) and ~~*BIPRU* 10.1.5R (Restricted application for UCITS investment firms)~~ do does not apply for the purpose of this chapter.

...

8.7 Consolidated capital resources requirements

...

Special rules for the consolidated credit risk requirement

...

- 8.7.18 G The *credit risk capital requirement* (on which the *consolidated credit risk requirement* is based) is split into three capital charges. One relates to credit risk in the *non-trading book* (the *credit risk capital component*). One relates to credit risk in the *trading book* (the *counterparty risk capital component*).

The third is a capital charge for *exposures* in the *trading book* that exceed the limits in *BIPRU 10.5 (Limits on exposures and large exposures)*. This is called the *concentration risk capital component*. ~~*BIPRU 8.9 (Consolidated concentration risk requirements)* explains how to calculate the part of the *consolidated credit risk requirement* that corresponds to the *concentration risk capital component*.~~

8.7.19 G ~~In particular *BIPRU 8.9 (Consolidated concentration risk requirements)* says that a *firm* should calculate the part of the *consolidated credit risk requirement* that corresponds to the *concentration risk capital component* on an accounting consolidation basis. This means using method two in *BIPRU 8.7.13R*. [deleted]~~

...

8.7.25 R A *firm* may not apply the second method in *BIPRU 8.7.13R(3)* (accounting consolidation for the whole group) or apply accounting consolidation to parts of its *UK consolidation group* or *non-EEA sub-group* under method three as described in *BIPRU 8.7.13R(4)(a)* for the purposes of the calculation of the *consolidated market risk requirement* unless the group or sub-group and the *undertakings* in that group or sub-group satisfy the conditions in this *rule*. Instead the *firm* must use the aggregation approach described in *BIPRU 8.7.13R(2)* (method one) or *BIPRU 8.7.13R(4)(a)*. Those conditions are as follows:

...

(2) each of the *undertakings* referred to in (1) that is a *BIPRU firm* has *capital resources* that are equal to or in excess of its *capital resources requirement* and complies with *BIPRU 10 (Concentration risk Large exposures requirements)*;

...

...

BIPRU 8.9 is deleted in its entirety. The deleted text is not shown.

8.9 Consolidated concentration risk requirements [deleted]

After *BIPRU 8.9* [deleted] insert the following new section. The new text is not underlined.

8.9A Consolidated large exposure requirements

Integrated groups: core UK group and non-core large exposures group

8.9A.1 R (1) *BIPRU 10 (Large exposures)* applies to a *firm's UK consolidation group* or (subject to (2)) *non-EEA sub-group* as if it were a single *undertaking*.

- (2) A firm may exempt the *exposures* of its *non-EEA sub-group* to its *core concentration risk group counterparty* or *non-core concentration risk group counterparty* from the limits in *BIPRU 10.5* (Limits on exposures) that apply to the *non-EEA sub-group* on a sub-consolidated basis.
- 8.9A.2 G The effect of *BIPRU 8.9A.1R(2)* is that there is no limit on a sub-consolidated basis for *exposures* of a *firm's non-EEA sub-group* to its *core concentration risk group counterparty* or *non-core concentration risk group counterparty*. This is because those *exposures* are included in the *large exposure* limits that apply to the *firm's UK consolidation group*.
- 8.9A.3 R In relation to a *firm*, intra-group *exposures* that are exempt under a *non-core large exposures group waiver* may be excluded when calculating the limits in *BIPRU 10.5* (Limits on exposures) that apply to the *UK consolidation group* or *non-EEA sub-group*, provided that the total amount of such *exposures* and the other *exposures* which are exempt under a *non-core large exposures group waiver* do not exceed the limit in *BIPRU 10.9A.7R* (Non-trading book backstop large exposure limit for non-core large exposures group).

...

Amend the following as shown.

10 ~~Concentration risk~~ Large exposures requirements

10.1 Application and purpose

Application

- 10.1.1 R (1) This chapter applies to a *BIPRU firm* unless it is:
- (a) a *BIPRU limited licence firm*; or
- (b) a *BIPRU limited activity firm*.
- (2) It applies irrespective of whether the *firm* adopts the *standardised approach* or the *IRB approach*. If it adopts the *IRB approach*, it applies irrespective of whether the *firm* adopts the *foundation IRB approach* or the *advanced IRB approach*.

[Note: BCD Article 111(1) (part) and CAD Article 28(1)]

...

~~Restricted application for UCITS investment firms~~

- 10.1.5 R ~~This chapter only applies to a *UCITS investment firm* with respect to its *designated investment business*. For this purpose *scheme management*~~

~~activity is excluded from designated investment business.~~ [deleted]

10.2 Identification of exposures and recognition of credit risk mitigation

10.2.1 R Unless *BIPRU* 10.2.2R applies, an *exposure* is:

(1) any of the items included in *BIPRU* 3.2.9R (Exposure classes for the purposes of the *standardised approach*) or the table in *BIPRU* 3.7.2R (Classification of off-balance-sheet items for the purposes of the *standardised approach*), whether held in the *trading book* or the *non-trading book*, without application of the *risk weight* or degrees of risk there provided for;

[Note: BCD Article 106(1) first paragraph]

(2) any exposure arising from financial derivative instruments;

[Note: BCD Article 106(1) second paragraph (part)]

(3) any exposure to an individual counterparty that arises in the trading book calculated by summing the following items:

(a) the excess – where positive – of the firm's long positions over its short positions in all the CRD financial instruments issued by the counterparty in question, the net position of each of the different CRD financial instruments being calculated in accordance with the relevant method in BIPRU 7;

(b) the firm's net underwriting exposure to that counterparty; and

(c) any exposure due to the transactions, agreements and contracts referred to in BIPRU 14.2.2R (List of trading book exposures that give rise to a counterparty credit risk charge).

[Note: CAD Article 29(1) first paragraph]

10.2.2 R An *exposure* does not include:

(1) an *exposure* which is entirely deducted from a firm's capital resources; or

(2) in the case of *foreign currency* transactions, *exposures* incurred in the ordinary course of settlement during the ~~48 hours~~ two business days following payment; or

(3) in the case of transactions for the purchase or sale of *securities*, *exposures* incurred in the ordinary course of settlement during the five ~~working days~~ business days following payment or delivery of

the *securities*, whichever is the earlier; or

- (4) in the case of the provision of money transmission including the execution of payment services, clearing and settlement in any currency and correspondent banking or financial instruments clearing, settlement and custody services to clients, delayed receipts in funding and other *exposures* arising from client activity which do not last longer than the following *business day*; or
- (5) in the case of the provision of money transmission including the execution of payment services, clearing and settlement in any currency and correspondent banking, intra-day *exposures* to institutions providing those services.

[**Note:** *BCD* Articles 106(1) third paragraph and 106(2)]

- 10.2.3 G ~~An *exposure* does not include:~~
- (1) ~~a transaction entered into by a *firm* as trustee or agent without personal liability on the part of the *firm*;~~
- (2) ~~indemnities for lost share certificates; or~~
- (3) ~~(where the *firm* acts as lessor, mortgagee or owner of goods under a hire purchase arrangement) contingent liabilities for injuries, damage or loss on the part of the *counterparty* to that arrangement in respect of the goods that are the subject of that arrangement. [deleted]~~
- 10.2.3A G (1) An *exposure* does not include *exposures* outstanding with a *central counterparty* to which a *firm* has attributed an *exposure* value of zero for *CCR* in accordance with *BIPRU* 13.3.13R (Exposures to a central counterparty).
- (2) *BIPRU* 13.3.13R applies to derivative contracts and *long settlement transactions*, or to other *exposures* arising in respect of those contracts or transactions (but excluding an *exposure* arising from collateral held to mitigate losses in the event of default of other participants in the *central counterparty's* arrangements).
- 10.2.4 G ~~If a *firm* takes a credit charge against an *exposure* equal to the value of that *exposure*, this can count as a capital deduction for the purposes of *BIPRU* 10.2.2R(1). [deleted]~~

Calculation of exposures

- 10.2.5 R Subject to *BIPRU* 10.2.6R and *BIPRU* 10.2.7R, the value of a *firm's* *exposures*, whether in its *non-trading book* or its *trading book*, is the amount at risk calculated in line with *GENPRU* 1.3 (Valuation).
- 10.2.6 R A *firm* must calculate the value of its *exposures* in its *trading book* in the manner laid down in *BIPRU* 14 (Capital requirements for settlement and counterparty risk) for the calculation of *exposure* values. For these purposes

the reference in BIPRU 14.2.11R (How to calculate exposure values and risk weighted exposure amounts for the purpose of calculating the counterparty risk capital component) to the provisions of the IRB approach does not apply.

[Note: CAD Article 29(1)(c) (part) and fourth paragraph]

- 10.2.7 R Exposures arising from financial derivative instruments must be calculated in accordance with one of the methods set out in BIPRU 13 (Financial derivatives, SFTs and long settlement transactions). For the purposes of this chapter, BIPRU 13.6.6R (Scope of CCR internal model method) also applies.

[Note: BCD Article 106(1) second paragraph]

- 10.2.8 R A firm must not offset exposures in the non-trading book and trading book for the purpose of calculating exposures except to the extent permitted under the standardised approach or, if applicable, the IRB approach.

Recognition of credit risk mitigation

- 10.2.9 R Subject to this section, funded credit protection or unfunded credit protection that complies with the eligibility requirements and other minimum requirements set out in BIPRU 5 (Credit risk mitigation) and, if relevant, BIPRU 4.10 (The IRB approach: Credit risk mitigation) is permitted to be recognised for the purposes of calculating a firm's exposure. A firm utilising the methods below must still report to the FSA the gross value of its exposures.

[Note: BCD Articles 111(1) first paragraph (part) and 112(2)]

- 10.2.10 R For the purposes of this section, the use of own estimates for LGDs and conversion factors under the IRB approach for an IRB exposure class is referred to as the "full IRB approach".

The financial collateral simple method under the standardised approach

- 10.2.11 G As indicated in BIPRU 5.4.15R (The financial collateral simple method), the financial collateral simple method is available only to firms using the standardised approach and only in relation to exposures for which they adopt the standardised approach.

- 10.2.12 R A firm may only recognise collateral for the purpose of BIPRU 10.2.9R (Recognition of credit risk mitigation) if the collateral complies with the eligibility requirements and other minimum requirements set out in BIPRU 5 (Credit risk mitigation) for the purposes of calculating the risk weighted exposure amounts under the standardised approach using the financial collateral simple method or, if applicable, the method in BIPRU 5.5 (Other funded credit risk mitigation). In particular a firm may not recognise collateral for that purpose if it is not eligible under the financial collateral simple method or other applicable method.

[Note: BCD Article 112(2) (part)]

- 10.2.13 G For the purpose of *BIPRU 10.2.9R* (Recognition of credit risk mitigation):
- (1) the requirements set out in *BIPRU 5* (Credit risk mitigation) include:
- (a) the *securities* used as collateral should be valued at market price and should be either traded or effectively negotiable and regularly quoted on a *recognised investment exchange* or a *designated investment exchange*; and
- (2) where there is a mismatch between the maturity of the *exposure* and the maturity of the credit protection, the collateral must not be recognised; and
- (2) where the issuer of *securities* used as collateral is an *institution*, that collateral may not constitute the *institution's capital resources*.

The financial collateral comprehensive method

- 10.2.14 R A *firm* which uses the *financial collateral comprehensive method* (but not under the full IRB approach (see *BIPRU 10.2.10R*)) may calculate the value of its *exposures* to a *counterparty* or to a *group of connected clients* or to *connected counterparties* as being the fully-adjusted value of the *exposures* to the *counterparty* or *group of connected clients* or *connected counterparties* calculated in accordance with the *financial collateral comprehensive method* under *BIPRU 5* (Credit risk mitigation) and, if relevant, *BIPRU 4.10* (The IRB approach: Credit risk mitigation) taking into account the *credit risk mitigation*, volatility adjustments and any maturity mismatch (E*) in accordance with those *rules*.

[Note: BCD Article 114(1) first paragraph]

- 10.2.15 G The *rules* setting out the calculation of the effects of *credit risk mitigation* under the *financial collateral comprehensive method* are set out in *BIPRU 5.4.24R* to *BIPRU 5.4.66R*.
- 10.2.16 R For the purposes of *BIPRU 10.2.9R* (Recognition of credit risk mitigation), a *firm* may use both the *financial collateral comprehensive method* and the *financial collateral simple method* where it is permitted to use both those methods under *BIPRU 5.4.16R*.

[Note: BCD Article 117(1) last paragraph]

- 10.2.17 G As indicated in *BIPRU 5.4.16R*, a *firm* may be permitted to use both the *financial collateral comprehensive method* and the *financial collateral simple method* when such use is for the purposes of carrying out the sequential implementation of its *IRB approach* in accordance with *BIPRU 4.2.17R* to *BIPRU 4.2.19R* (Implementation of the internal ratings based approach) and in relation to an *IRB exposure class* or *exposures* which is exempt from the *IRB approach* in accordance with *BIPRU 4.2.26R* (Combined use of

methodologies), and such use is expressly permitted by the *firm's IRB permission*.

- 10.2.18 R A firm may only recognise collateral for the purpose of BIPRU 10.2.14R (Financial collateral comprehensive method) if the collateral complies with the eligibility requirements and other minimum requirements set out in BIPRU 5 (Credit risk mitigation) and, if relevant, BIPRU 4.10 (The IRB approach: Credit risk mitigation) for the purposes of calculating risk weighted exposure amounts under the standardised approach or, if applicable, the IRB approach using the financial collateral comprehensive method. In particular a firm may not recognise collateral for that purpose if it is not eligible under the financial collateral comprehensive method.

Firms using full IRB approach

- 10.2.19 R A firm that uses the full IRB approach (see BIPRU 10.2.10R) may recognise the effects described in (1) in calculating the value of its exposures to a counterparty or to a group of connected clients or to connected counterparties for the purposes of BIPRU 10.5 (Limits on exposures) if:

- (1) the firm is able to satisfy the FSA that it can estimate the effects of financial collateral on its exposures separately from other LGD-relevant aspects;
- (2) the firm is able to demonstrate the suitability of the estimates produced; and
- (3) the firm's IRB permission specifically allows it (also see BIPRU 4.1.23R(4)).

[Note: BCD Article 114(2) first and second paragraphs]

- 10.2.20 R If a firm that uses the full IRB approach (see BIPRU 10.2.10R) uses its own estimates of the effects of financial collateral on its exposures for large exposures purposes, it must do so on a consistent basis and on a basis consistent with the approach adopted in the calculation of capital requirements. A firm may only use one of BIPRU 10.2.14R (Financial collateral comprehensive method under standardised approach and IRB approach) and BIPRU 10.2.19R (Own estimates of effects of financial collateral).

[Note: BCD Article 114(2) third and fourth paragraphs]

- 10.2.21 R If a firm relies on BIPRU 10.2.19R (Own estimates of effects of financial collateral) the recognition of credit protection is subject to the relevant requirements of the IRB approach.

[Note: BCD Article 112(3)]

Stress testing of credit risk concentrations

- 10.2.22 R (1) A firm which:
- (a) uses the *financial collateral comprehensive method*; or
 - (b) calculates the value of its *exposures* in accordance with *BIPRU 10.2.19R* (Own estimates of effects of financial collateral);
- must conduct periodic stress tests of its credit risk concentrations including in relation to the realisable value of any collateral taken.
- (2) The stress tests required by this *rule* must address:
- (a) risks arising from potential changes in market conditions that could adversely impact the *firm's* adequacy of *capital resources*; and
 - (b) risks arising from the realisation of collateral in stressed situations.
- (3) A firm must be able to satisfy the *FSA* that the stress tests it carries out under this *rule* are adequate and appropriate for the assessment of such risks.
- (4) In the event that a stress test carried out in accordance with this *rule* indicates a lower realisable value of collateral taken than would be permitted to be taken into account under *BIPRU 10.2.14R* (Financial collateral comprehensive method) or *BIPRU 10.2.19R* (Own estimates of effect of financial collateral) as appropriate, the value of collateral permitted to be recognised in calculating the value of *exposures* for the purposes of *BIPRU 10.5* (Limits on exposures) is the lower value.
- (5) A firm to which this *rule* applies must include in its strategy to address concentration risk:
- (a) policies and procedures to address risks arising from maturity mismatches between *exposures* and any credit protection on those *exposures*;
 - (b) policies and procedures in the event that a stress test indicates a lower realisable value of collateral than taken into account under *BIPRU 10.2.14R* (Financial collateral comprehensive method) or *BIPRU 10.2.19R* (Own estimates of effects of financial collateral); and
 - (c) policies and procedures relating to concentration risk arising from the application of *credit risk mitigation* techniques, and in particular large indirect credit *exposures* (for example to a single issuer of *securities* taken as collateral).

[Note: BCD Article 114(3)]

- 10.2.23 R Unless, and to the extent, permitted under BIPRU 10.6.3R(11) (Residential mortgages and leasing transactions) or BIPRU 10.6.3R (12) (Commercial mortgages and leasing transactions), a firm must not take into account the following collateral for the purposes of this section:
- (1) amounts receivable linked to a commercial transaction or transactions with an original maturity of less than or equal to one year;
 - (2) a physical item of a type other than those types indicated in BIPRU 4.10.6R to BIPRU 4.10.12R (Eligibility of real estate collateral); and
 - (3) property leased under a leasing transaction.

[Note: BCD Article 112(4)]

- 10.2.24 G A firm should determine the frequency needed for the stress testing of its credit risk concentrations with emphasis on having sufficient frequency to maintain the currency of its capital calculations. In any case such testing should be carried out at least once a year.

10.3 Identification of counterparties

...

Identification of counterparties for guaranteed and collateralised exposures

- 10.3.3 R (1) Where an *exposure* to a *counterparty* is:
- (a) guaranteed by a third party, a firm may ~~treat the exposure as an exposure to the third party and not to the counterparty~~ treat the portion of the *exposure* which is guaranteed as having been incurred to the guarantor rather than to the *counterparty*, provided that the unsecured *exposure* to the guarantor would be assigned an equal or lower *risk weight* than a *risk weight* of the unsecured *exposure* to the *counterparty* under the *standardised approach*; or
 - (b) secured by collateral issued by a third party, a firm may treat the portion of the *exposure* collateralised by the market value of recognised collateral as having been incurred to the third party rather than to the *counterparty*, provided that the collateralised portion of the *exposure* would be assigned an equal or lower *risk weight* than a *risk weight* of the unsecured *exposure* to the *counterparty* under the *standardised approach*.

[Note: BCD Article 117(1)(a) and (b)]

- (2) ...
- (3) ~~Where the guarantee is denominated in a currency different from that in which the *exposure* is denominated, the amount of the *exposure* deemed to be covered must be calculated in accordance with the provisions on the treatment of currency mismatch for *unfunded credit protection* in *BIPRU 5* (Credit risk mitigation) and, if applicable, *BIPRU 4.10* (The IRB approach: Credit risk mitigation). [deleted]~~
- (4) ~~A mismatch between the maturity of the *exposure* and the maturity of the protection must be treated in accordance with the provisions on the treatment for maturity mismatch in *BIPRU 5* and, if applicable, *BIPRU 4.10*. [deleted]~~
- (5) ~~Partial coverage must be treated in accordance with *BIPRU 5* and, if applicable, *BIPRU 4.10*. [deleted]~~
- (6) A guarantee or collateral may only be treated in accordance with (1) if the *firm* complies with the eligibility requirements and other minimum requirements set out in *BIPRU 5* (Credit risk mitigation) and if, applicable, *BIPRU 4.10* (The IRB approach: Credit risk mitigation) for the purposes of calculating *risk weighted exposure amounts*.
- (7) For the purpose of this *rule*, guarantee includes a credit derivative recognised under *BIPRU 5* and, if applicable, *BIPRU 4.10*, other than a credit linked note.

[Note: BCD Article 112(1)]

- 10.3.4 G (1) If a *firm* treats an *exposure* to a *counterparty* as guaranteed, or secured by collateral issued, by a third party for the purposes of *BIPRU 5* (Credit risk mitigation), it should apply the same approach on a consistent basis when identifying a *counterparty* for the purposes of this chapter.
- (2) An example of the eligibility requirements and other minimum requirements set out in *BIPRU 5* as referred to in *BIPRU 10.3.3R(6)* is the requirement for a legal review in *BIPRU 5.2.3R*.
- (3) Where the guarantee is denominated in a currency different from that in which the *exposure* is denominated, the provisions on the treatment of currency mismatch for *unfunded credit protection* in *BIPRU 5.7* (Unfunded credit protection) and, if applicable, *BIPRU 4.10* (The IRB approach: Credit risk mitigation) are applicable for the calculation of the amount of the *exposure* deemed to be covered.

[Note: BCD Article 117(2)(a)]

- (4) Where there is a mismatch between the maturity of the *exposure* and

the maturity of the protection provided by guarantee, BIPRU 5.8 (Maturity mismatches) and, if applicable, BIPRU 4.10 (The IRB approach: Credit risk mitigation) are applicable for the treatment for mismatch.

[Note: BCD Article 117(2)(b)]

- (5) For the purpose of BIPRU 10.3.3R(1)(b), where there is a mismatch between the maturity of the *exposure* and the maturity of the protection provided by collateral, BIPRU 5.8.7R (Valuation of protection: Transactions subject to funded credit protection – financial collateral simple method) requires that the collateral must not be recognised.

[Note: BCD Article 117(1) second paragraph]

- (6) In relation to a guarantee, BIPRU 5.7 (Unfunded credit protection) and, if applicable, BIPRU 4.10 (The IRB approach: Credit risk mitigation) are applicable for the treatment of partial coverage.

[Note: BCD Article 117(2)(c)]

...

Exposures to trustees

- 10.3.12 **R** If a *firm* has an *exposure* to a *person* ('A') when A is acting on his own behalf, and also an *exposure* to A when A acts in his capacity as trustee, custodian or general partner of an investment trust, unit trust, venture capital or other investment fund, pension fund or a similar fund (a "fund"), the *firm* may treat the latter *exposure* as if it was to the fund, unless such a treatment would be misleading.
- 10.3.13 **G** When considering whether the treatment described in ~~BIPRU 10.3.12R~~ 10.3.12G is misleading, factors a *firm* should consider include:

...

...

Exposures to underlying assets

- 10.3.15 **R** Where under a transaction or scheme (for example, *securitisation positions* or claims in the form of *CIUs*) there is an *exposure* to underlying assets, a *firm* must assess the *exposure* to the transaction or scheme, or its underlying *exposures*, or both, in order to determine the existence of a *group of connected clients*. For the purpose of this rule, a *firm* must evaluate the economic substance and the risks inherent in the structure of the transaction.

[Note: BCD Article 106(3)]

BIPRU 10.4 is deleted in its entirety. The deleted text is not shown.

10.4 Measurement of exposures to counterparties and issuers [deleted]

Amend the following as shown.

10.5 Limits on exposures and large exposures

Definition of large exposure

- 10.5.1 R *A large exposure of a firm means its total exposure to a counterparty, connected counterparties or a group of connected clients, whether in the firm's non-trading book or trading book or both, which in aggregate equals or exceeds 10% of the firm's capital resources.*

[Note: BCD Article 108]

...

- 10.5.4 R For the purposes of monitoring against the *trading book* limits and charge regime, as set out in ~~BIPRU 10.5.11R~~ 10.10A.2R to ~~BIPRU 10.5.22R~~ 10.10A.11R (Intra-group exposures: Trading book limits), and calculating a *firm's CNCOM*, a *firm's capital resources* may include *tier three capital resources*, in which case a *firm's capital resources* mean *capital resources* calculated at stage (T) of the *capital resources table* (Total capital after deductions).

- 10.5.5 R A *firm* must not take into account the following items:
- (1) surplus provisions (see *GENPRU* 2.2.190R to *GENPRU* 2.2.193R); or
 - (2) *expected loss* amounts and other negative amounts (see *GENPRU* 2.2.236R); or
 - (3) *securitisation positions* (see *GENPRU* 2.2.237R).

[Note: BCD Article 66(3)]

~~Non-trading book~~ Large exposure limits

- 10.5.6 R A *firm* must ensure that the total amount of its *exposures* to the following does not exceed 25% of its *capital resources* (as determined under *BIPRU* 10.5.2R, *BIPRU* 10.5.3R and *BIPRU* 10.5.5R):
- (1) a *counterparty*; or
 - (2) a *group of connected clients*; or
 - (3) its *connected counterparties*.

[Note: BCD Article 111(1) first paragraph]

...

- 10.5.8 R ~~A firm must not incur large exposures which in total exceed 800% of its capital resources (as determined under BIPRU 10.5.2R, BIPRU 10.5.3R and BIPRU 10.5.5R). [deleted]~~
- 10.5.9 R ~~If a firm exceeds (or is aware that it will exceed) the limits in BIPRU 10.5.6R or BIPRU 10.5.8R it must notify the FSA without delay. [deleted]~~
- 10.5.10 G ~~A report under BIPRU 10.5.9R should be made in exceptional circumstances only. A firm which makes such a report should also provide the FSA with an explanation as to how the limits came to be exceeded, and a plan of action for bringing its exposures within the limits. The FSA may, where the circumstances warrant it, allow a firm a limited period of time in which to comply with the limits. [deleted]~~

The following provisions are deleted. The deleted text is not shown.

Trading book limits

- 10.5.11 R [deleted]
- 10.5.12 R [deleted]
- 10.5.13 R [deleted]
- 10.5.14 R [deleted]
- 10.5.15 G [deleted]
- 10.5.16 G [deleted]
- 10.5.17 R [deleted]
- 10.5.18 R [deleted]
- 10.5.19 G [deleted]
- 10.5.20 R [deleted]
- 10.5.21 R [deleted]
- 10.5.22 R [deleted]
- 10.5.23 G [deleted]
- 10.5.24 G [deleted]

10.6 Exemptions

General exemptions

10.6.1 R ~~The exposures listed in BIPRU 10.6.3R, whether trading book exposures or non-trading book exposures, are exempt from the limits described in BIPRU 10.5 (Limits on exposures and large exposures), provided that the exposures are~~ This section only applies to exposures, whether in the trading book or non-trading book, to counterparties which are not connected counterparties.

10.6.2 R (1) In BIPRU 10.6.3R and BIPRU 10.6.4R, references to guarantees include credit derivatives recognised under BIPRU 5 (Credit risk mitigation) and, if applicable, BIPRU 4.10 (The IRB approach: Credit risk mitigation), other than credit linked notes.

[Note: BCD Article 112(1)]

...

10.6.3 R The following exposures referred to in BIPRU 10.6.1R are as follows exempt from the limits described in BIPRU 10.5 (Limits on exposures):

...

- (4) other exposures attributable to, or guaranteed by, central governments, central banks, international organisations ~~or~~, multilateral development banks or public sector entities where unsecured claims on the entity to which the exposure is attributable or by which it is guaranteed would receive a 0% risk weight under the standardised approach;
- (5) ~~asset items constituting claims on and other exposures to central governments or central banks not within (1) which are denominated and, where applicable, funded in the national currencies of the borrowers; [deleted]~~
- (6) ~~asset items constituting claims on and other exposures to institutions, with a maturity of one year or less, but not constituting such institutions' capital resources; [deleted]~~
- (7) asset items constituting claims on EEA States' regional governments ~~and~~ or local authorities which claims would receive a 0% risk weight under the standardised approach;
- (8) other exposures to or guaranteed by EEA States' regional governments ~~and~~ or local authorities claims on which would receive a 0% risk weight under the standardised approach;
- (9) ~~asset items constituting claims and other exposures on recognised third country investment firms, recognised clearing houses, designated clearing houses, recognised investment exchanges and~~

~~designated investment exchanges in CRD financial institutions, with a maturity of one year or less, but not constituting such institutions' capital resources; [deleted]~~

- (10) ~~covered bonds within the meaning of the second paragraph of that definition; [deleted]~~

...

- (12) the following, where they would receive a 50% *risk weight* under the *standardised approach*, and only up to 50% of the value of the commercial property concerned:

...

- (b) ~~exposures related to property leasing transactions concerning offices or other commercial premises; and~~

- (13) ~~bill endorsements on bills with a maturity of 1 year or less already endorsed by another firm. [deleted]~~

- (14) asset items and other exposures secured by collateral in the form of cash deposits placed with the lending firm or with a credit institution which is the parent undertaking or a subsidiary undertaking of the lending firm;

- (15) asset items and other exposures secured by collateral in the form of certificates of deposit issued by the lending firm or by a credit institution which is the parent undertaking or a subsidiary undertaking of the lending firm and lodged with either of them; and

- (16) exposures arising from undrawn credit facilities that are classified as low risk off-balance sheet items in BIPRU 3.7.2R and provided that an agreement has been concluded with the counterparty or group of connected clients under which the facility may be drawn only if it has been ascertained that it will not cause the limit in BIPRU 10.5.6R (Limits on exposures) to be exceeded.

[Note: BCD Articles 113(3), 115(1) sub-paragraphs (a) and (b) and 115(2) sub-paragraphs (a) and (b)]

10.6.4 R For the purposes of BIPRU 10.6.3R(11) (Loan secured by residential mortgages and leasing transactions);:

- (1) the requirements set out in BIPRU 3.4.64R to BIPRU 3.4.73R (Requirements for recognition of real estate collateral) apply;

- (2) the value of the property must be calculated on the basis of strict prudent valuation standards laid down by law, regulation or administrative provisions;

- (3) ~~Valuation~~ valuation must be carried out at least once a ~~year~~ every three years;
- (4) the valuation rules set out in BIPRU 3.4.77R to BIPRU 3.4.80R apply; and
- (5) ~~For these purposes,~~ residential property means a residence to be occupied or let by the borrower.

[Note: BCD Article 115(1) second to fourth paragraphs]

The following provisions are deleted. The deleted text is not shown.

- 10.6.5 R [deleted]
- 10.6.6 R [deleted]
- 10.6.7 R [deleted]
- 10.6.8 G [deleted]
- 10.6.9 R [deleted]
- 10.6.10 R [deleted]
- 10.6.11 R [deleted]
- 10.6.12 R [deleted]
- 10.6.13 G [deleted]
- 10.6.14 R [deleted]
- 10.6.15 R [deleted]
- 10.6.16 R [deleted]
- 10.6.17 R [deleted]
- 10.6.18 G [deleted]
- 10.6.19 R [deleted]
- 10.6.20 R [deleted]
- 10.6.21 R [deleted]
- 10.6.22 R [deleted]
- 10.6.23 R [deleted]

- 10.6.24 R [deleted]
- 10.6.25 R [deleted]
- 10.6.26 R [deleted]
- 10.6.27 G [deleted]

After BIPRU 10.6.27G [deleted], insert the following new paragraphs. The new text is not underlined.

- 10.6.28 R For the purposes of *BIPRU* 10.6.3R(12) (Loans secured by commercial mortgages and leasing transactions):
- (1) the value of the property must be calculated on the basis of prudent valuation standards laid down by law, regulation or administrative provisions; and
 - (2) the commercial property concerned must be fully constructed, leased and produce appropriate rental income.

[**Note:** *BCD* Article 115(2) second and third paragraphs]

- 10.6.29 G For the purposes of *BIPRU* 10.6.3R(12), a 50% *risk weight* is not allowed under the *standardised approach* for commercial property based in the *UK*.
- 10.6.30 R For the purposes of *BIPRU* 10.6.3R(14) (Cash deposits) and *BIPRU* 10.6.3R(15) (Certificates of deposit), a *firm* may only treat the asset items or other *exposures* as secured if the collateral complies with the eligibility requirements and other minimum requirements set out in *BIPRU* 5 (Credit risk mitigation) and, if relevant, *BIPRU* 4.10 (The IRB approach: Credit risk mitigation) for the purposes calculating a *firm's exposure*.
- 10.6.31 G In relation to *BIPRU* 10.6.3R(14) (Cash deposits) and *BIPRU* 10.6.3R(15) (Certificates of deposit), the collateral may in some cases give rise to an *exposure* between the *lending firm* and the *credit institution*. Where this is the case, the *exposure* is considered to be an intra-group *exposure*. A *firm* may apply *BIPRU* 10.8A (Intra-group exposures: core UK group) or *BIPRU* 10.9A (Intra-group exposures: non-core large exposures group), as appropriate.

Institutional exemption

- 10.6.32 R Where a *counterparty* is an *institution* or where a *group of connected clients* includes one or more *institutions*:
- (1) the total amount of a *firm's exposures* to the same *counterparty* or *group of connected clients* may exceed 25% of the *firm's capital resources* so long as the total amount of such *exposures* does not exceed €150 million;

- (2) the *firm* must ensure that the total amount of its *exposures*, after taking into account the effect of *credit risk mitigation*, to other *persons* in that *group of connected clients* which are not *institutions* does not exceed 25% of the *firm's capital resources*;
- (3) where the amount of €150 million in (1) is higher than an amount equivalent to 25% of the *firm's capital resources*, the *firm* must ensure the following:
- (a) the total amount of those *exposures* in (1) in relation to the same *counterparty* or *group of connected clients* does not exceed a reasonable limit in terms of the *firm's capital resources*; and
- (b) in any case, the limit in this *rule* must not exceed 100% of the *firm's capital resources*; and
- capital resources* are as determined under *BIPRU* 10.5.2R, *BIPRU* 10.5.3R and *BIPRU* 10.5.5R (Stage (N) of the calculation in the *capital resources table* (Total tier one capital plus tier two capital after deductions)); and
- (4) for the purpose of (3), the *firm* must determine the limit consistently with the policies and procedures required under *BIPRU* 10.12.3R (Concentration risk policies).

[**Note:** *BCD* Article 111(1) second to fourth paragraphs]

- 10.6.33 G Article 111(4) of the *Banking Consolidation Directive* allows the *FSA* to waive the 100% limit on a case-by-case basis in exceptional circumstances. The *FSA* will consider an application for such a *waiver* in the light of the criteria in section 148 of the *Act* (Modification or waiver of rules).

Sovereign large exposure waiver

- 10.6.34 R *BIPRU* 10.6.35R to *BIPRU* 10.6.37G apply to a *BIPRU firm* if it has a *sovereign large exposure waiver*.
- 10.6.35 R A *firm* that has a *sovereign large exposure waiver* must exempt from the limits described in *BIPRU* 10.5 (Limits on exposures) the *exposures* as specified in the *sovereign large exposure waiver*. It must do so to the extent specified in that waiver.
- 10.6.36 R For the purpose of the *sovereign large exposure waiver*, and in relation to a *firm*, the *exposures* referred to in *BIPRU* 10.6.35R are limited to the following:
- (1) asset items constituting claims on *central banks* not within *BIPRU* 10.6.3R(1), which are in the form of required minimum reserves held at those *central banks* which are denominated and funded in their national currencies; and

- (2) asset items constituting claims on central governments not within *BIPRU 10.6.3R(1)*, which are in the form of statutory liquidity requirements held in government securities denominated and funded in their national currencies.

[**Note:** *BCD Article 113(4)(g) and (h)*]

- 10.6.37 G As part of the process of applying for a *sovereign large exposure waiver*, a *firm* should agree with the *FSA* the amount of the *exposures* that may be exempted. In general, the *FSA* will expect the likelihood of the *firm's* liabilities (that fund the particular exempt *exposure*) falling alongside a fall in that *exposure* in an event of default to form one of the key considerations in discussions with the *firm* regarding the total amount of such exempt *exposures*. For this purpose, the *FSA* will expect the *firm* to demonstrate that, taking into account the aggregate of all *exposures* exempted under other *sovereign large exposure waivers* granted to the *firm*, the criteria in section 148 of the *Act* (Modification or waiver of rules) are satisfied in relation to the *sovereign large exposure waiver* under consideration.

BIPRU 10.7 is deleted in its entirety. The deleted text is not shown.

10.7 Treasury concession and intra-group securities financing transactions
[deleted]

BIPRU 10.8 is deleted in its entirety. The deleted text is not shown.

10.8 UK integrated groups [deleted]

After *BIPRU 10.8* [deleted], insert the following new section. The new text is not shown underlined.

10.8A Intra-group exposures: core UK group

Application

- 10.8A.1 R This section applies to a *firm* if:
- (1) it is a member of a *core UK group* (under *BIPRU 3.2.25R* and this section); and
 - (2) it has a *core UK group waiver*.

Definition of core UK group

- 10.8A.2 R An *undertaking* is a member of a *firm's core UK group* if, in relation to the *firm*, that *undertaking* satisfies the following conditions:
- (1) it is a *core concentration risk group counterparty*;

- (2) it is an *institution, financial holding company, financial institution, asset management company* or *ancillary services undertaking*;
- (3) (in relation to a *subsidiary undertaking*) 100% of the voting rights attaching to the *shares* in its capital is held by the *firm* or a *financial holding company* (or a *subsidiary undertaking* of the *financial holding company*), whether individually or jointly, and that *firm* or *financial holding company* (or its *subsidiary undertaking*) must have the right to appoint or remove a majority of the members of the board of *directors*, committee of management or other governing body of the *undertaking*;
- (4) it is subject to the same risk evaluation, measurement and control procedures as the *firm*;
- (5) it is incorporated in the *United Kingdom*; and
- (6) there is no current or foreseen material practical or legal impediment to the prompt transfer of *capital resources* or repayment of liabilities from the *counterparty* to the *firm*.

10.8A.3 G In relation to *BIPRU 10.8A.2R(3)*, a *subsidiary undertaking* should generally be 100% owned and controlled by a single shareholder. However, if a *subsidiary undertaking* has more than one shareholder, that *undertaking* may be a member of the *core UK group* if all its shareholders are also members of that same *core UK group*.

10.8A.4 G If a *core concentration risk group counterparty* is of a type that falls within the scope of the Council Regulation of 29 May 2000 on insolvency proceedings (Regulation 1346/2000/EC) and it is established in the *United Kingdom* other than by incorporation, a *firm* wishing to include that *counterparty* in its *core UK group* may apply to the *FSA* for a *waiver of BIPRU 10.8A.2R(5)* if it can demonstrate fully to the *FSA* that the *counterparty's* centre of main interests is situated in the *United Kingdom* within the meaning of that Regulation.

Minimum standards

- 10.8A.5 R
- (1) For the purpose of *BIPRU 10.8A.2R(6)*, a *firm* must be able to demonstrate fully to the *FSA* the circumstances and arrangements, including legal arrangements, by virtue of which there are no material practical or legal impediments, and none are foreseen, to the prompt transfer of *capital resources* or repayment of liabilities from the *counterparty* to the *firm*.
 - (2) In relation to a *counterparty* that is not a *firm*, the arrangements referred to in (1) must include a legally binding agreement with each *firm* that is a member of the *core UK group* that it will promptly on demand by the *firm* increase that *firm's capital resources* by an amount required to ensure that the *firm* complies with *GENPRU 2.1* (Calculation of capital resources requirements),

BIPRU 10 (Large exposures requirements) and any other requirements relating to *capital resources* or concentration risk imposed on a *firm* by or under the *regulatory system*.

- 10.8A.6 G The *FSA* will consider the following criteria when assessing whether the condition in *BIPRU 10.8A.2R(6)* is going to be met:
- (1) the speed with which funds can be transferred or liabilities repaid to the *firm* and the simplicity of the method for the transfer or repayment;
 - (2) whether there are any interests other than those of the *firm* in the *core concentration risk group counterparty* and what impact those other interests may have on the *firm's* control over the *core group concentration risk group counterparty* and the ability of the *firm* to require a transfer of funds or repayment of liabilities;
 - (3) whether there are any tax disadvantages for the *firm* or the *core concentration risk group counterparty* as a result of the transfer of funds or repayment of liabilities;
 - (4) whether the purpose of the *core concentration risk group counterparty* prejudices the prompt transfer of funds or repayment of liabilities;
 - (5) whether the legal structure of the *core concentration risk group counterparty* prejudices the prompt transfer of funds or repayment of liabilities;
 - (6) whether the contractual relationships of the *core concentration risk group counterparty* with the *firm* and other third parties prejudices the prompt transfer of funds or repayment of liabilities; and
 - (7) whether past and proposed flows of funds between the *core concentration risk group counterparty* and the *firm* demonstrate the ability to make prompt transfer of funds or repayment of liabilities.
- 10.8A.7 G (1) *Firms* are referred to the guidance relating to 0% *risk weights* for *exposures* within a *core UK group* under the *standardised approach* as follows:
- (a) *BIPRU 3.2.28G* in respect of *BIPRU 10.8A.2R(3)* on same risk evaluation, measurement and control procedures; and
 - (b) *BIPRU 3.2.30G* and *BIPRU 3.2.31G* in respect of *BIPRU 10.8A.2R(6)* on prompt transfer of *capital resources* and repayment of liabilities.
- (2) For the purpose of *BIPRU 10.8A.5R(2)*, the obligation to increase the *firm's capital resources* may be limited to capital resources available to the *counterparty* and may reasonably exclude such amount of capital resources that, if transferred to the *firm*, would

cause the *counterparty* to become balance sheet insolvent in the manner contemplated in section 123(2) of the Insolvency Act 1986.

Exemption for a core UK group

- 10.8A.8 R If this section applies, *exposures* between members of the *core UK group* are exempt from the limits described in *BIPRU* 10.5 (Limits on exposures).
- 10.8A.9 G The *FSA* will expect a *firm* to which this section applies not to use any member of its *core UK group* which is not a *firm* to route lending or to have *exposures* to any third party in excess of the limits in *BIPRU* 10.5 (Limits on exposures).

Calculation of capital resources for a core UK group

- 10.8A.10 R For the purposes of this section, a *firm* must calculate the capital resources of the *core UK group* in accordance with *GENPRU* 3 Annex 1R Part 2 (Method 2 of Annex 1 of the Financial Groups Directive (Deduction and aggregation Method)) and apply the limits set out in this section to those capital resources rather than the *capital resources* of the *firm*. For these purposes the definition of *solo capital resources* is adjusted so that the *rules* on which the calculation for each member of the *core UK group* is based are the ones that would apply under the procedure in *BIPRU* 8.6.6R to *BIPRU* 8.6.9R (Consolidated capital resources).
- 10.8A.11 G The calculation of capital resources under *GENPRU* 3 Annex 1R Part 2 (Method 2 of Annex 1 of the Financial Groups Directive (Deduction and aggregation Method)) is based on the *solo capital resources* of members of a *financial conglomerate*. The definition of *solo capital resources* depends on what type of *undertakings* the *financial conglomerate* contains. For example, if a *financial conglomerate* contains a *bank* the *solo capital resources* calculation for every group member in the *banking sector* and the *investment services sector* is based on the *capital resources* calculation for *banks*. The purpose of *BIPRU* 10.8A.10R is to apply the corresponding procedure that applies under *BIPRU* 8.6 (Calculation of capital resources on a consolidated basis for *BIPRU* firms).

Notification

- 10.8A.12 R A *firm* must immediately notify the *FSA* in writing if it becomes aware that any *exposure* that it has treated as exempt under this section or any *counterparty* that it has been treating as a member of its *core UK group* has ceased to meet the conditions for application of the treatment in this section.

BIPRU 10.9 is deleted in its entirety. The deleted text is not shown.

10.9 Wider Integrated Group [deleted]

After BIPRU 10.9 [deleted], insert the following new section. The new text is not shown underlined.

10.9A Intra-group exposures: non-core large exposures group

Application

- 10.9A.1 R This section applies to a *firm* if it has:
- (1) a *non-core large exposures group*; and
 - (2) a *non-core large exposures group waiver*.
- 10.9A.2 G A *firm* must treat the *exposures* to its *connected counterparties* that are not members of its *non-core large exposures group* as *exposures* to a single undertaking and must ensure that the total amount of its *exposures* to such *connected counterparties* does not exceed the 25% limit in BIPRU 10.5.6R (Large exposure limit) and, if applicable, the *trading book* limits in BIPRU 10.10A (Connected counterparties: trading book limits).

Definition of non-core large exposures group

- 10.9A.3 R The *non-core large exposures group* of a *firm* consists of each *non-core concentration risk group counterparty* of the *firm* that is not a member of its *core UK group* but satisfies all other conditions for membership of the *firm's core UK group* except for the following:
- (1) BIPRU 10.8A.2R(1) (Core concentration risk group counterparty);
 - (2) BIPRU 10.8A.2R(5) (Establishment in the United Kingdom); and
 - (3) BIPRU 10.8A.5R(2) (Capital maintenance arrangements).

Definition of non-core concentration risk group counterparty

- 10.9A.4 R A *non-core concentration risk group counterparty* (in relation to a *firm*) is a counterparty which is its *parent undertaking*, its *subsidiary undertaking* or a *subsidiary undertaking* of its *parent undertaking*, provided that (in each case) both the counterparty and the *firm* satisfy one of the following conditions:
- (1) they are included within the scope of consolidation on a full basis with respect to the same *UK consolidation group* and BIPRU 8.3.1R applies to the *firm* with respect to that *UK consolidation group*; or
 - (2) they are included within the scope of consolidation on a full basis with respect to the same *group* by a *competent authority* of an *EEA State* other than the *United Kingdom* under the *CRD implementation measures* about consolidated supervision for that *EEA State*; or
 - (3) they are included within the scope of consolidation on a full basis with respect to the same *group* by a *third country competent authority* under prudential rules for the *banking sector* or *investment*

services sector of or administered by that *third country competent authority* and the *firm* or another *EEA firm* in that *group* has been notified in writing by the *FSA* or a *competent authority* of another *EEA State* pursuant to Article 143 of the *Banking Consolidation Directive* that that *group* is subject to equivalent supervision.

Revised large exposure limits for a non-core large exposures group

- 10.9A.5 R A *firm* to which this section applies must ensure that the *rules* listed in *BIPRU 10.9A.6 R* are complied with on a consolidated basis subject to the following modifications:
- (1) (if the *firm* is not a member of a *core UK group*) the *rules* apply in relation to *exposures* of the *firm* to its *non-core large exposures group* as if it is a single undertaking;
 - (2) if the *firm* is a member of a *core UK group*:
 - (a) the *rules* apply in relation to its *core UK group* rather than in relation to the *firm*; and
 - (b) the *core UK group* and the *non-core large exposures group* must each be treated as a single undertaking.
- 10.9A.6 R The *rules* referred to in *BIPRU 10.9A.5R* are:
- (1) *BIPRU 10.5.6R* (25% *large exposures* limit);
 - (2) *BIPRU 10.10A.2R* (Trading book limits) other than *BIPRU 10.10A.2R(2)* (*CNCOM*); and
 - (3) *BIPRU 10.10A.3R* (500% limit for *trading book excess exposures*).

Non-trading book backstop limit for a non-core large exposures group

- 10.9A.7 R A *firm* must ensure that the total amount of *non-trading book exposures* between:
- (1) itself and members of its *non-core large exposures group* does not exceed 100% of the *firm's capital resources*; or
 - (2) if it is a member of a *core UK group*, the members of its *core UK group* and members of its *non-core large exposures group* does not exceed 100% of the capital resources of the *firm's core UK group*.

Concentrated exposures in a non-core large exposures group

- 10.9A.8 R (1) Subject to the limit in *BIPRU 10.9A.7R* (Back-stop large exposures limit), a *firm* may concentrate its intra-group *exposure* to a particular member of its *non-core large exposures group* in excess of 25% of the capital resources of the *firm's core UK group*.

- (2) A *firm* may not apply (1) unless it has given prior written notice to the *FSA* that it intends to do so.
- (3) The written notice referred to in (2) must contain the following:
 - (a) an explanation on how the *firm* will ensure that it will still meet the requirement in *BIPRU* 10.9A.7R (Backstop large exposures limit) on a continuing basis when applying (1);
 - (b) details of the *counterparty*, the size of the *exposure* and the expected duration of the *exposure*; and
 - (c) an explanation of the reason for the *exposure*.
- (4) If a *firm* stops applying (1) it may start to apply it again if it notifies the *FSA* under (2) that it intends to do so.

Calculation of capital resources for a core UK group

- 10.9A.9 R *BIPRU* 10.8A.10R (Calculation of capital resources for a core UK group) applies for the purposes of this section in the same way that it applies for the purposes of *BIPRU* 10.8A (Intra-group exposures: core UK group).

Exemption for intra-group exposures on a solo basis

- 10.9A.10 R If this section applies to a *firm*, then subject to *BIPRU* 10.10A.12R (Core UK group and non-core large exposures group: treatment of the trading book concentration risk excess), it may, on a solo basis, treat an *exposure* to a member of its *non-core large exposures group* as exempt from the limits in *BIPRU* 10.5 (Limits on exposures).
- 10.9A.11 G The purpose of *BIPRU* 10.9A.10R is to reflect the fact that the limits in *BIPRU* 10.5 (Limits on exposures), so far as they apply to a member of a *firm's non-core large exposures group*, are calculated on a consolidated basis with respect to a *firm's core UK group*. It is therefore necessary to switch them off on a purely solo basis.

Notification

- 10.9A.12 R A *firm* must immediately notify the *FSA* in writing if it becomes aware that any *exposure* that it has treated as exempt under this section or any *counterparty* that it has been treating as a member of its *non-core large exposures group* has ceased to meet the conditions for application of the treatment in this section.

BIPRU 10.10 is deleted in its entirety. The deleted text is not shown.

10.10 Treatment of the trading book concentration risk excess under the integrated groups regime [deleted]

After BIPRU 10.10 [deleted], insert the following new section. The new text is not shown underlined.

10.10A Connected counterparties: trading book limits

Application

- 10.10A.1 R This section only applies to *exposures* in a *firm's trading book* to its *connected counterparties*.

Trading book limits

- 10.10A.2 R *Exposures* in a *firm's trading book* to its *connected counterparties* are exempt from the 25% limit in *BIPRU* 10.5.6R (large exposures limit) if:
- (1) the total amount of the *exposures* on the *firm's non-trading book* to its *connected counterparties* does not exceed the limit laid down in that *rule*, calculated with reference to the definition of *capital resources* calculated at stage (N) of the calculation in the *capital resources table* (Total tier one capital plus tier two capital after deductions) as set out in *BIPRU* 10.5.2R, *BIPRU* 10.5.3R and *BIPRU* 10.5.5R, so that the excess arises entirely on the *trading book*; and
 - (2) the *firm* meets the additional capital requirements relating to the *concentration risk capital component (CNCOM)* in relation to the relevant *trading book exposures*.
- 10.10A.3 R A *firm* must ensure that the total amount of its *trading book exposures* to its *connected counterparties* does not exceed 500% of the *firm's capital resources* calculated at stage (T) of the *capital resources table* (Total capital after deductions).

How to calculate the concentration risk capital component

- 10.10A.4 G A *firm's CNCOM* should be calculated as part of its *credit risk capital requirement (CRCR)* in accordance with *GENPRU* 2.1 (Calculation of capital resources requirements).
- 10.10A.5 R A *firm's CNCOM* is the sum of its *individual counterparty CNCOMs*.
- 10.10A.6 R An *individual counterparty CNCOM* is the amount a *firm* must calculate in accordance with *BIPRU* 10.10A.8R with respect to its *exposures* to its *connected counterparties*.
- 10.10A.7 G A *CNCOM* calculation on a *trading book exposure* is in addition to, and not instead of, any capital requirement arising under the *market risk capital requirement* or *counterparty risk capital component*.
- 10.10A.8 R A *firm* must calculate its *individual counterparty CNCOM* for its *exposures* to its *connected counterparties* as follows:

- (1) break down its *total exposure* into its *trading book* and *non-trading book* components;
- (2) calculate 25% of the *firm's capital resources* calculated at stage (N) of the calculation in the *capital resources table* (Total tier one capital plus tier two capital after deductions) to determine the total amount of the *exposures* in the *firm's non-trading book* does not exceed this limit in accordance with *BIPRU 10.10A.2R(1)*;
- (3) calculate 25% of the *firm's capital resources* calculated at stage (T) of the *capital resources table* (Total capital after deductions) and deduct those parts of the *total exposure* which are in the *non-trading book* falling within the limit in (2);
- (4) a *firm* must allocate (in the order set out in (6)) *trading book exposures* to its *connected counterparties* to the unutilised portion of the 25% limit of the *firm's capital resources* calculated at stage (T) of the *capital resources table* (Total capital after deductions) remaining after deducting the *non-trading book exposures* in accordance with (3);
- (5) no further *trading book exposures* can be allocated once the 25% limit in (4) has been reached; the remaining *trading book exposures* constitute the *trading book concentration risk excess* with respect to its *connected counterparties*;
- (6) for the purposes of (4), a *firm* must allocate the *trading book exposures* in the order of the level of capital requirements, starting with the lowest capital requirements for *specific risk* under the *market risk capital requirement* and/or the lowest capital requirements under the *counterparty risk capital component* and moving towards those *trading book exposures* with the highest capital requirements last;
- (7) the *individual counterparty CNCOM* is the sum of the capital requirements for each individual *exposure* included in the *trading book concentration risk excess* in accordance with (8) and (9) (each such capital requirement being an *individual CNCOM*);
- (8) if the *trading book concentration risk excess* has persisted for 10 *business days* or less (irrespective of the age of each component part), the *individual CNCOMs* must be calculated in accordance with this formula:

$$\text{each individual CNCOM} = \text{capital requirement referred to in (6)} \times 200\%;$$
- (9) if the *trading book concentration risk excess* has persisted for more than 10 *business days* (irrespective of the age of each component part), the *individual CNCOMs* must be calculated in accordance with

this formula:

each *individual CNCOM* = capital requirement referred to in (6) × appropriate percentage in *BIPRU* 10.10A.9R.

- 10.10A.9 R The appropriate percentage referred to in *BIPRU* 10.10A.8R(9) must be established in accordance with the following:
- (1) the individual *exposures* included in the *trading book concentration risk excess* must be assigned to the bands in the first column of the table in *BIPRU* 10.10A.10R;
 - (2) the maximum amount that may be put in any band other than the last equals the percentage of the *firm's capital resources* in column 1 of that table;
 - (3) no amount may be allocated to the second or any later band unless the one before has been filled;
 - (4) *exposures* must be assigned to the bands in the order established by *BIPRU* 10.10A.8R(6); and
 - (5) for the purposes of (4), those *exposures* with the lowest capital requirements (as referred to in *BIPRU* 10.10A.8R(6)) must be assigned first and those with the highest last.

Percentages applicable under *BIPRU* 10.10A.9R

- 10.10A.10 R This table belongs to *BIPRU* 10.10A.9R

Excess exposure (as a percentage of the <i>firm's capital resources</i> calculated at stage (T) of the <i>capital resources table</i> (Total capital after deductions))	Percentage
25% up to 40%	200%
Portion from 40% - 60%	300%
Portion from 60% - 80%	400%
Portion from 80% - 100%	500%
Portion from 100% - 250%	600%
Portion over 250%	900%

How *CNCOM* applies to the non-core large exposures group

- 10.10A.11 R A *firm* that has a *non-core large exposures group waiver* must meet the *CNCOM* in relation to *exposures* to members of its *non-core large exposures group* in accordance with this section, subject to the following:
- (1) in *BIPRU* 10.10A.8R, “25%” is substituted with “100%”; and
 - (2) the excess *exposures* for the purpose of *BIPRU* 10.10A.8R(9) must be assigned to the bands in the first column of the table in *BIPRU* 10.10A.10R beginning with the portion from 100% - 250%.

Core UK group and non-core large exposures group: treatment of the trading book concentration risk excess

- 10.10A.12 R
- (1) This *rule* applies to a *firm* that has a *core UK group waiver* or a *non-core large exposures group waiver*.
 - (2) A *firm* must calculate the *CNCOM* in relation to the *core UK group* in question in accordance with *BIPRU* 10.10A.2R (Trading book limits).
 - (3) A *firm* must then calculate the percentage of the amount calculated under (2) which is attributable to *exposures* of the *firm*.
 - (4) A *firm* must add the result of the calculation in (3) to the *CNCOM* applied to the *firm* on a solo basis in accordance with *BIPRU* 10.10A.5R to *BIPRU* 10.10A.11R (How to calculate the concentration risk capital component).

Examples

- 10.10A.13 G
- (1) The table in *BIPRU* 10.10A.14G sets out an example of a *CNCOM* calculation under *BIPRU* 10.10A.8R.
 - (2) *BIPRU* 10 Annex 2G (Examples of treatment of exposures under *BIPRU* 10) sets out examples of how the *large exposures* limits apply, particularly in relation to a *core UK group* and *non-core large exposures group*, taking into account various examples of *firms’ exposure* profiles.

Example of a *CNCOM* calculation (all numbers £000s)

- 10.10A.14 G This table belongs to *BIPRU* 10.10A.13G(1)

	Capital resources position
(1)	An <i>firm's capital resources</i> comprises:
	£

	<i>Tier one and tier two capital resources</i>		1000
	<i>Eligible tier three capital resources</i>		100
	<i>Amended capital resources</i>		1100
(2)	The components of the <i>large exposure</i> comprise:		
			£
	<i>(a) Non-trading book exposure</i>		200
	<i>(b) Mark to market value of trading book securities:</i>		
		<i>% specific risk weight</i>	
	Short: qualifying bond	1.00	(20)
	Long: qualifying commercial paper	0.25	100
	Long: equity	4.00	150
	Long: qualifying convertible	1.60	30
	Total net long securities position:		260
	Total net large exposures position [(a) + (b)]		460
Calculating the exposure for which incremental capital is needed			
(3)	The short position in the qualifying bond is offset against the highest specific risk weight items - in this case equities:		
			£
	Net long equity position (£150- £20)		130
(4)	The remaining items are ranked according to specific risk weight.		
	<i>% specific risk weight</i>	Security	£
	0.25	Qualifying commercial paper	100
	1.60	Qualifying convertible	30
	4.00	Equity (net)	130

(5)	The 'headroom' between the <i>non-trading book</i> exposure and 25% of the amended <i>capital resources</i> is calculated.	
		£
	25% of amended capital base (1100)	275
	<i>Non-trading book exposure</i>	200
	Headroom	75
(6)	<p>Applying the securities positions in ascending order of specific <i>risk weight</i>, £75 of the £100 qualifying commercial paper may be counted before 25% of the amended capital base is reached.</p> <p>The remaining £25 of qualifying commercial paper, along with £30 qualifying convertible and £130 equity (net) are traded securities <i>exposures</i> in excess of the limit and should therefore be covered by incremental capital. The amount of incremental capital should be included in the calculation for determining how much <i>trading book</i> capital a <i>firm</i> should have.</p>	
(7)	<p>If the excess <i>exposure</i> has been outstanding for 10 days or less, the specific <i>risk weights</i> for the elements over 25% of amended <i>capital resources</i> should be doubled.</p> <p>The 25% limit (£275) is taken up by £200 <i>non-trading book exposure</i> and £75 <i>trading book exposure</i> within the limit. These two items, when added to the items in bold below, total £460. £460 is the total net <i>large exposures</i> position as set out in (2) above.</p>	
		£
	Qualifying commercial paper	£25 x 0.25% x 200% = 0.125
	Qualifying convertible	£30 x 1.60% x 200% = 0.960
	Equity	£130 x 4% x 200% = 10.400
	Additional capital requirement	11.485
(8)	<p>If the excess <i>exposure</i> has been outstanding for more than 10 days, the 25% limit (£275) is taken up by £200 <i>non-trading book exposure</i> and £75 <i>trading book exposure</i> within the limit. These two items, when added to the items in bold below, total £460. £460 is the total net <i>large exposures</i> position as set out in (2) above.</p>	
		£
	(a)	Over 25% and up to 40% of amended capital base at 200% (40% of £1100 =

		£440)	
		Amount of <i>trading book concentration risk excess</i> = £185	
		Appropriate % Multiplier Band = 200%	
		£25 x 0.25% x 200% =	0.125
		£30 x 1.60% x 200% =	0.960
		£110 x 4.00% x 200% =	8.800
	(b)	Excess exposure 40% - 60% of amended capital base at 300%	
		£20 x 4.00% x 300% =	2.400
	Additional capital requirement [(a)+(b)]		12.285

BIPRU 10.11 is deleted in its entirety. The deleted text is not shown.

10.11 Notification procedure for BIPRU 10.7 to 10.10 [deleted]

...

BIPRU 10 Annex 1G is deleted in its entirety. The deleted text is not shown.

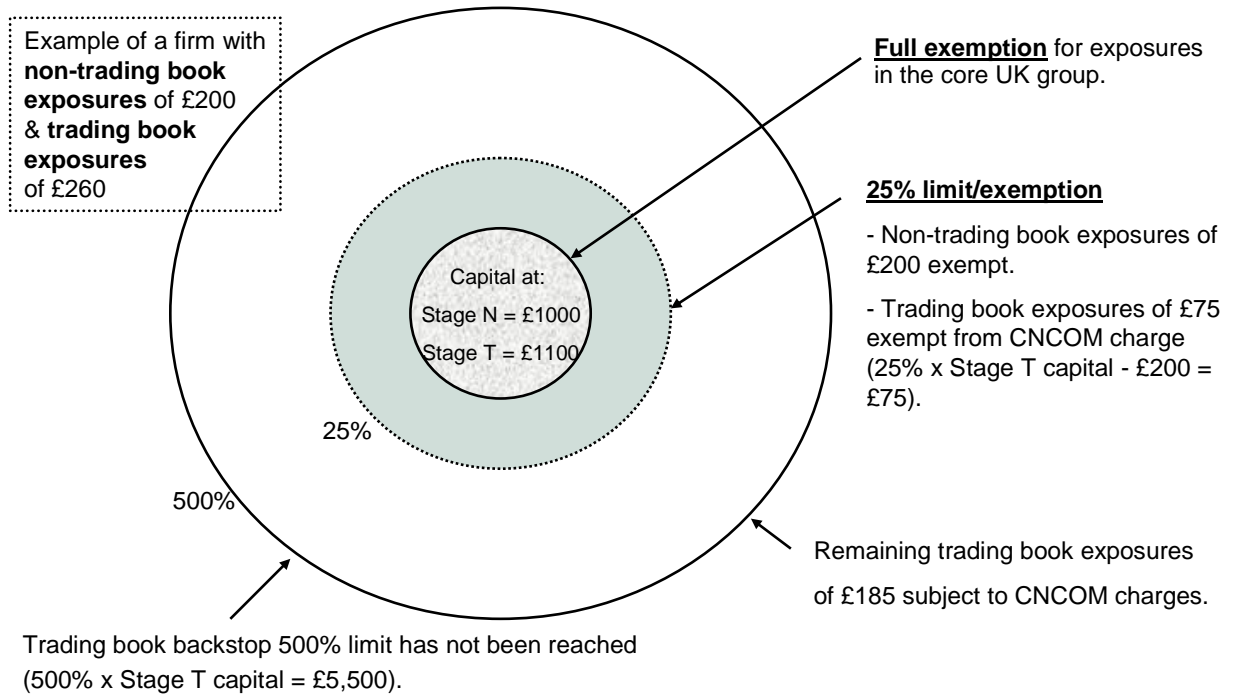
**10 Treatment of exposures under the integrated groups regime for
Annex concentration risk [deleted]
1G**

After BIPRU 10 Annex 1G [deleted], insert the following new annex.

10 G Examples of treatment of intra-group exposures under BIPRU 10
Annex 2

Example 1

Intra group large exposures: CNCOM calculation
 (example of BIPRU 10.10A.14 G)



CNCOM charges as follows:

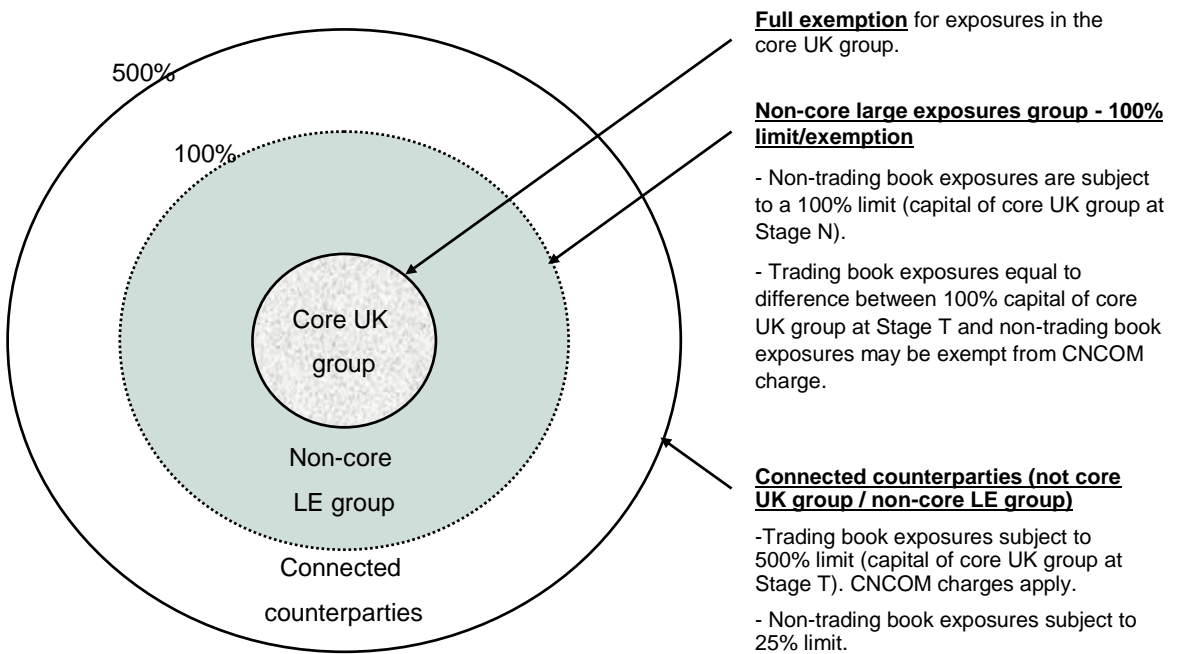
Trading book exposures of £75 exempt from CNCOM,
 CNCOM band charges start at 25%,

If excess exposures are >10 days, CNCOM bands calculated as:

25% - 40%	(£275 - £440)	=	£165	@ 200%
40% - 60%	(£ remainder)	=	£ 20	@ 300%
			£185	

Example 2

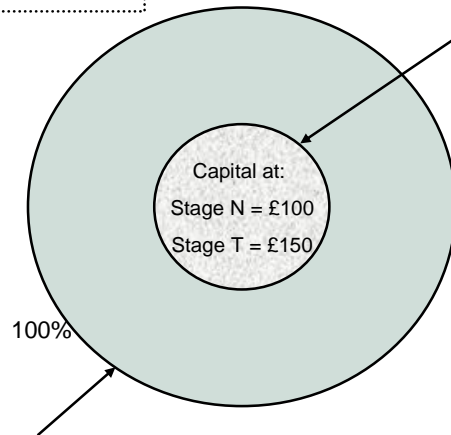
Intra group large exposures: Overview of interaction between BIPRU 10.8A (Core UK group), BIPRU 10.9A (Non-core LE group) & BIPRU 10.10A (Trading book limits)



Example 3

Intra group large exposures: example of non-trading book exposures

Example of a firm with intra group **non-trading book exposures** of £100



Full exemption for exposures in the core UK group.

Non-core large exposures group - 100% limit

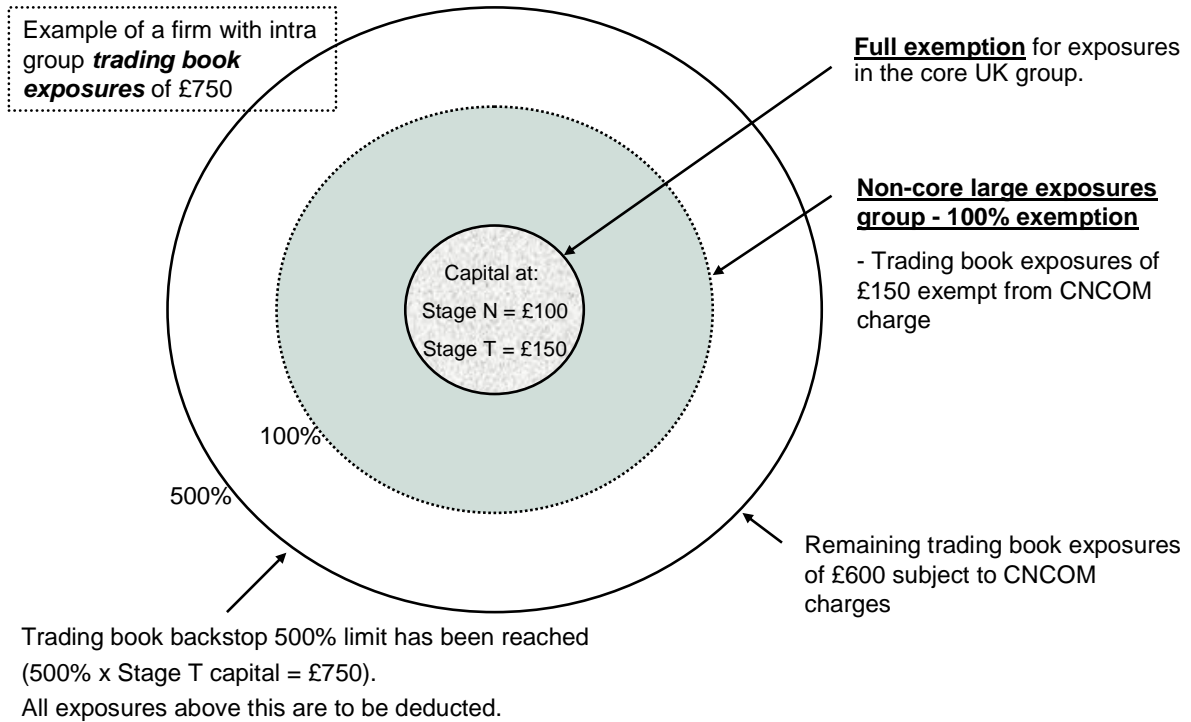
- Non-trading book exposures of £100

100%

Non-trading book backstop of 100% limit has been reached (100% x Stage N capital = £100). All exposures above this are to be deducted.

Example 4

Intra group large exposures: example of trading book exposures



CNCOM charges as follows:

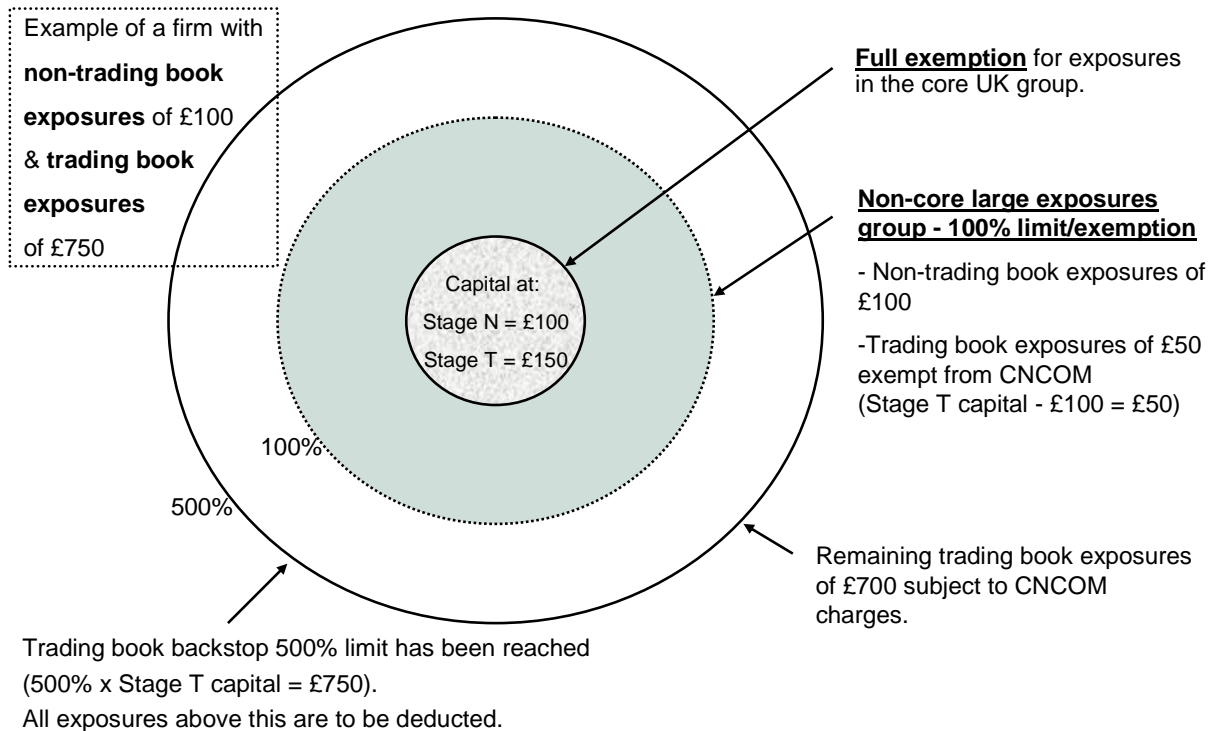
Trading book exposures of £150 exempt from CNCOM,
CNCOM band charges start at 100%,

If excess exposures are >10 days, CNCOM bands calculated as:

100% - 250%	(£150 - £375)	=	£225	@	600%
>250%	(£ remainder)	=	<u>£375</u>	@	900%
			£600		

Example 5

Intra group large exposures: example of non-trading book & trading book exposures



CNCOM charges as follows:

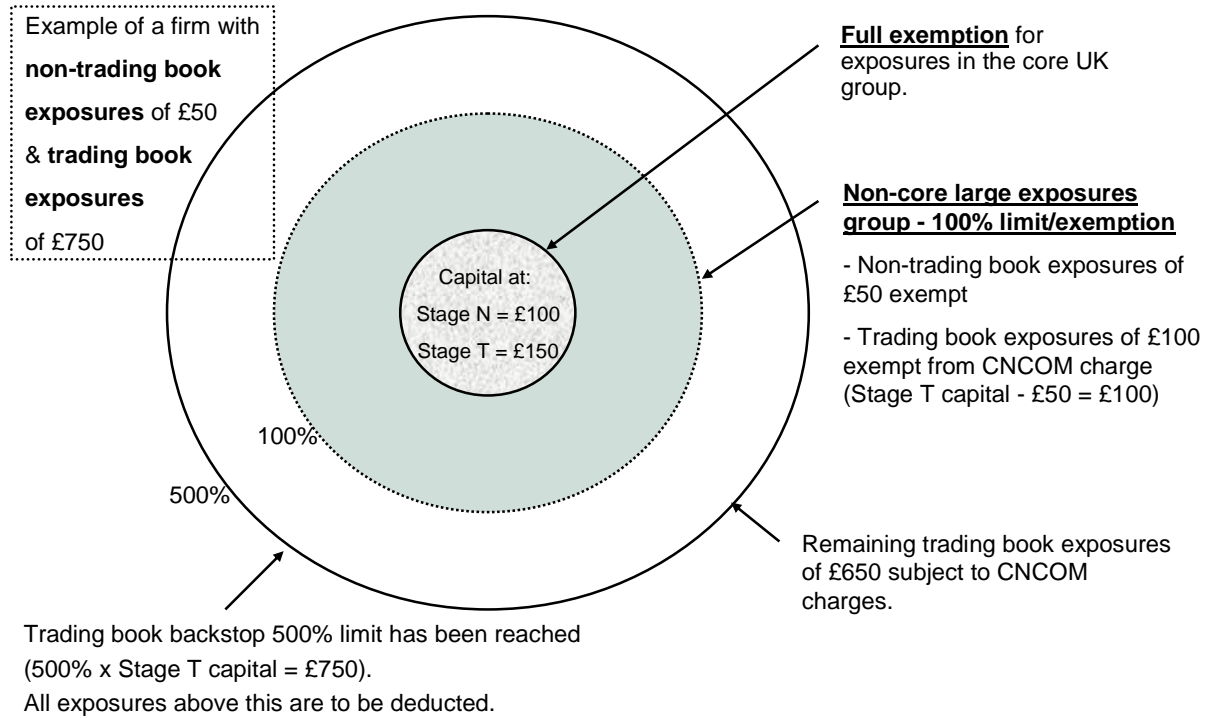
Trading book exposures of £50 exempt from CNCOM, CNCOM band charges start at 100%,

If excess exposures are >10 days, CNCOM bands calculated as:

100% - 250%	(£150 - £375)	=	£225	@ 600%
>250%	(£ remainder)	=	£475	@ 900%
			£700	

Example 6

Intra group large exposures: example of non-trading book & trading book exposures



CNCOM charges as follows:

Trading book exposures of £100 exempt from CNCOM, CNCOM band charges start at 100%,

If excess exposures are >10 days, CNCOM bands calculated as:

100% - 250%	(£150 - £375)	=	£225	@ 600%
>250%	(£ remainder)	=	£425	@ 900%
			£650	

Amend the following as shown.

TP 2 Capital floors for a firm using the IRB or AMA approaches

...

How to apply IPRU

- 2.26 R For the purpose of calculating the part of the *IPRU* capital resources requirement that corresponds to the *concentration risk capital component* a *firm* may identify the *trading book exposures* on which that requirement is based using *BIPRU* 10 (~~Concentration risk~~ Large exposures requirements) except to the extent that *BIPRU* 10 involves the *IRB approach*.
- 2.27 G The *concentration risk capital component* is the capital requirement for a *firm* that chooses to have *trading book exposures* that exceed the ~~concentration risk~~ large exposure limits for the *non-trading book*. In most cases *IPRU* has a similar capital requirement. The purpose of *BIPRU* TP 2.26R is to allow a *firm* to calculate the amount of the excess *trading book exposures* for which it calculates the additional capital charge using *BIPRU* 10 (~~Concentration risk~~ Large exposures requirements) in order to avoid having to apply the *IPRU* large exposure requirements for this purpose only.

...

TP 15 Commodities firm transitionals: Exemptions from capital requirements

...

Exemption

- 15.6 R The provisions of *GENPRU* and *BIPRU* on capital requirements and *GENPRU* 1.2 (Adequacy of financial resources) do not apply to a *firm* to which *BIPRU* TP 15 applies. However *BIPRU* 10 (~~Concentration risk~~ Large exposures requirements) continues to apply, including the *CNCOM*.
- 15.10 G Table: Parts of *GENPRU* and *BIPRU* that apply to exempt *BIPRU* commodities firms

This table belongs to *BIPRU* TP 15.9G

<i>GENPRU</i> and <i>BIPRU</i> provisions	...	...
...
<i>BIPRU</i> 10 (Concentration risk <u>Large exposures</u>)	...	...
...

...

TP 16 Commodities firm transitionals: large exposure

...

Duration of transitional

16.4 R The treatment in *BIPRU* TP 16 is available until 31 December ~~2010~~ 2014.

[Note: CAD Article 45(1)]

...

Exemption

16.6 R (1) A *firm* may exceed the limits concerning *large exposures* in *BIPRU* 10.5.6R (25% limit), ~~*BIPRU* 10.5.8R (800% limit), *BIPRU* 10.5.12R (500% limit) and *BIPRU* 10.5.13R (600% limit).~~

...

16.7 G Broadly speaking the effect of *BIPRU* TP 16.6R is that *BIPRU* 10 (~~Concentration risk~~ Large exposures) does not apply to a *firm* that meets the conditions in *BIPRU* TP 16.1R. However *BIPRU* 10.12 (Systems and controls and general) continues to apply.

...

BIPRU TP17 is deleted in its entirety. The deleted text is not shown.

TP 17 Large exposures: Exemptions for intra-group exposures for banks and investment firms [deleted]

BIPRU TP18 is deleted in its entirety. The deleted text is not shown.

TP 18 Large exposures: Exemptions for intra-group exposures for building societies [deleted]

BIPRU TP19 is deleted in its entirety. The deleted text is not shown.

TP 19 Large exposures: Exemptions for intra-group exposures on a consolidated basis [deleted]

...

After BIPRU TP 32, insert the following new transitional provisions. The new text is not underlined.

TP 33 Intra-group exposures: Transitional provisions for core UK group and large exposures

Application

- 33.1 R (1) This section applies to a *BIPRU firm* that on 30 December 2010 was applying any of the exemptions under the following provisions in the version in force on that date:
- (a) *BIPRU 3.2.25R* (Zero risk-weighting for intra-group exposures);
 - (b) *BIPRU 10.6.5R* to *BIPRU 10.6.7R* (Parental guarantees and capital maintenance arrangements);
 - (c) *BIPRU 10.7* (Treasury concession and intra-group securities financing transactions);
 - (d) *BIPRU 10.8* (UK integrated group); or
 - (e) *BIPRU 10.9* (Wider integrated group), if it has a *wider integrated group waiver* that expires after 31 December 2010.
- (2) In order to continue applying any of the exemptions in (1), a *firm* must be able on an ongoing basis to demonstrate to the *FSA* that it continues to comply fully with the provisions applicable to that exemption.

Duration of transitional

- 33.2 R This section applies until 31 December 2012.

Zero risk-weighting for intra-group exposures

- 33.3 R A *firm* may assign a *risk weight* of 0% to *exposures* that are eligible for that treatment under the criteria in *BIPRU 3.2.25R* in the version in force on 30 December 2010.

Exemptions from large exposures limits for intra-group exposures

- 33.4 R A *firm* may, to the extent permitted by this section, treat an *exposure* to a *concentration risk group counterparty* as exempt or partially exempt in accordance with *BIPRU 10* (Concentration risk requirements) in the version in force on 30 December 2010.

- 33.5 G The term *concentration risk group counterparty* broadly covers group members if they and the *firm* are subject to consolidated supervision by the *FSA*, another *EEA competent authority* or certain non-*EEA* regulators. The full definition can be found in the *Glossary* in the version in force on 30 December 2010.
- 33.6 G If the context requires, *BIPRU* 8.9 (Consolidated concentration risk requirements) as it was in force on 30 December 2010 continues to apply to a *firm* that applies *BIPRU* TP 33.4R.
- Effect of this section on intra-group exemptions in *BIPRU* 10
- 33.7 R If a *firm* applies this section, *BIPRU* 10.8A (Intra-group exposures: core UK group) to *BIPRU* 10.9A (Intra-group exposures: exposures outside of the core UK group) do not apply.
- 33.8 G The effect of *BIPRU* TP 33.7R is that a *firm* should not apply *BIPRU* 10.8A (Intra-group exposures: core UK group) to *BIPRU* 10.9A (Intra-group exposures: exposures outside the core UK group) to some *exposures to core concentration risk group counterparties, non-core concentration risk group counterparties* or *connected counterparties* and this section to others. The purpose of *BIPRU* TP 33.7R is that a *firm* should choose between treating intra-group *exposures* under *BIPRU* 10.8A (Intra-group exposures: core UK group) to *BIPRU* 10.9A (Intra-group exposures: exposures outside the core UK group) and treating them under this section but that it should not mix the approaches.
- Notice to the FSA
- 33.9 R A *firm* may only apply the treatment in *BIPRU* TP 33.3R or *BIPRU* TP 33.4R if the *firm* has notified the *FSA* in writing that it intends to apply the relevant *rule* to the particular counterparty or *concentration risk group counterparty* respectively.
- 33.10 R The notice in *BIPRU* TP 33.9R must comply with the following requirements:
- (1) the *FSA* was notified on or before 31 December 2010;
 - (2) the notice must give the following:
 - (a) in the case of the treatment in *BIPRU* TP 33.3R:
 - (i) the name of the counterparty concerned; and
 - (ii) details of the *firm's* initial plans on how and when it will ensure that *exposures* that will not be within its *core UK group* are treated in accordance with the relevant *rules* in *BIPRU* 3;
 - (b) in the case of the treatment in *BIPRU* TP 33.4R:

- (i) the name of the *concentration risk group counterparty* concerned and the intra-group exemption or exemptions that apply to it; and
- (ii) details of the *firm's* initial plans on how and when it intends to comply with the *large exposures* limits that apply to a *core UK group* or *non-core large exposures group*.

TP 34 Large exposures: General transitional provisions

Application

34.1 R This section applies to a *BIPRU* firm.

Purpose

34.2 G This section implements the intra-group exemption in Article 113(3)(f) and the national discretion for exemptions in Articles 113(4)(a) and (c) of the *Banking Consolidation Directive* and the national discretion for *trading book concentration risk excess* in Article 31 of the *Capital Adequacy Directive*.

Duration of transitional

34.3 R This section applies until 31 December 2010.

Version of BIPRU to be used

34.4 R Any reference in this section to *BIPRU* is to the version in force on 30 December 2010.

Rules in BIPRU that apply until 31 December 2010

34.5 R The following *rules* apply until 31 December 2010:

- (1) *BIPRU* 10.6.3R(10) (Exemption for covered bonds from the large exposure limit);
- (2) *BIPRU* 10.5 (Limits on exposures and large exposures);
- (3) *BIPRU* TP 17 (Large exposures: Exemptions for intra-group exposures for banks and investment firms), if a *firm* has a *waiver* that expires on 31 December 2010 which has the effect of allowing it to apply the exemptions in *BIPRU* TP 17; and
- (4) *BIPRU* TP 19 (Large exposures: Exemptions for intra-group exposures on a consolidated basis), if a *firm* has a *waiver* that expires on 31 December 2010 which has the effect of allowing it to apply the

exemptions in *BIPRU* TP 17 on a consolidated basis.

- 34.6 G The Capital Requirements Directive (Large Exposures) Instrument 2010 (FSA 2010/41) comes into force on 31 December 2010. The effect of *BIPRU* TP 34.5R is that the *BIPRU* provisions contained in that instrument that amend, delete or replace, the *rules* set out in *BIPRU* TP 34.5R are disapplied until 1 January 2011.

Schedule 1 Record keeping requirements

...

3 Table

Handbook reference	Subject of Record	Contents of Record	When record must be made	Retention Period
...				
<i>BIPRU</i> 10.4.47R	<i>Exposure to undisclosed counterparties</i>	A record of the steps taken by the <i>firm</i> to satisfy itself that it will continue to meet the limits in <i>BIPRU</i> 10.5 for <i>non-trading book exposures</i> and <i>trading book exposures</i>	Not specified	Not specified
...				

...

Schedule 2 Notification and reporting requirements

...

3 Table

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
...				
<i>BIPRU</i> 3.2.35R (1), (4) and (5)	Intention to apply <i>BIPRU</i> 3.2.35R <u>Fact of <i>exposure</i> or <i>firm</i> ceasing to meet the conditions in <i>BIPRU</i> 3.2.25R</u>	(1) and (4): Fact of intention (5): Fact of <i>exposure</i> or <i>firm</i> ceasing to meet	(1) and (4): Intention to apply (5): Ceasing to meet conditions	(1) and (4): One month's prior notice (5): First

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
		the conditions in <i>BIPRU</i> 3.2.35R <u>3.2.25R</u>		report date after the obligation to notify becomes due
...				
<i>BIPRU</i> 8.9.4R, <i>BIPRU</i> 8.9.27R	Use of Treasury concession in <i>BIPRU</i> 10.7 on a consolidated basis	See <i>BIPRU</i> 10.11	Intention to use Treasury concession	See <i>BIPRU</i> 10.11
<i>BIPRU</i> 8.9.8R, <i>BIPRU</i> 8.9.27R	Creation of a <i>consolidation UK integrated group</i>	See <i>BIPRU</i> 10.11	Intention to form <i>consolidation UK integrated group</i>	See <i>BIPRU</i> 10.11
...				
<i>BIPRU</i> 10.5.9R	Breaching the <i>large exposures</i> limits in <i>BIPRU</i> 10.5.6R or <i>BIPRU</i> 10.5.8R	Fact of breach or expectation of breach	Breach or expectation of breach	Immediately
<i>BIPRU</i> 10.5.14R	<i>Trading book concentration risk excesses</i> over a three month period	All cases in the three month period of each <i>trading book concentration risk excess</i> that existed in that period, giving the amount of the excess and the name of the <i>counterparty</i>	End of three month period	Not specified
<i>BIPRU</i> 10.6.7R (2)	Intention to use capital maintenance agreement	Fact of intention and details of the terms and conditions of capital maintenance agreement	Intention to enter into agreement	One month before entering agreement
<i>BIPRU</i>	Intention to use concession	Fact of intention	Intention to use	One month

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
10.11.1R (1) and (4)	in BIPRU 10.7.1R, or BIPRU 10.7.4R or the UK integrated groups concession in BIPRU 10.8		BIPRU 10.7.1R, or BIPRU 10.7.4R, or BIPRU 10.8	prior to using the concessions in BIPRU 10.7.1R, or BIPRU 10.7.4R, or BIPRU 10.8
BIPRU 10.11.1R (3)	Intention to stop applying BIPRU 10.7 or BIPRU 10.8	Fact of intention	Intention to stop using BIPRU 10.7.1R, or BIPRU 10.7.4R, or BIPRU 10.8	One month prior to using the concessions in BIPRU 10.7.1R, or BIPRU 10.7.4R, or BIPRU 10.8
BIPRU 10.11.2R 10.8A.12 R	Exposure being treated as exempt under BIPRU 10.7.1R or BIPRU 10.7.4R or BIPRU 10.8A (Core UK group) or BIPRU 10.9 ceases to meet the conditions for application of the treatment	Fact or expectation of any exposure to which it has applied the treatment ceases to meet the conditions for application of the relevant treatment	Awareness of situation	Not specified Immediately
BIPRU 10.9A.8R (2)	Intention to use BIPRU 10.9A.8R (1) to concentrate an exposure to a particular member of the non-core large exposures group that exceeds 25% of the capital resources of the firm's core UK group	Fact of intention and the information in BIPRU 10.9A.8R (3)	Intention to use BIPRU 10.9A.8R (1)	Not specified
BIPRU 10.9A.12 R	Exposure being treated as exempt under BIPRU 10.9A (Intra-group exposures: exposures outside the core UK group) ceases to meet the conditions for application of the treatment	Fact or expectation of any exposure to which it has applied the treatment ceases to meet the	Awareness of situation	Immediately

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
		<u>conditions for application of the treatment</u>		
...				

Annex D

Amendments to the Supervision manual (SUP)

The amendments in this Annex are made to the version of the Supervision manual (SUP) as was amended by Annex D to the Capital Requirements Directive (Handbook Amendments) Instrument 2010 (FSA 2010/29).

Although the amendments in Annex D to the Capital Requirements Directive (Handbook Amendments) Instrument 2010 (FSA 2010/29) have not come into force as at the date of this instrument, they are not shown as underlined for the purpose of this Annex.

In this Annex, underlining indicates new text inserted into the version of the Supervision manual amended in Annex D to the Capital Requirements Directive (Handbook Amendments) Instrument 2010 (FSA 2010/29).

SUP 16 Annex 25G Guidance notes for data items in SUP 16 Annex 24R

...

FSA008 – Large exposures

...

Part 1 – Large exposures at the reporting date

...

Where a firm has established a *core UK group* (as defined in *BIPRU* 10.8A.2R), it should detail these *exposures* in Part 2.

...

5N Trading book concentration risk excess

This is the *trading book concentration risk excess*, arising under *BIPRU* 10.10A.8R (or *BIPRU* 10.5.20R) for those utilising TP33), expressed as a percentage of data element 4B. It should be entered to two decimal places, omitting the % sign.

**PRUDENTIAL REQUIREMENTS
(CAPITAL PLANNING BUFFER) INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making powers); and
 - (b) section 157(1) (Guidance);
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 24 September 2010.

Amendments to the Handbook

- D. The modules of the FSA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
General Prudential sourcebook (GENPRU)	Annex B
Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)	Annex C

Citation

- E. This instrument may be cited as the Prudential Requirements (Capital Planning Buffer) Instrument 2010.

By order of the Board
23 September 2010

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.

capital planning buffer (in *BIPRU 2.2*) the amount and quality of capital resources that a *firm* should hold at a given time in accordance with the *general stress and scenario testing rule*, so that the *firm* is able to continue to meet the *overall financial adequacy rule* throughout the relevant capital planning period in the face of adverse circumstances, after allowing for realistic management actions.

Amend the following as shown.

individual capital guidance *guidance* given to a *firm* about the amount and quality of capital resources that the *FSA* thinks the *firm* should hold at all times under the *overall financial adequacy rule* as it applies on a solo level or a consolidated level.

Annex B

Amendments to the General Prudential sourcebook (GENPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1.2.16 G This section also has *rules* requiring a *firm* to carry out appropriate stress tests and scenario analyses for the risks it has previously identified and to establish the amount of financial resources needed in each of the circumstances and events considered in carrying out the stress tests and scenario analyses. In the case of a *BIPRU firm*, the *FSA* will consider as part of its *SREP* whether the *BIPRU firm* should hold a *capital planning buffer* and, in such a case, the amount and quality of that buffer. The *capital planning buffer* is an amount separate, though related to, the *individual capital guidance*, insofar as its purpose is to ensure that a *BIPRU firm* is able to continue to meet the *overall financial adequacy rule* throughout the relevant capital planning period in the face of adverse circumstances, after allowing for realistic management actions. Therefore, when forming its view on a *BIPRU firm's capital planning buffer*, the *FSA* will take into account the assessment made in relation to the *firm's ICG*.

...

1.2.19 G (1) ...

(2) *BIPRU 2.2* and *INSPRU 7.1* also have information on how the *FSA* will review and respond to the assessments referred to in *GENPRU 1.2.15 G* and, in the case of *BIPRU firms*, in *GENPRU 1.2.16G*. In particular they deal with the giving of ~~individual capital~~ *individual capital guidance* to a *firm*, which is *guidance* about the amount and quality of capital resources that the *FSA* thinks a *firm* should hold at all times under the *overall financial adequacy rule* as it applies on a solo level and a consolidated level. *BIPRU 2.2* also deals with the giving of a *capital planning buffer* to a *BIPRU firm* on a solo level and a consolidated level.

Annex C

**Amendments to the Prudential sourcebook for
Banks, Building Societies and Investment Firms (BIPRU)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

The ICAAP and the SREP: the SREP

- 2.2.8 G The *FSA* will review ~~an~~ a firm's ICAAP and, ~~if the firm has an IRB permission, including the result~~ results of the firm's stress test ~~tests~~ carried out under *GENPRU* and ~~BIPRU 4.3.39R to BIPRU 4.3.40R (Stress tests used in assessment of capital adequacy for a firm with an IRB permission),~~ as part of its *SREP*. Provided that the *FSA* is satisfied with the appropriateness of a firm's capital assessment, the *FSA* will take into account that firm's *ICAAP* and stress test ~~tests~~ in its *SREP*. More material on stress tests for a firm with an *IRB permission* can be found in *BIPRU 2.2.41R to BIPRU 2.2.45G*.
- ...
- 2.2.11 G As part of its *SREP*, the *FSA* will consider whether the amount and quality of capital which a firm should hold to meet its *CRR* in *GENPRU 2.1* (Calculation of capital resources requirements) is sufficient for that firm to comply with the *overall financial adequacy rule*. ~~Where the amount of capital which the FSA considers a firm should hold is not the same as that which results from a firm's ICAAP, the FSA expects to discuss any such difference with the firm. Where necessary, the FSA may consider the use of its powers under section 166 of the Act (reports by skilled persons) to assist in such circumstances.~~
- 2.2.12 G After completing a review as part of the *SREP*, the *FSA* will normally give that firm individual *guidance* (*individual capital guidance*), advising it of the amount and quality of capital which it should hold to meet the *overall financial adequacy rule*.
- 2.2.12A G As part of its *SREP*, the *FSA* will also consider whether a firm should hold a *capital planning buffer* and, in that case, the amount and quality of such *capital planning buffer*. In making these assessments, the *FSA* will have regard to the nature, scale and complexity of a firm's business and of the major sources of risks relevant to such business as referred to in the *general stress and scenario testing rule*. Accordingly, a firm's *capital planning buffer* should be of sufficient amount and adequate quality to allow the firm to continue to meet the *overall financial adequacy rule* in the face of adverse circumstances, after allowing for realistic management actions.
- 2.2.12B G After completing a review as part of the *SREP*, the *FSA* may notify the firm of the amount and quality of capital which it should hold as a *capital planning buffer* over and above the level of capital recommended as its *ICG*. The *FSA* may set a firm's *capital planning buffer* either as an amount and quality of capital which it should hold now (that is, at the time of the

FSA's notification following the firm's SREP) or, in exceptional cases, as a forward looking target that the firm should build up over time.

- 2.2.12C G Where the amount or quality of capital which the FSA considers a firm should hold to meet the overall financial adequacy rule or as a capital planning buffer is not the same as that which results from a firm's ICAAP, the FSA usually expects to discuss any such difference with the firm. Where necessary, the FSA may consider the use of its powers under section 166 of the Act (Reports by skilled persons) to assist in such circumstances.
- 2.2.13 G If a firm considers that ~~ICG~~ the individual capital guidance given to it is inappropriate to its circumstances it should, consistent with Principle 11 (relations ~~Relations~~ with regulators), inform the FSA that it disagrees with that guidance. The FSA may reissue individual capital guidance if, after discussion with the firm, the FSA concludes that the amount or quality of capital that the firm should hold to meet the overall financial adequacy rule is different from the amount or quality initially suggested by the FSA.
- 2.2.13A G If a firm disagrees with the FSA's assessment as to the amount or quality of capital planning buffer that it should hold, it should, consistent with Principle 11 (Relations with regulators), notify the FSA of its disagreement. The FSA may reconsider its initial assessment if, after discussion with the firm, the FSA concludes that the amount or quality of capital that the firm should hold as capital planning buffer is different from the amount or quality initially suggested.
- ...
- 2.2.15 G If, after discussion, the FSA and a firm still do not agree on an adequate level of capital, the FSA may consider using its powers under section 45 of the Act to vary on its own initiative a firm's Part IV permission so as to require it to hold capital in accordance with the FSA's view of the capital necessary to comply with the overall financial adequacy rule. In deciding whether it should use its powers under section 45, the FSA will take into account the amount and quality of the capital planning buffer which the firm should hold as referred to in BIPRU 2.2.12AG and 2.2.12BG. SUP 7 provides further information about the FSA's powers under section 45.

The drafting of individual capital guidance and capital planning buffer

- 2.2.16 G If the FSA gives individual capital guidance to a firm, the FSA will state what amount and quality of capital the FSA considers the firm needs to hold in order to comply with the overall financial adequacy rule. It will generally do so by saying that the firm should hold capital resources of an amount which is at least equal to a specified percentage of that firm's capital resources requirement plus one or more static add-ons in relation to specific risks in accordance with the overall Pillar 2 rule. ~~Such amount should be sufficient to enable the firm to continue to meet the overall financial adequacy rule in the face of the adverse circumstances and events to which GENPRU 1.2.42R(2) refers, taking account of any risk mitigation available to the firm.~~

...

2.2.19A G Where the FSA notifies a firm that it should hold a capital planning buffer, the notification will state what amount and quality of capital the FSA considers that is adequate for the firm to hold as such. This will normally be notified to the firm together with its individual capital guidance and expressed as a separate amount of capital resources that the firm should hold in excess of the amount of capital resources indicated as its individual capital guidance.

2.2.19B G For the purposes of BIPRU 2.2.19AG, BIPRU 2.2.17G to BIPRU 2.2.19G apply as they apply to individual capital guidance. References in those provisions to individual capital guidance or guidance should be read as if they were references to capital planning buffer. In relation to BIPRU 2.2.19G(3) and GENPRU 1.2.59R, where the general stress and scenario testing rule, as part of the ICAAP rules, applies to a firm on a consolidated basis, the FSA may notify the firm that it should hold a group capital planning buffer. In these cases, the firm should ensure that the group holds a capital planning buffer of sufficient amount and adequate quality to allow it to continue to meet the overall financial adequacy rule in the face of adverse circumstances, after allowing for realistic management actions.

...

Failure to meet individual capital guidance and monitoring and reporting on the capital planning buffer

...

2.2.23 G BIPRU 2.2.20G—BIPRU 2.2.22G also apply to individual capital guidance on a consolidated basis as referred to in BIPRU 2.2.19G. Monitoring the use of a firm's capital planning buffer is also a fundamental part of the FSA's supervision of that firm. A firm should only use its capital planning buffer to absorb losses or meet increased capital requirements if certain adverse circumstances materialise. These should be circumstances beyond the firm's normal and direct control, whether relating to a deteriorating external environment or periods of stress such as macroeconomic downturns or financial/market shocks, or firm-specific circumstances.

2.2.23A G Consistent with Principle 11 (Relations with regulators), a firm should notify the FSA as early as possible in advance where it has identified that it would need to use its capital planning buffer. The firm's notification should at least state:

- (1) what adverse circumstances are likely to force the firm to draw down its capital planning buffer;
- (2) how the capital planning buffer will be used up in line with the firm's capital planning projections; and
- (3) what plan is in place for the eventual restoration of the capital

planning buffer.

- 2.2.23B G Following discussions with the *firm* on the items listed in BIPRU 2.2.23AG(1) to (3), the *FSA* may put in place additional reporting arrangements to monitor the *firm*'s use of its *capital planning buffer* in accordance with the plan referred to in BIPRU 2.2.23AG(3). The *FSA* may also identify specific trigger points as the *capital planning buffer* is being used up by the *firm*, which could lead to additional supervisory actions.
- 2.2.23C G Where a *firm*'s *capital planning buffer* is being drawn down due to circumstances other than those referred to in BIPRU 2.2.23G, such as poor planning or mismanagement, the *FSA* may ask the *firm* for more detailed plans for it to restore its *capital planning buffer*. In the light of the relevant circumstances, the *FSA* may consider taking other remedial actions, which may include using its powers under section 45 of the *Act* to vary on its own initiative a *firm*'s *Part IV permission*.
- 2.2.23D G A *firm* should inform the *FSA* where its *capital planning buffer* is likely to start being drawn down even if it has not accepted the *FSA*'s assessment as to the amount or quality of its *capital planning buffer*.
- 2.2.23E G Where a *firm* has started to use its *capital planning buffer* in circumstances where it was not possible to notify in advance, it should notify the *FSA* and provide the information referred to in BIPRU 2.2.23AG as soon as practicable afterwards.
- 2.2.23F G BIPRU 2.2.20G to BIPRU 2.2.23EG also apply to *individual capital guidance* and to *capital planning buffer* on a consolidated basis as referred to in BIPRU 2.2.19G.
- ...
- 2.2.29 G (1) A *firm* may take into account factors other than those identified in the *overall Pillar 2 rule* when it assesses the level of capital it wishes to hold. These factors might include external rating goals, market reputation and its strategic goals. However, a *firm* should be able to distinguish, for the purpose of its dialogue with the *FSA*, between capital it holds in order to comply with the *overall financial adequacy rule* and ~~to meet the risks set out in the *overall Pillar 2 rule*~~, capital that it holds as a *capital planning buffer* and ~~that~~ capital held for other purposes.
- ...
- ...
- 2.2.39 G To reduce the impact of cyclical effects, a *firm* should aim to maintain an adequate ~~capital buffer~~ *capital planning buffer* during an upturn in business and economic cycles such that it has sufficient capital available to protect itself in unfavourable market conditions.
- ...

- 2.2.72 G A *firm* should not expect the *FSA* to accept as adequate any particular model that it develops or automatically to reflect the results from the model in any *individual capital guidance* or capital planning buffer. However, the *FSA* will take into account the results of a sound and prudent model when giving *individual capital guidance* or when dealing with the firm in relation to its capital planning buffer (see GENPRU 1.2.19G (Outline of provisions related to GENPRU 2.1 (Adequacy of financial resources))).

**LIQUIDITY STANDARDS (MISCELLANEOUS AMENDMENTS)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 156 (General supplementary powers); and
 - (3) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force as follows:
- (1) Part 1 of Annex A, Annex B, Annex C and Part 1 of Annex D come into force on 1 October 2010;
 - (2) Part 2 of Annex A comes into force on 1 November 2010; and
 - (3) Part 2 of Annex D comes into force on 6 January 2011.

Amendments to the Handbook

- D. The modules of the FSA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Senior Management Arrangements, Systems and Controls (SYSC)	Annex B
Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)	Annex C
Supervision manual (SUP)	Annex D

Notes

- E. In Annex C to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- F. This instrument may be cited as the Liquidity Standards (Miscellaneous Amendments) Instrument 2010.

By order of the Board
23 September 2010

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text.

Part 1: Comes into force on 1 October 2010

designated money market fund (in *BIPRU 12* and *BSOCS*) a *collective investment scheme* authorised under the *UCITS Directive* or which is subject to supervision and, if applicable, authorised by an authority under the national law of an *EEA State*, and which satisfies the following conditions:

...

- (e) it must provide liquidity through same day settlement in respect of any request for redemption made at or before ~~1500~~ 1200 hours GMT or, as the case may be, BST.

Part 2: Comes into force on 1 November 2010

DLG by default ...

The following provisions also apply for the purpose of this definition.

- (c) A *person* is not a member of a *firm's* DLG by default unless it also satisfies one of the following conditions:

...

- (iii) it is an *undertaking* whose main purpose is to raise funds for the *firm* or for a *group* to which that *firm* belongs.

(ca) In the case of a *group liquidity reporting firm* that is within paragraph (a) of the definition of *UK lead regulated firm* (it is not part of a group that is subject to consolidated supervision by the *FSA* or any other *regulatory body*), paragraph (c)(i) of the definition of *DLG by default* is amended so that it only includes a member of the *firm's* group that falls into one of the following categories:

- (i) it is a *credit institution*; or
- (ii) it is an *investment firm* or *third country investment firm* authorised to *deal on own account*.

For these purposes:

- (iii) credit institution has the meaning used in SUP 16 (Reporting requirements), namely either of the following:
- (A) a credit institution authorised under the *Banking Consolidation Directive*; or
 - (B) an institution which would satisfy the requirements for authorisation as a credit institution under the *Banking Consolidation Directive* if it had its registered office (or if it does not have a registered office, its head office) in an *EEA State*; and
- (iv) a person is authorised to deal on own account if:
- (A) it is a *firm* and its *permission* includes that activity; or
 - (B) it is an *EEA firm* and it is authorised by its *Home State regulator* to do that activity; or
 - (C) (if the carrying on of that activity is prohibited in a state or territory without an authorisation in that state or territory) that *person* has such an authorisation.

...

Annex B

Amendments to the Senior Management Arrangements, Systems and Controls (SYSC)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Comes into force on 1 October 2010

- 12.1.13 R If this *rule* applies under SYSC 12.1.14R to a *firm*, the *firm* must:
- (1) ...
 - (2) ensure that the risk management processes and internal control mechanisms at the level of any *UK consolidation group* or non-*EEA sub-group* of which it is a member comply with the obligations set out in the following provisions on a consolidated (or sub-consolidated) basis:

...

 - (e) *BIPRU 12.3.4R, BIPRU 12.3.5R, BIPRU 12.3.8R(3), BIPRU 12.3.22AR, BIPRU 12.3.22BR, BIPRU 12.3.27R, BIPRU 12.4.-2R, BIPRU 12.4.-1R, BIPRU 12.4.5AR, and BIPRU 12.4.10R and BIPRU 12.4.11R;*

...

Annex C

**Amendments to the Prudential Sourcebook for Banks, Building Societies and
Investment Firms (BIPRU)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

Comes into force on 1 October 2010

- 12.3.4 R A *firm* must have in place robust strategies, policies, processes and systems that enable it to identify, measure, manage and monitor *liquidity risk*, ~~including those which enable it to assess and maintain on an ongoing basis the amounts, types and distribution of liquidity resources that it considers adequate to cover:~~ over an appropriate set of time horizons, including intra-day, so as to ensure that it maintains adequate levels of liquidity buffers. These strategies, policies, processes and systems must be tailored to business lines, currencies and entities and must include adequate allocation mechanisms of liquidity costs, benefits and risks.

[**Note:** annex V paragraph 14 of the *Banking Consolidation Directive*]

(1 ~~the nature and level of the *liquidity risk* to which it is or might be exposed;~~
)

(2 ~~the risk that the *firm* cannot meet its liabilities as they fall due; and~~
)

(3 ~~in the case of an *ILAS BIPRU firm*, the risk that its liquidity resources might~~
) ~~in the future fall below the level, or differ from the quality and funding profile, of those resources advised as appropriate by the *FSA* in that *firm's individual liquidity guidance* or, as the case may, its *simplified buffer requirement*.~~

- 12.3.4 G The strategies, policies, processes and systems referred to in *BIPRU 12.3.4R* should include those which enable it to assess and maintain on an ongoing basis the amounts, types and distribution of liquidity resources that it considers adequate to cover:

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

(2 the risk that the *firm* cannot meet its liabilities as they fall due; and
)

(3 in the case of an *ILAS BIPRU firm*, the risk that its liquidity resources might
) in the future fall below the level, or differ from the quality and funding profile, of those resources advised as appropriate by the *FSA* in that *firm's individual liquidity guidance* or, as the case may, its *simplified buffer requirement*.

- 12.3.5 R The strategies, policies, processes and systems ~~required by BIPRU 12.3.4R~~ must be comprehensive and proportionate to the nature, scale and complexity of a *firm's* activities referred to in *BIPRU 12.3.4R* must be proportionate to the complexity, risk profile and scope of operation of the *firm*, and the liquidity risk tolerance set by the *firm's governing body* in accordance with *BIPRU 12.3.8R*, and must reflect the *firm's* importance in each *EEA State*, in which it carries on business.

[**Note:** annex V paragraph 14a of the *Banking Consolidation Directive*]

- 12.3.6 E (1) ~~A *firm* should ensure that it has in place a robust framework to project fully over an appropriate set of time horizons cash flows arising from assets, liabilities and off-balance sheet items.~~ [deleted]
- (2) ~~A *firm* should ensure that its strategies, policies, processes and systems in relation to *liquidity risk* support the *liquidity risk* tolerance established by its governing body in accordance with *BIPRU 12.3.8R*.~~ [deleted]
- (3) A *firm* should ensure that its strategies, policies, processes and systems in relation to *liquidity risk* enable it to identify, measure, manage and monitor its *liquidity risk* positions for:
- (a) all sources of contingent liquidity demand (including those arising from off-balance sheet activities);
 - (b) all currencies in which that *firm* is active; and
 - (c) correspondent, custody and settlement activities.
- (4) ~~A *firm* should ensure that it sets limits to control its *liquidity risk* exposure within and across lines of business and legal entities.~~ [deleted]
- (5) A *firm* should ensure that it has in place early warning indicators to identify immediately the emergence of increased *liquidity risk* or vulnerabilities, including indicators that signal whether embedded triggers in funding or security arrangements such as warranties, covenants, events of default, conditions precedent or terms having similar effect are likely to, or will, be breached, occur or fail to be satisfied, or contingent risks will or are likely to crystallise, in either case with the result that access to liquidity resources may be impaired.
- (6) A *firm* should ensure that it has in place reliable management information systems to provide its *governing body*, *senior managers* and other appropriate personnel with timely and forward-looking information on the liquidity position of the *firm*.
- (7) Contravention of any of ~~(1) to (6)~~ (3), (5) and (6) may be relied upon as tending to establish contravention of *BIPRU 12.3.4R*.

...

12.3.8 R A *firm* must ensure that:

- (1) its *governing body* establishes that *firm's liquidity risk* tolerance and that this is appropriately documented; ~~and~~
- (2) its *liquidity risk* tolerance is appropriate for its business strategy and reflects its financial condition and funding capacity; and
- (3) its *liquidity risk* tolerance is communicated to all relevant business lines.

[Note: annex V paragraph 14a of the *Banking Consolidation Directive*]

...

12.3.22A R A *firm* must distinguish between pledged and unencumbered assets that are available at all times, in particular during emergency situations. A *firm* must also take into account the legal entity in which assets reside, the country where assets are legally recorded either in a register or in an account as well as their eligibility and must monitor how assets can be mobilised in a timely manner.

[Note: annex V paragraph 16 of the *Banking Consolidation Directive*]

12.3.22B R A *firm* must also have regard to existing legal, regulatory and operational limitations to potential transfers of liquidity and unencumbered assets amongst entities, both within and outside the *EEA*.

[Note: annex V paragraph 17 of the *Banking Consolidation Directive*]

...

12.3.27 R ~~A *firm* must have policies and processes for the measurement and management of its net funding position and requirements on an ongoing and forward looking basis. Alternative scenarios must be considered and the assumptions underpinning decisions concerning the net funding position must be reviewed regularly~~ develop methodologies for the identification, measurement, management and monitoring of funding positions. Those methodologies must include the current and projected material cash-flows in and arising from assets, liabilities, off-balance-sheet items, including contingent liabilities and the possible impact of reputational risk.

[Note: annex V paragraph 44 15 of the *Banking Consolidation Directive*]

...

12.4 Stress testing and contingency funding

12.4.-2 R A *firm* must consider different liquidity risk mitigation tools, including a system of limits and liquidity buffers in order to be able to withstand a range of different stress events and an adequately diversified funding structure and access to funding sources. Those arrangements must be reviewed regularly.

[Note: annex V paragraph 18 of the *Banking Consolidation Directive*]

Stress testing

- 12.4.-1 R A firm must consider alternative scenarios on liquidity positions and on risk mitigants and must review regularly the assumptions underlying decisions concerning the funding position. For these purposes, alternative scenarios must address, in particular, off-balance sheet items and other contingent liabilities, including those of securitisation special purpose entities (SSPEs) or other special purpose entities, in relation to which the firm acts as sponsor or provides material liquidity support.

[Note: annex V paragraph 19 of the *Banking Consolidation Directive*]

- 12.4.1 R In order to ensure compliance with the *overall liquidity adequacy rule* and with *BIPRU 12.3.4R* and *BIPRU 12.4.-1R*, a firm must:
- (1) conduct on a regular basis appropriate stress tests so as to:
 - (a) identify sources of potential liquidity strain;
 - (b) ensure that current liquidity exposures continue to conform to the *liquidity risk* tolerance established by that *firm's governing body*; and
 - (c) identify the effects on that *firm's* assumptions about pricing; and
 - (2) analyse the separate and combined impact of possible future liquidity stresses on its:
 - (a) cash flows;
 - (b) liquidity position;
 - (c) profitability; and
 - (d) solvency.
- 12.4.2 R In accordance with *BIPRU 12.3.11R*, *BIPRU 12.4.-2R* and *BIPRU 12.4.-1R*, a firm must ensure that its *governing body* reviews regularly the stresses and scenarios tested to ensure that their nature and severity remain appropriate and relevant to that *firm*.

...

- 12.4.5 E (1) ~~In designing its stress tests, a firm should in particular ensure that it considers:~~
- ~~(a) short term and protracted stress scenarios;~~
 - ~~(b) institution specific and market wide stress scenarios; and~~

(e) ~~combinations of (a) and (b).~~ [deleted]

(2) ~~Contravention of any of (1)(a) to (c) may be relied upon as tending to establish contravention of BIPRU 12.4.1R.~~ [deleted]

12.4.5A R A firm must consider the potential impact of institution-specific, market-wide and combined alternative scenarios. Different time horizons and varying degrees of stressed conditions must be considered.

[Note: annex V paragraph 20 of the Banking Consolidation Directive]

...

12.4.10 R ~~A firm must have an adequate contingency funding plan in place to deal with liquidity crises~~ adjust its strategies, internal policies and limits on liquidity risk and develop an effective contingency funding plan, taking into account the outcome of the alternative scenarios referred to in BIPRU 12.4.-1R.

[Note: annex V paragraph 15 21 of the Banking Consolidation Directive]

12.4.11 R ~~In complying with BIPRU 12.4.10R, a firm must ensure that its contingency funding plan has been approved by its governing body.~~ In order to deal with liquidity crises, a firm must have in place contingency plans setting out adequate strategies and proper implementation measures in order to address possible liquidity shortfalls. Those plans must be regularly tested, updated on the basis of the outcome of the alternative scenarios set out in BIPRU 12.4.-1R, and be reported to and approved by the firm's governing body, so that internal policies and processes can be adjusted accordingly.

[Note: annex V paragraph 22 of the Banking Consolidation Directive]

...

12.6.7 R ~~In this section, a “retail deposit” is a deposit accepted from a consumer:~~

(1) ~~[deleted]~~ a “retail deposit” is a deposit accepted from a consumer; and

(2) ~~[deleted]~~ “SME deposits” are deposits accepted from, and account balances where the account holders are, small and medium-sized enterprises (or partnerships or sole traders which would be small and medium-sized enterprises if they were companies).

...

Size of the simplified buffer requirement

12.6.9 R (1) A simplified ILAS BIPRU firm must ensure that the size of its liquid assets buffer is at all times greater than or equal to the amount produced by adding:

(a) the wholesale net cash outflow component;

- (b) the retail ~~deposit~~ and SME deposit component; and
 - (c) the credit pipeline component.
- (2) This is the *simplified buffer requirement*.

The wholesale net cash outflow component

- 12.6.10 R (1) The wholesale net cash outflow component is a *firm's* peak cumulative wholesale net cash outflow over the next three *months* where the peak is established by:
- (a) calculating the daily wholesale net cash flow by reference to a *firm's* wholesale assets maturing that day and its wholesale liabilities falling due on that day;
 - (b) for each of the *business days* in the next three *months*, calculating the cumulative total of such daily net cash flows as at the *business day* in question; and
 - (c) identifying the minimum cumulative total figure out of all of the cumulative total figures calculated in accordance with (b).
- (2) The figure identified in (1)(c) is the peak cumulative wholesale net cash outflow.
- (3) For the purpose of calculating the peak cumulative wholesale net cash outflow, a *firm* must:
- (a) exclude from the calculation in (1)(a) cash flows attributable to *repo* and reverse *repo*, forward sales, forward purchases, redemptions and any other transactions entered into by the *firm* where the security leg of the transaction in question is in respect of securities of the type described in *BIPRU* 12.7.2R(1) and (2);
 - (b) include wholesale cash outflows in that calculation according to their earliest contractual maturity; ~~and~~
 - (c) exclude wholesale cash flows attributable to reserves in the form of sight deposits with a central bank and *designated money market funds* that it includes in its liquid assets buffer in accordance with the *rules* on asset eligibility in *BIPRU* 12.7; and
 - (d) exclude any retail deposits or SME deposits.

The retail ~~deposit~~ and SME deposit component

- 12.6.11 R (1) The retail ~~deposit~~ and SME deposit component is the sum represented by:
- (a) 20% of a *firm's* Type A retail *deposits*; ~~and~~

(b) 10% of a *firm's* Type B retail *deposits*; and

(c) 20% of a *firm's* SME *deposits*.

(2) A *firm* must:

(a) assess the likelihood that retail *deposits* that it holds will be withdrawn in response to actual or perceived changes in the *firm's* credit-worthiness;

(b) calculate the amount of retail *deposits* that it assesses as having a higher than average likelihood of withdrawal in the circumstances described in (a) (“Type A” retail *deposits*); and

(c) class all other of its retail *deposits* as “Type B” retail *deposits*.

...

Buffer securities restriction

- 12.6.16 R (1) A *simplified ILAS BIPRU firm* may only include in its liquid assets buffer eligible government and *designated multilateral development bank* debt securities up to the value of the *buffer securities restriction*.
- (2) For the purpose of calculating the *buffer securities restriction*, a *firm* must:
- (a) calculate its daily net flow in government and *designated multilateral development bank* debt securities eligible as classes of assets for inclusion in the *firm's* liquid assets buffer;
- (b) for each of the *business days* in the next three *months* calculate the cumulative total of such daily securities flows, including the opening balance, as at the *business day* in question; and
- (c) identify the minimum cumulative total figure out of all of the cumulative total figures calculated in accordance with (b).
- (3) For the purpose of (2)(a), a *firm* must include:
- (a) all contractual inflows and outflows of eligible debt securities arising from *repo*, reverse *repo*, forward sales, forward purchases, redemptions and any other transactions involving those securities; and
- (b) those cash flows excluded under BIPRU 12.6.10R(3)(a).
- 12.6.17 G In mathematical terms the calculation in BIPRU 12.6.9R and BIPRU 12.6.16R may be represented as follows:

<p>Liquidity Buffer \geq Wholesale net cash outflow component + Retail deposit component + Credit pipeline component</p>	
Liquidity buffer	$FSA048_{18,1} + FSA048_{19,1} + FSA048_{6,1} + FSA048_{6,2} + \inf_{x=1,2,3..y} f(x)$ <p>where:</p> $f(x) = \sum_{m=1}^x FSA047_{6,m}$
Retail component	$\left(0.2 \times \sum_{m=1}^{10} FSA048_{54,m} \right) + \left(0.1 \times \sum_{m=1}^{10} FSA048_{55,m} \right)$
Credit component	$0.25 \times \left(\sum_{n=59}^{69} FSA048_{11,1} \right)$
Wholesale net cash outflow component	$\min \left(0, \left(\sum_{n=44}^{51} FSA048_{n,1} \right) + \left(\sum_{n=52}^{53} \sum_{m=1}^5 FSA048_{n,m} \right) + FSA048_{56,1} + \inf_{x=1,2,3..y} g(x) \right)$ <p>where:</p> $g(x) = \sum_{m=1}^y \left[\left(\sum_{n=20}^{22} FSA047_{n,m} \right) + \left(\sum_{n=26}^{30} FSA047_{n,m} \right) + \left(\sum_{n=35}^{51} FSA047_{n,m} \right) + FSA047_{57,m} \right]$
<p>Where:</p> <p>y = number of business days in three months</p> <p>$FSA_{xxx}_{i,j}$ = The entry in FSAXXX row i column j</p> <p>$\inf_{x=1,2,3} f(x)$ represents the greatest lower bound of the function f(x) over the range x = 1,2,3</p>	

Liquidity Buffer ≥ Wholesale net cash outflow component + Retail and SME deposit component + Credit pipeline component	
<u>Liquidity buffer</u>	$FSA048_{18,1} + FSA048_{19,1} + FSA048_{6,1} + FSA048_{6,2} + FSA048_{25,2} + FSA048_{34,2}$ $+ \inf_{f(x)} \{x = 1,2,3..y\}$ <p>where:</p> $f(x) = \sum_{m=1}^x FSA047_{6,m} + \sum_{m=1}^x FSA047_{25,m} + \sum_{m=1}^x FSA047_{34,m}$
<u>Retail and SME deposit component</u>	$\left(0.2 \times \sum_{n=53}^{54} \sum_{m=1}^{10} FSA048_{n,m} \right) + \left(0.1 \times \sum_{m=1}^{10} FSA048_{55,m} \right)$
<u>Credit pipeline component</u>	$0.25 \times \left(\sum_{n=59}^{69} FSA048_{n,1} \right)$
<u>Wholesale net cash outflow component</u>	$\min \left(0, \left(\sum_{n=44}^{51} FSA048_{n,1} \right) + \left(\sum_{m=1}^5 FSA048_{52,m} \right) + FSA048_{56,1} + \inf_{g(x)} \{x = 1,2,3..y\} \right)$ <p>where:</p> $g(x) = \sum_{m=1}^y \left[\left(\sum_{n=20}^{23} FSA047_{n,m} \right) + \left(\sum_{n=26}^{30} FSA047_{n,m} \right) + \left(\sum_{n=35}^{51} FSA047_{n,m} \right) + FSA047_{57,m} \right]$
<p>Where:</p> <p>y = number of business days in three months</p> <p>$FSA_{xxx}_{i,j}$ = The entry in FSAXXX row i column j</p> <p>$\inf_{f(x)} \{x = 1,2,3\}$ represents the greatest lower bound of the function f(x) over the range x = 1,2,3</p>	

...

TP 30 Liquidity floor for certain banks

...

- 30.5 G (1) BIPRU TP 30.3R deals with the overall amount of liquidity resources a firm is required to hold. It does not specify the proportion of those liquidity resources that a firm must hold in a liquid assets buffer that meets the liquid asset buffer requirements (BIPRU 12.2.8R(1) and BIPRU 12.7).
- (2) The FSA recognises that it may take time for a firm to build a buffer which is of a

sufficient size and quality and that the transition from the FSA's liquidity regime in force immediately prior to the BIPRU 12 regime is likely to be a gradual one (see BIPRU 12.2.10G).

- (3) In carrying out its ILAA, a firm must record the evidence which supports its assessment of the adequacy of its liquid assets buffer (see BIPRU 12.5.13R(3)). While a firm is building up its liquid assets buffer, its assessment of the adequacy of that buffer should include an analysis of its ability to satisfy its liquidity needs with liquidity resources that are not eligible to be included in the liquid assets buffer.

Annex D

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Part 1: Comes into force on 1 October 2010

16 Annex 25G Guidance notes for data items in SUP 16 Annex 24R

...

FSA048 Enhanced Mismatch Report

...

Part 3 Wholesale asset cash flows

In this Part of the *data item*, a *firm* should report the principal cash flows associated with its wholesale assets. Transactions which do not have a specific contractual maturity date should be entered in column A for rows 18 to 22 and column B for rows 25 to 30. Cash flows from outright sales, purchases and maturities associated with securities reported on line 6 may, at the *firm's* election, be reported either on line 25 or on line 23.

...

23 Own account security cash flows

A *firm* should report here the cash flows, based on the contractual principal inflows, resulting from the maturity, forward sale or purchase of own account securities reportable in rows 6 to 8 & 10 to 17. Cash flows from outright sales, purchases and maturities associated with securities reported on line 6 may, at the *firm's* election, be reported here or on line 25.

Where a *firm* has written down the principal of a security it should report this written-down principal as the cash inflow.

A *firm* should report cash flows based on their latest contractual maturity date.

...

25 Reverse Repo (items reported in line 6)

A *firm* should report here all cash flows resulting from secured lending transactions where the flow of securities arising from the transactions is reported in line 6.

Cash flows from outright sales, purchases and maturities associated with securities reported on line 6 may, at the *firm's* election, be reported here or

on line 23.

A *firm* should only report in this row any secured lending transactions where securities flows are reported in row 6.

...

Part 2: Comes into force on 6 January 2011

16 Reporting requirements

...

16.12 Integrated Regulatory Reporting

...

16.12.3A G The following is designed to assist *firms* to understand how the reporting requirements set out in this chapter operate when the circumstances set out in *SUP* 16.12.3R(1)(a)(ii) apply.

...

(2) Example 2

A *UK bank* in *RAG* 1 that also carries on activities in *RAG* 5

Again, overlaying the *RAG* 1 reporting requirements with the requirements for a *RAG* 5 *firm* gives the following :

<i>RAG</i> 1 requirements (<i>SUP</i> 16.12.5R)	<i>RAG</i> 5 requirements (<i>SUP</i> 16.12.18AR)
...	
Sectoral information, including arrears and impairment	
Maturity analysis of assets and deposits	
...	

...

Regulated Activity Group 1

16.12.5 R The applicable *data items* and forms or reports referred to in SUP 16.12.4R are set out according to *firm* type in the table below:

Description of <i>data item</i>	Prudential category of <i>firm</i> , applicable <i>data items</i> and reporting format (Note 1)							
	<i>UK bank</i>	<i>Building society</i>	<i>Non-EEA bank</i>	<i>EEA bank that has permission to accept deposits, other than one with permission for cross border services only</i>	<i>EEA bank that does not have permission to accept deposits, other than one with permission for cross border services only</i>	Electronic money institutions	<i>Credit union</i>	<i>Dormant account fund operator</i> (note 15)
...								
Maturity analysis of assets and deposits	FSA044 (note 11)	FSA044 (note 11)	FSA044 (note 11)	FSA044 (note 11)				
...								
Note 11	Members of a UK consolidation group should only submit this <i>data item</i> at the UK consolidation group level. [deleted]							
...								

16.12.6 R The applicable reporting frequencies for submission of *data items* and periods referred to in SUP 16.12.5R are set out in the table below according to *firm* type. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise.

<i>Data item</i>	Unconsolidated <i>UK banks</i> and <i>building societies</i>	Solo consolidated <i>UK banks</i> and <i>building societies</i>	Report on a <i>UK consolidation group</i> or, as applicable, <i>defined liquidity group</i> basis by <i>UK banks</i> and <i>building societies</i>	Other members of <i>RAG 1</i>

...			
FSA044	Quarterly	Half yearly	Quarterly
...			

16.12.7 R The applicable due dates for submission referred to in SUP 16.12.4R are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period set out in SUP 16.12.6R, unless indicated otherwise.

<i>Data item</i>	Daily	Weekly	Monthly submission	Quarterly submission	Half yearly submission	Annual submission
...						
FSA044				<i>25 business days</i>	<i>25 business days</i>	
...						

...

Data item FSA044 is deleted from SUP 16 Annex 24R (Data items for SUP 16.12) in its entirety, except that the heading for that item is amended as follows.

FSA044 Analysis of assets and deposits by maturity band

[deleted]

...

The guidance notes for data item FSA044 (including the validations) are deleted from SUP 16 Annex 25G (Guidance notes for data items in SUP 16 Annex 24R) in their entirety, except that the heading for that item is amended as follows.

FSA044 Maturity analysis of assets and deposits

[deleted]

...

...

SUP TP 1 Transitional provisions

...

SUP TP
1.2

...

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
12 W	...				
12 X	<u>SUP 16.12.5R to SUP 16.12.7R</u>	R	<p>(1) <u>This rule deals with the effect of the abolition of data item FSA044 by the Liquidity Standards (Miscellaneous Amendments) Instrument 2010 and of changes to the definition of DLG by default made by that instrument.</u></p> <p>(2) <u>The abolition of that data item does not have effect in relation to a firm's reporting period for that data item that has begun but not ended as at 1 January 2011.</u></p> <p>(3) <u>The changes to the definition of DLG by default do not have effect in relation to the reporting period of a firm that has begun but not ended as at 1 November 2010.</u></p>	<u>See column 4</u>	<u>See column 4</u>
...					

**PRUDENTIAL REQUIREMENTS FOR INSURERS (AMENDMENT NO 5)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 150(2) (Actions for damages);
 - (3) section 156 (General supplementary powers); and
 - (4) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 6 October 2010.

Amendments to the Handbook

- D. The Prudential sourcebook for Insurers (INSPRU) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Prudential Requirements for Insurers (Amendment No 5) Instrument 2010.

By order of the Board
23 September 2010

Annex

Amendments to the Prudential sourcebook for Insurers (INSPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Reinsurance

...

- 1.2.79 R A *firm* must value *reinsurance* cash flows using methods and assumptions which are at least as prudent as the methods and assumptions used to value the underlying *contracts of insurance* which have been reinsured. In particular:
- (1) ...
 - (2) ~~*reinsurance* cash outflows that are unambiguously linked to the emergence as surplus of margins included in the valuation of existing *contracts of insurance* or to the exercise by a *reinsurer* of its rights under a termination clause need not be valued (see *INSPRU* 1.2.85R); and~~ need not be valued provided that:
 - (a) they are unambiguously linked to the emergence as surplus of margins included in the valuation of existing *contracts of insurance* or to the exercise by a *reinsurer* of its rights under a termination clause (see *INSPRU* 1.2.85R); and
 - (b) the conditions in *INSPRU* 1.2.79AR are satisfied;
 - (3) ...
- 1.2.79A R The conditions referred to in *INSPRU* 1.2.79R(2)(b) are that:
- (1) the *reinsurance* is not connected with any other transaction, which, when taken together with the *reinsurance*, could result in the requirements set out in *INSPRU* 1.2.79R(2) no longer being satisfied or in the risk transferred under the *reinsurance* being undermined; and
 - (2) the present value of the future *reinsurance* cash outflows that may be disregarded under *INSPRU* 1.2.79R(2) must not at any time exceed the value of the aggregate net cash inflows that have already been received by the *firm* under the contract of *reinsurance* accumulated at an assumed rate of LIBOR + 6% per annum.
- 1.2.79B G Examples of connected transactions that could have the effect described in *INSPRU* 1.2.79AR(1) might include a *deposit*, *loan*, *repo*, or *stock lending* transaction between the *firm* and the *reinsurer*, or between the *firm* and an

undertaking that is closely related to the reinsurer. For these purposes, the expression ‘closely related’ shall have the meaning set out in *INSPRU* 2.1.40R.

...

Transitional Provisions

...

After *INSPRU* TP 6 insert the following new transitional provisions. The new text is not underlined.

7 Mathematical reserves

Application

7.1 R *INSPRU* TP 7 applies to an *insurer* to which *INSPRU* 1.2 applies.

Duration of transitional

7.2 R *INSPRU* TP 7 applies until the relevant *rule* is revoked.

7.3 R *INSPRU* 1.2.79AR does not apply in respect of *reinsurance* and analogous non-*reinsurance* financing agreements entered into and the terms of which came into effect before 10 December 2009, provided that immediately before 6 October 2010 the *firm* had the benefit of *INSPRU* 1.2.79R(2) in relation to those *reinsurance* or analogous non-*reinsurance* financing agreements.

**FINANCIAL SERVICES COMPENSATION SCHEME (FINANCIAL SERVICES
ACT 2010) INSTRUMENT (NO 2) 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the powers and related provisions in the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 156 (General supplementary powers);
 - (c) section 157(1) (Guidance); and
 - (d) section 224F (Rules about relevant schemes); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force when section 224F of the Act comes into force.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Fees manual (FEES) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Financial Services Compensation Scheme (Financial Services Act 2010) Instrument (No 2) 2010.

By order of the Board
23 September 2010

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>MERS levy</i>	a levy (management expenses in respect of relevant schemes levy) imposed by the <i>FSCS</i> on <i>participant firms</i> to meet the management expenses incurred by the <i>FSCS</i> in connection with acting on behalf of the <i>manager of the relevant scheme</i> in accordance with Part 15A of the <i>Act</i> .
<i>manager of the relevant scheme</i>	the <i>person</i> (including a <i>person</i> outside the <i>United Kingdom</i>) who administers the <i>relevant scheme</i> or (if there is no such <i>person</i>) the <i>person</i> responsible for making payments under it.

Amend the following as shown.

<i>management expenses</i>	(1)	(except in <i>INSPRU</i>) (in accordance with section 223 of the <i>Act</i> (Management expenses)) expenses incurred or expected to be incurred by the <i>FSCS</i> in connection with its function under <i>COMP</i> <u>the <i>Act</i></u> , other than <i>compensation costs</i> and <u>costs incurred under Part 15A of the <i>Act</i></u> ; for the purposes of <i>COMP FEES 6</i> these are subdivided into <i>base costs</i> , <i>specific costs</i> and <i>establishment costs</i> .
	(2)	...
<i>relevant scheme</i>	(1)	(<u>except in <i>FEES 6</i></u>) a <i>collective investment scheme</i> managed by an <i>EEA UCITS management company</i> .
	(2)	(<u>in <i>FEES 6</i></u>) a scheme or arrangement (other than the <u><i>compensation scheme</i></u>) for the payment of compensation (in certain cases) to customers (including customers outside the <u><i>United Kingdom</i></u>) of <u><i>persons</i></u> (including <u><i>persons</i></u> outside the <u><i>United Kingdom</i></u>) who provide financial services (including <u>financial services provided outside the <i>United Kingdom</i></u>) or carry on a business connected with the provision of such <u>services</u> .

Annex B

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

6.1.4A G Section 224F of the Act enables the FSA to make rules to enable the FSCS to impose levies on authorised persons (or any class of authorised persons) in order to meet its management expenses incurred if, under Part 15A of the Act, it is required by HM Treasury to act in relation to relevant schemes. But those rules must provide that the FSCS can impose a levy only if the FSCS has tried its best to obtain reimbursement of those expenses from the manager of the relevant scheme.

6.1.5 G The FSCS may impose ~~two~~ three types of levy: a *management expenses levy*, ~~and~~ a *compensation costs levy* and a *MERS levy*. The FSCS has discretion as to the timing of the levies imposed.

...

6.1.9 G Section 223 of the Act (Management expenses) prevents the FSCS from recovering, through a levy, any *management expenses* attributable to a particular period in excess of the limit set in COMP as applicable to that period. 'Management expenses' are defined in section 223(3) to mean expenses incurred or expected to be incurred by the FSCS in connection with its functions under the Act, except:

- (1) ...
- (2) expenses incurred as a result of the FSCS making the arrangements to secure continuity of insurance set out in COMP 3.3.1R and COMP 3.3.2R or taking the measures set out in COMP 3.3.3R and COMP 3.3.4R when a *relevant person* is an *insurer* in financial difficulties; ~~and~~
- (3) expenses incurred under section 214B or section 214D of the Act as a result of the FSCS being required by HM Treasury to make payments in connection with the exercise of the stabilisation power under Part 1 of the Banking Act 2009; and
- (4) expenses incurred under Part XVA of the Act as a result of the FSCS being required by HM Treasury to act in relation to a relevant scheme.

...

6.3.1 R The FSCS may at any time impose a *management expenses levy*, ~~or~~ a *compensation costs levy* or a *MERS levy*, provided that the FSCS has reasonable grounds for believing that the funds available to it to meet

relevant expenses are, or will be, insufficient, taking into account:

...

...

- 6.3.3 G The *FSCS* may impose one or more levies in a financial year to meet ~~either~~ its *management expenses*, ~~or~~ its *compensation costs* or its management expenses in respect of relevant schemes. ...

...

After FEES 6.4 insert the following new section. The new text is not underlined.

6.4A Management expenses in respect of relevant schemes

Obligation on participant firm to pay

- 6.4A.1 R A *participant firm* must pay to the *FSCS* a share of each *MERS levy*.

Restriction on management expenses in respect of relevant schemes

- 6.4A.2 R The *FSCS* can impose a *MERS levy* only if the *FSCS* has tried its best and has failed to obtain reimbursement of those expenses from the manager of the relevant compensation scheme.

Management expenses in respect of relevant schemes levy

- 6.4A.3 R The *FSCS* must calculate a *participant firm*'s share of a *MERS levy* on a reasonable basis.

Amend the following as shown.

Sch 4 Powers exercised

- G The following powers and related provisions in or under the *Act* have been exercised by the *FSA* to make the *rules* in *FEES*:

	...
	Section 223C (Payments in error)
	<u>Section 224F (Rules about relevant schemes)</u>
	...

**RETAIL DISTRIBUTION REVIEW (PURE PROTECTION)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 145 (Financial promotion rules);
 - (c) section 156 (General supplementary powers); and
 - (e) section 157(1) (Guidance); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 31 December 2012.

Amendments to the Handbook

- D. The modules of the FSA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Conduct of Business sourcebook (COBS)	Annex B
Insurance Conduct of Business sourcebook (ICOBS)	Annex C

Citation

- E. This instrument may be cited as the Retail Distribution Review (Pure Protection) Instrument 2010.

By order of the Board
23 September 2010

Annex A**Amendments to the Glossary of definitions**

Insert the following new definitions in the appropriate alphabetical position. The new text is not underlined.

indicative adviser charge

a cash figure which is indicative of the cost to the *pure protection contract insurer* of the services associated with making a *personal recommendation* in relation to a *pure protection contract*.

pure protection service

- (a) making a *personal recommendation* to a *consumer* in relation to a *pure protection contract*;
- (b) arranging for a *consumer* to enter into a *pure protection contract*.

Annex B**Amendments to the Conduct of Business sourcebook (COBS)**

In this Annex, underlining indicates new text.

- 6.4.4A R If the *firm* or its *associate* is the *pure protection contract insurer*, it may comply with COBS 6.4.3R(1)(b) and (c) by disclosing to the *consumer* an *indicative adviser charge* as an alternative to a *commission equivalent*.
- 6.4.4B R The *indicative adviser charge* must be at least reasonably representative of the services associated with making the *personal recommendation* in relation to the *pure protection contract*.
- 6.4.4C G An *indicative adviser charge* is likely to be reasonably representative of the services associated with making the *personal recommendation* if:
- (1) the expected long term costs associated with making a *personal recommendation* and distributing the *pure protection contract* do not include the costs associated with manufacturing and administering the *pure protection contract*;
 - (2) the allocation of costs and profit to the *indicative adviser charge* and product charges is such that any cross-subsidisation is not significant in the long term; and
 - (3) the *personal recommendation* and any related services were to be provided by an unconnected *firm*, the level of the *indicative adviser charge* would be appropriate in the context of the service being provided by an unconnected *firm*.

Annex C

Amendments to the Insurance Conduct of Business Sourcebook (ICOBS)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

1 Annex 1 Application (see ICOBS 1.1.2R)

...

Part 2 ...

...

Pure protection contracts: election to apply COBS rules

- 3.1 R (1) This sourcebook (except for ICOBS 4.6) does not apply in relation to a *pure protection contract* to the extent that a *firm* has elected to comply with the Conduct of Business sourcebook (*COBS*) in respect of such business.
- (2) Within the scope of such an election, a *firm* must:
- (a) comply with the rest of the *Handbook* (except for COBS 6.1AR, COBS 6.1BR and COBS 6.1.9R) treating the *pure protection contract* as a *life policy* and a *designated investment*, and not as a *non-investment insurance contract*; and
- (b) if applicable, also comply with ICOBS 4.6.
- (3) A *firm* must make, and retain indefinitely, a record in a *durable medium* of such an election (and any reversal or amendment). The record must include the effective date and a precise description of the part of the *firm's* business to which the election applies.

After ICOBS 4.5 insert the following new section. The new text is not underlined.

4.6 Commission disclosure for pure protection contracts sold with retail investment products

- 4.6.1 G The *rules* in this section:
- (1) address the risk that a *consumer* believes that a *firm's* remuneration for its *pure protection service* is included in its *adviser charge*, where this is not the case; and
- (2) enable the *consumer* to evaluate a *firm's* *adviser charge* in the light

of any additional remuneration received by the *firm* for the *pure protection service* it provides.

- 4.6.2 R A *firm* which agrees an *adviser charge* with a *consumer* and provides an associated *pure protection service* to that *consumer* must:
- (1) in good time before the provision of its services, take reasonable steps to ensure that the *consumer* understands:
 - (a) how the *firm* is remunerated for its *pure protection service*; and
 - (b) if applicable, that the *firm* will receive *commission* in relation to its *pure protection service* in addition to the *firm's adviser charge*;
 - (2) as close as practicable to the time that it makes the *personal recommendation* or *arranges* the sale of the *pure protection contract*, comply with the following disclosure requirements, substituting *pure protection contract* for references to *packaged product*:
 - (a) COBS 6.4.3R, or COBS 6.4.4AR and COBS 6.4.4BR; and
 - (b) COBS 6.4.5R.
- 4.6.3 G A *pure protection service* is unlikely to be associated with an *adviser charge* for the purposes of ICOBS 4.6.2R if the *firm* agreed the *adviser charge* with the *consumer* 12 months or more before the provision of the *pure protection service*.
- 4.6.4 G A *pure protection service* is not associated with an *adviser charge* for the purposes of ICOBS 4.6.2R if the *adviser charge* is agreed with the *consumer* by a *firm* or an *appointed representative* and the *pure protection service* is provided to that *consumer* by another *firm* or *appointed representative*. However, if a *firm* or an *appointed representative* refers a *consumer* with whom it is agreeing an *adviser charge* to another *firm* or *appointed representative* for the provision of a *pure protection service*, it should consider its obligation to communicate with the *consumer* in a way that is clear, fair and not misleading in the context of the guidance in ICOBS 4.6.1G.
- 4.6.5 R If a *firm* expects to provide, or provides, information about its *adviser charge* orally, it must also provide the information required by ICOBS 4.6.2R(1)(a) and ICOBS 4.6.2R(1)(b) orally.

CONTROLLED FUNCTIONS (AMENDMENT) INSTRUMENT 2010**Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 59 (Approval for particular arrangements);
 - (2) section 60 (Applications for approval);
 - (3) section 64 (Conduct: statements and codes);
 - (4) section 138 (General rule-making power);
 - (5) section 156 (General supplementary powers); and
 - (6) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 May 2011

Amendments to the Handbook

- D. The modules of the FSA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2) below:

(1)	(2)
Glossary of definitions	Annex A
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex B
Statements of Principle and Code of Practice for Approved Persons (APER)	Annex C
The Fit and Proper test for Approved Persons (FIT)	Annex D
Supervision manual (SUP)	Annex E
Credit Unions sourcebook (CRED)	Annex F

Citation

- E. This instrument may be cited as the Controlled Functions (Amendment) Instrument 2010.

By order of the Board
23 September 2010

Annex A

Amendments to the Glossary of definitions

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>chairman function</i>	<i>controlled function</i> CF2a in the <i>table of controlled functions</i> , described more fully in SUP 10.6.9AR.
<i>chairman of the audit committee function</i>	<i>controlled function</i> CF2d in the <i>table of controlled functions</i> , described more fully in SUP 10.6.9BR.
<i>chairman of the remuneration committee function</i>	<i>controlled function</i> CF2e in the <i>table of controlled functions</i> , described more fully in SUP 10.6.9CR.
<i>chairman of the risk committee function</i>	<i>controlled function</i> CF2c in the <i>table of controlled functions</i> , described more fully in SUP 10.6.9DR.
<i>finance function</i>	<i>controlled function</i> CF13 in the <i>table of controlled functions</i> , described more fully in SUP 10.8.1R.
<i>internal audit function</i>	<i>controlled function</i> CF15 in the <i>table of controlled functions</i> , described more fully in SUP 10.8.3R.
<i>parent entity significant influence function</i>	<i>controlled function</i> CF00 in the <i>table of controlled functions</i> , described more fully in SUP 10.6.30R.
<i>risk function</i>	<i>controlled function</i> CF14 in the <i>table of controlled functions</i> , described more fully in SUP 10.8.2R.
<i>senior independent director function</i>	<i>controlled function</i> CF2b in the <i>table of controlled functions</i> , described more fully in SUP 10.6.9ER.

Amend the following as shown. Underlining indicates new text and strikethrough indicates deleted text.

<i>governing function</i>	any of <i>controlled functions</i> 4 <u>CF00</u> to 6 in the <i>table of controlled functions</i> (<u>SUP 10.4.5R</u>).
<i>systems and controls function</i>	<u>any of</u> <i>controlled functions</i> CF28 <u>13 to 15</u> in the <i>table of controlled functions</i> (<u>SUP 10.4.5R</u>), <u>and</u> described more fully in SUP 10.8. 1R .

Annex B

Amendments to the Senior Management Arrangements, Systems and Controls sourcebook (SYSC)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

1.1A Application

- 1.1A.1 G The application of this sourcebook is summarised at a high level in the following table. The detailed application is cut back in SYSC 1 Annex 1 and in the text of each chapter.

Type of firm	Applicable chapters
<i>Insurer</i>	Chapters 2, 3, 11 to 18, <u>21</u>
<i>Managing agent</i>	Chapters 2, 3, 11, 12, 18, <u>21</u>
<i>Society</i>	Chapters 2, 3, 12, 18, <u>21</u>
Every other <i>firm</i>	Chapters 4 to 12, 18, 19, <u>21</u>

...

1.4 Application of SYSC 11 to SYSC ~~19~~21

What?

- 1.4.1 G The application of each of chapters SYSC 11 to SYSC ~~19~~21 is set out in those chapters.

Actions for damages

- 1.4.2 G A contravention of a *rule* in SYSC 11 to SYSC ~~19~~21 does not give rise to a right of action by a *private person* under section 150 of the *Act* (and each of those *rules* is specified under section 150(2) of the *Act* as a provision giving rise to no such right of action).

...

2.1 Apportionment of Responsibilities

...

- 2.1.1A G *Firms* should also consider the additional *guidance* on risk-centric governance arrangements for effective risk management contained in SYSC

21.

- 2.1.2 G The role undertaken by a *non-executive director* will vary from one *firm* to another. For example, the role of a *non-executive director* in a *friendly society* may be more extensive than in other *firms*. Where a *non-executive director* is an *approved person*, for example where the *firm* is a *body corporate*, his responsibility and therefore liability will be limited by the role that he undertakes. ~~Provided that he has personally taken due care in his role, a *non-executive director* would not be held disciplinarily liable either for the failings of the *firm* or for those of individuals within the *firm*. The *non-executive director function*, for the purposes of the *approved persons regime*, is described in *SUP 10*.~~

...

3.1 Systems and controls

...

- 3.1.2A G *Firms* should also consider the additional *guidance* on risk-centric governance arrangements for effective risk management contained in *SYSC 21*.

...

3.2 Areas covered by systems and controls

...

Risk assessment

- 3.2.10 G (1) Depending on the nature, scale and complexity of its business, it may be appropriate for a *firm* to have a separate risk assessment function responsible for assessing the risks that the *firm* faces and advising the *governing body* and *senior manager* on them.
- (2) ...
- (3) The term 'risk assessment-function' refers to the generally understood concept of risk assessment within a *firm*, that is, the function of setting and controlling risk exposure. The 'risk assessment function' is not a *controlled function* itself, ~~but is part of the *systems and controls functions* (CF28).~~ However, the *person* who reports to the *governing body* of a *firm*, or its risk committee (or its equivalent) in relation to setting and controlling a *firm's* risk exposure, may perform the *risk function*, which is *controlled function 14*, as described in *SUP 10.8.2R*.
- (4) The *FSA* expects that where a *person* is performing the *risk function* as described in *SUP 10.8.2R*, that *person* will be an employee, partner or officer of the *firm*. The *FSA* would expect *firms* not to outsource *controlled function 14* to an employee of an external

service provider.

...

Internal audit

- 3.2.16 G (1) Depending on the nature, scale and complexity of its business, it may be appropriate for a *firm* to delegate much of the task of monitoring the appropriateness and effectiveness of its systems and controls to an internal audit function. An internal audit function should have clear responsibilities and reporting lines to an audit committee or appropriate *senior manager*, be adequately resourced and staffed by competent individuals, be independent of the day-to-day activities of the *firm* and have appropriate access to a *firm*'s records.
- (2) The term 'internal audit function' refers to the generally understood concept of internal audit within a *firm*, that is, the function of assessing adherence to and the effectiveness of internal systems and controls, procedures and policies. The 'internal audit function' is not a *controlled function* itself, but is part of the *systems and controls function* (CF28). However, the *person* who reports to the *governing body* of a *firm*, or its audit committee (or its equivalent) in relation to controlling adherence to a *firm*'s internal systems and controls, may perform the *internal audit function*, which is *controlled function 15*, as described in SUP 10.8.3R.
- (3) The FSA expects that where a *person* is performing the *internal audit function* as described in SUP 10.8.3R, that *person* will be an *employee, partner or officer of the firm*. The FSA would expect *firms* not to outsource *controlled function 15* to an employee of an external service provider.

...

4.1 General requirements

...

Risk control: additional guidance

- 4.1.13 G *Firms* should also consider the additional *guidance on risk-centric governance arrangements for effective risk management contained in SYSC 21.*

Apportionment of responsibilities: the role of the non-executive director

- 4.1.14 G The role undertaken by a *non-executive director* will vary from one *firm* to another. Where a *non-executive director* is an *approved person*, for example where the *firm* is a *body corporate*, his responsibility and therefore liability will be limited by the role that he undertakes.

...

4.4 Apportionment of Responsibilities

...

Maintaining a clear and appropriate apportionment

...

- 4.4.4 G ~~The role undertaken by a *non-executive director* will vary from one *firm* to another. Where a *non-executive director* is an *approved person*, for example where the *firm* is a *body corporate*, his responsibility and therefore liability will be limited by the role that he undertakes. Provided that he has personally taken due care in his role, a *non-executive director* would not be held disciplinarily liable either for the failings of the *firm* or for those of individuals within the *firm*. The *non-executive director* function, for the purposes of the *approved persons* regime is described in SUP 10. [deleted]~~

...

6.2 Internal audit

...

- 6.2.2 G The term ‘internal audit function’ in SYSC 6.2.1R (and SYSC 4.1.11G) refers to the generally understood concept of internal audit within a *firm*, that is, the function of assessing adherence to and the effectiveness of internal systems and controls, procedures and policies. The ‘internal audit function’ is not a *controlled function* itself, but is part of the *systems and controls function* (CF28). However, the person who reports to the governing body of a *firm*, or its audit committee (or its equivalent) in relation to controlling adherence to a *firm*’s internal systems and controls, may perform the internal audit function, which is *controlled function* 15, as described in SUP 10.8.3R.
- 6.2.3 G The FSA expects that where a *person* is performing the *internal audit function* as described in SUP 10.8.3R, that *person* will be an employee, partner or officer of the *firm*. The FSA would expect *firms* not to outsource *controlled function* 15 to an employee of an external service provider.

...

7.1 Risk control

...

- 7.1.7C G *Firms* should also consider the additional *guidance* on risk-centric governance arrangements for effective risk management contained in SYSC 21.

- 7.1.8 G (1) SYSC 4.1.3R requires a *BIPRU firm* to ensure that its internal control mechanisms and administrative and accounting procedures permit the verification of its compliance with *rules* adopted in accordance with the *Capital Adequacy Directive* at all times. In complying with this obligation, a *BIPRU firm* should document the organisation and responsibilities of its risk management function and it should document its risk management framework setting out how the risks in the business are identified, measured, monitored and controlled.
- (2) The term ‘risk management function’ in SYSC 7.1.6R and SYSC 7.1.7R refers to the generally understood concept of risk assessment within a *firm*, that is, the function of setting and controlling risk exposure. The ‘risk management function’ is not a *controlled function* itself, ~~but is part of the systems and controls function (CF28)~~. However, the person who reports to the governing body of a firm, or its risk committee (or its equivalent) in relation to setting and controlling a firm’s risk exposure, may perform the risk function, which is controlled function 14, as described in SUP 10.8.2R.
- (3) The FSA expects that where a person is performing the risk function as described in SUP 10.8.2R, that person will be an employee, partner or officer of the firm. The FSA would expect firms not to outsource controlled function 14 to an employee of an external service provider.

...

14 Prudential risk management and associated systems and controls for insurers

...

Internal controls: risk assessment

...

- 14.1.39 G (1) In accordance with SYSC 3.2.10G a *firm* should consider whether it needs to set up a separate risk assessment function (or functions) that is responsible for assessing the risks that the *firm* faces and advising its *governing body* and *senior managers* on them.
- (2) The term ‘risk assessment function’ refers to the generally understood concept of risk assessment within a *firm*, that is, the function of setting and controlling risk exposure. The ‘risk assessment function’ is not a *controlled function* itself, ~~but is part of the systems and controls function (CF28)~~. However, the person who reports to the governing body of a firm, or its risk committee (or its equivalent) in relation to setting and controlling a firm’s risk exposure, may perform the risk function, which is controlled function 14, as described in SUP 10.8.2R.
- (3) The FSA expects that where a person is performing the risk function

as described in SUP 10.8.2R, that *person* will be an employee, partner or officer of the *firm*. The FSA would expect *firms* not to outsource *controlled function* 14 to an employee of an external service provider.

...

Internal audit

...

- 14.1.43 G (1) In accordance with SYSC 3.2.15G and SYSC 3.2.16G, a *firm* should consider whether it needs to set up a dedicated internal audit function.
- (2) The term ‘internal audit function’ refers to the generally understood concept of internal audit within a *firm*, that is, the function of assessing adherence to and the effectiveness of internal systems and controls, procedures and policies. The ‘internal audit function’ is not a *controlled function* itself, ~~but is part of the *systems and controls function* (CF28).~~ However, the *person* who reports to the *governing body* of a *firm*, or its audit committee (or its equivalent) in relation to controlling adherence to a *firm*’s internal systems and controls, may perform the *internal audit function*, which is *controlled function* 15, as described in SUP 10.8.3R.
- (3) The FSA expects that where a *person* is performing the *internal audit function* as described in SUP 10.8.3R, that *person* will be an employee, partner or officer of the *firm*. The FSA would expect *firms* not to outsource *controlled function* 15 to an employee of an external service provider.

...

After SYSC 20, insert the following new chapter. The text is not underlined.

21 Risk control: additional guidance

21.1 Risk control: guidance on governance arrangements

Additional guidance on governance arrangements

- 21.1.1 G (1) This chapter provides additional guidance on risk-centric governance arrangements for effective risk management. It expands upon the general organisational requirements in SYSC 2, SYSC 3, SYSC 4 and SYSC 7, and so applies to the same extent as SYSC 3.1.1R (for *insurers, managing agents* and the *Society*) and SYSC 4.1.1R (for every other *firm*).

- (2) *Firms* should, taking account of their size, nature and complexity, consider whether in order to fulfil the general organisational requirements in *SYSC 2*, *SYSC 3*, *SYSC 4* and *SYSC 7* their risk control arrangements should include:
- (a) appointing a Chief Risk Officer; and
 - (b) establishing a *governing body* risk committee.

The functions of a Chief Risk Officer and *governing body* risk committee are explained further in this section.

- (3) The *FSA* considers that *banks* and *insurers* that are included in the FTSE 100 Index are examples of the types of *firm* that should structure their risk control arrangements in this way. However, this *guidance* will also be relevant to some similar sized *firms* (whether or not *listed*) and some smaller *firms*, by virtue of their risk profile or complexity.

Chief Risk Officer

- 21.1.2 G (1) A Chief Risk Officer should:
- (a) be accountable to the *firm's governing body* for oversight of *firm-wide* risk management;
 - (b) be fully independent of a *firm's* individual business units;
 - (c) have sufficient authority, stature and resources for the effective execution of his responsibilities;
 - (d) have unfettered access to any parts of the *firm's* business capable of having an impact on the *firm's* risk profile;
 - (e) ensure that the data used by the *firm* to assess its risks are fit for purpose in terms of quality, quantity and breadth;
 - (f) provide oversight and challenge of the *firm's* systems and controls in respect of risk management;
 - (g) provide oversight and validation of the *firm's* external reporting of risk;
 - (h) ensure the adequacy of risk information, risk analysis and risk training provided to members of the *firm's governing body*;
 - (i) report to the *firm's governing body* on the *firm's* risk exposures relative to its risk appetite and tolerance, and the extent to which the risks inherent in any proposed business strategy and plans are consistent with the *governing body's* risk appetite and tolerance. The Chief Risk Officer should also alert the *firm's governing body* to and provide challenge on, any business

strategy or plans that exceed the *firm's* risk appetite and tolerance;

- (j) provide risk-focused advice and information into the setting and individual application of the *firm's remuneration* policy (where the *Remuneration Code* applies, see Remuneration Principle 2 at SYSC 19.3.3E).
- (2) *Firms* will need to seek the *FSA's* approval for a Chief Risk Officer to perform the *risk function* (see SUP 10 (Approved persons)).
- (3) The *FSA* expects that where a *firm* is part of a *group* it will structure its arrangements so that a Chief Risk Officer at an appropriate level within the *group* will exercise functions in (1) taking into account *group-wide* risks.

Reporting lines of Chief Risk Officer

- 21.1.3 G (1) The Chief Risk Officer should be accountable to a *firm's governing body*.
- (2) The *FSA* recognises that in addition to the Chief Risk Officer's primary accountability to the *governing body*, an executive reporting line will be necessary for operational purposes. Accordingly, to the extent necessary for effective operational management, the Chief Risk Officer should report into a very senior executive level in the *firm*. In practice, the *FSA* expects this will be to the *chief executive*, the chief finance officer or to another executive *director*.

Appointment of Chief Risk Officer

- 21.1.4 G (1) *Firms* should ensure that a Chief Risk Officer's *remuneration* is subject to approval by the *firm's governing body*, or an appropriate sub-committee.
- (2) *Firms* should also ensure that the Chief Risk Officer may not be removed from that role without the approval of the *firm's governing body*.

Governing body risk committee

- 21.1.5 G (1) The *FSA* considers that, while the *firm's governing body* is ultimately responsible for risk governance throughout the business, *firms* should consider establishing a *governing body* risk committee to provide focused support and advice on risk governance.
- (2) Where a *firm* has established a *governing body* risk committee, its responsibilities will typically include:
- (a) providing advice to the *firm's governing body* on risk strategy, including the oversight of current risk exposures of the *firm*,

with particular, but not exclusive, emphasis on prudential risks;

- (b) development of proposals for consideration by the *governing body* in respect of overall risk appetite and tolerance, as well as the metrics to be used to monitor the *firm's* risk management performance;
 - (c) oversight and challenge of the design and execution of stress and scenario testing;
 - (d) oversight and challenge of the day-to-day risk management and oversight arrangements of the executive;
 - (e) oversight and challenge of due diligence on risk issues relating to material transactions and strategic proposals that are subject to approval by the *governing body*;
 - (f) provide advice to the *firm's remuneration committee* on risk weightings to be applied to performance objectives incorporated in the incentive structure for the executive;
 - (g) providing advice, oversight and challenge necessary to embed and maintain a supportive risk culture throughout the *firm*.
- (3) Where a *governing body* risk committee is established, its chairman should be a *non-executive director*, and while its membership should predominantly be non-executive it may be appropriate to include senior executives such as the chief finance officer.

- 21.1.6 G In carrying out their risk governance responsibilities, a *firm's governing body* and *governing body* risk committee should have regard to any relevant advice from its audit committee or internal audit function concerning the effectiveness of its current control framework. In addition, they should remain alert to the possible need for expert advice and support on any risk issue, taking action to ensure that they receive such advice and support as may be necessary to meet their responsibilities effectively.

...

Annex C

Amendments to the Statements of Principle and Code of Practice for Approved Persons (APER)

In this Annex, all the text is new and is not underlined.

After APER 3.2 insert the following new section.

3.2A Factors relating to the conduct of an approved person performing the parent entity significant influence function

- 3.2A.1 G A list of frequently asked questions concerning the application of the *Statements of Principle* to an *approved person* performing the *parent entity significant influence function* is at Schedule 7 to the *Code of Practice for Approved Persons*.

After APER 4, insert the following new appendix.

Appendix 1 Frequently Asked Questions concerning the conduct of Approved Persons performing the Parent Entity Significant Influence Function

Q1 What do these questions cover?

These questions consider how *APER* applies to a person carrying out the *parent entity significant influence function* (*SUP* 10.6.30R to *SUP* 10.6.32G, and *SUP* 10.6.33G for FAQs) when he is not formally appointed as an officer or official of the *firm*.

Use of the term “firm” in these FAQs refers to the authorised subsidiary.

Q2 What are the general principles?

All *approved persons* are required to abide by *APER*, including those performing the *parent entity significant influence function*.

APER applies to the *parent entity significant influence function* as it does to the other significant influence functions. As such, (as well as *Statements of Principle* 1 to 4, which apply to all *approved persons*) *Statements of Principle* 5 to 7, which relate to the exercise of significant influence, will apply to persons performing the *parent entity significant influence function*.

Part of the definition of the *parent entity significant influence function* is that the person concerned is one whose decisions or actions are regularly taken into account by the *governing body* of the firm. Therefore, in assessing the standards applicable to the *parent entity significant influence function*, it should be treated as a *governing body* level role. The standards expected of a person carrying out this role are similar to those of a *director* or a *non-executive director* (or equivalent), of the firm, and the same as the standards that would apply if the firm had formally appointed the person to carry out the functions from a position within the firm.

Q3 What parts of the business is a person carrying out this function responsible for?

Several provisions of *APER* 5 to 7 refer to the business for which the *approved person* is responsible. In the case of a person performing the *parent entity significant influence function*, this refers to areas of the business to which the decisions or actions regularly taken into account by the *governing body* of the firm relate.

A CF00's responsibilities do not necessarily extend to the whole of the firm's business. They will only extend to the part of the firm's business covered by his decisions or actions that the firm's governing body regularly takes into account (see *SUP* 10.6.33G for FAQs). This is in contrast to the role of the *director*, which covers the whole of a firm's business.

Q4 Does a person carrying out this function manage the business?

The parts of *APER* 5 to 7 that deal with how an *approved person* performing a *significant influence function* should manage the business of a firm for which he is responsible in his *controlled function* will generally apply. The seniority of the role combined with the tasks that have to be carried out to perform the role properly will mean that the individual is carrying out a management role.

Q5 Does a person carrying out this function control any part of the business?

Various parts of *APER* deal with how an *approved person* should carry out his responsibilities for the areas of the business under his control. These parts of *APER* may not apply to someone carrying out the *parent entity significant influence function*. That is because that function will often fall short of controlling part of the firm's business.

The way in which a person performing the *parent entity significant influence function* discharges his responsibilities under *APER* may differ from an executive of the firm. As he may not have any direct control over areas of the firm's business, he may only need to satisfy himself that the firm has the appropriate systems and controls in place to address the requirements set out in *APER*, rather than implementing those controls personally. In this respect his role may be similar to that of a *non-executive director*.

Q6 What level of understanding does a person carrying out this function need to

have?

A person performing the *parent entity significant influence function* will need to have whatever level of understanding of the firm's business is appropriate in order to carry out his role properly and to meet the requirements of *APER* relating to that role. The fact that the *approved person* may not have been formally appointed by the firm or that his functions are exercised indirectly does not reduce the level of understanding he is expected to have. The same principle applies to establishing what it is reasonable to expect him to know and what steps are reasonable for him to take to inform himself about the affairs of the firm. (See also Q2).

...

Annex D

Amendments to the Fit and Proper test for Approved Persons (FIT)

In this Annex, underlining indicates new text and striking through indicates deleted text.

2.2 Competence and capability

- 2.2.1 G In determining a *person's* competence and capability, the *FSA* will have regard to all relevant matters including but not limited to:
- (1) whether the *person* satisfies the relevant *FSA* training and competence requirements in relation to the *controlled function* the *person* performs or is intended to perform;
 - (2) whether the *person* has demonstrated by experience and training that the *person* is suitable, or will be suitable if approved, to perform the *controlled function*;
 - (3) whether the *person* has adequate time to perform the *controlled function* and meet the responsibilities associated with that function.

...

- 2.2.3 G In considering whether a *person* performing the *controlled functions* 2 and 2a to 2e inclusive has adequate time to perform that *controlled function*, the *FSA* may take into account the process a *firm* has undertaken to determine the time commitment required.

...

Annex E

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

10.1 Application

...

Overseas firms: UK establishments

10.1.7 R Only the following *controlled functions* apply to an *overseas firm* which maintains an establishment in the *United Kingdom* from which *regulated activities* are carried on:

- (1) ~~the *director function* where the *person* performing that function:~~
- (a) ~~has responsibility for the *regulated activities* of a *UK branch* which are likely to enable him to exercise significant influence over that branch; or~~
 - (b) ~~is someone whose decisions or actions are regularly taken into account by the *governing body* of that branch.~~

the following *governing functions* where the *person* performing that function either has responsibility for the *regulated activities* of a *UK branch* which are likely to enable him to exercise significant influence over that branch or is someone whose decisions or actions are regularly taken into account by the *governing body* of that branch:

- (a) the *director function*;
- (b) the *non-executive director function*;
- (c) the *chairman function*;
- (d) the *chairman of the audit committee function*;
- (e) the *chairman of the remuneration committee function*;
- (f) the *chairman of the risk committee function*;
- (g) the *senior independent director function*;
- (h) the *chief executive function*;
- (i) the *parent entity significant influence function*;

- (2) ~~the non-executive director function where the person performing that function:~~
- (a) ~~has responsibility for the regulated activities of a UK branch which is likely to enable him to exercise significant influence over that branch; or~~
 - (b) ~~is someone whose decisions or actions are regularly taken into account by the governing body of that branch. [deleted]~~
- (3) ~~the chief executive function; [deleted]~~
- (4) the *required functions*;
- (5) the *systems and controls function functions*;
- (6) the *significant management function* in so far as the function relates to:
- (a) *designated investment business business* other than *dealing in investments as principal*, disregarding article 15 of the *Regulated Activities Order*; or
 - (b) the processing confirmations, payments, settlements, insurance claims, *client money* and similar matters in so far as this relates to *designated investment business*; and
- (5) the *customer function*.

...

Incoming EEA firms: passported activities from a branch

- 10.1.13 R Only the following *controlled functions* apply to an *incoming EEA firm* with respect to its *passported activities* carried on from a *branch* in the *United Kingdom*:
- (1) [deleted]
 - (2) [deleted]
 - (3) the *money laundering reporting function*;
 - (4) the *significant management function* in so far as the function relates to:
 - (a) *designated investment business* other than *dealing in investments as principal*, disregarding article 15 of the *Regulated Activities Order*; or
 - (b) processing confirmations, payments, settlements, insurance claims, *client money* and similar matters in so far as this

relates to *designated investment business*; ~~and~~ or

(c) the activity of *accepting deposits* from *banking customers* and activities substantially connected to that activity to the extent that it does not fall within (a) or (b); and

(5) [deleted]

(6) the *customer function* other than where this relates to the function in SUP 10.10.7AR(4).

...

Incoming EEA firms with a top-up permission activities from a UK branch

10.1.14 R In relation to the activities of a *firm* for which it has a *top-up permission*, only the following *controlled functions* apply:

(1) the *required functions*, other than the *apportionment and oversight function* and the *compliance oversight function*;

(2) the *significant management function* in so far as it relates to:

(a) *designated investment business* other than *dealing in investments as principal*, disregarding article 15 of the *Regulated Activities Order*; or

(b) processing confirmations, payments, settlements, insurance claims, *client money* and similar matters in so far as this relates to *designated investment business*; ~~and~~ or

(c) the activity of *accepting deposits* from *banking customers* and activities substantially connected to that activity to the extent that it does not fall within (a) or (b); and

(3) [deleted]

(4) the *customer function*.

10.1.15 ~~G~~ R ~~[deleted]~~ A *person* does not perform the *significant management function* for a *firm* under SUP 10.1.13R or SUP 10.1.14 R if that *person* would not have been treated as performing any *controlled function* for that *firm* if that *firm* had been a *UK firm*.

Appointed Representatives

10.1.16 R The descriptions of the following *controlled functions* apply to an *appointed representative* of a *firm*, except an *introducer appointed representative*, as they apply to a *firm*:

(1) the *governing functions* 1 to 6 (excluding 2a to 2e), subject to SUP 10.1.16AR and except for a *tied agent* of an *EEA MIFID investment*

firm; and

...

...

10.4 Specification of functions

...

Controlled Table of controlled functions

10.4.5 R

Type	CF	Description of controlled function
<i>Governing functions*</i>	<u>00</u>	<u><i>Parent entity significant influence function</i></u>
	1	<i>Director function</i>
	2	<i>Non-executive director function</i>
	<u>2a</u>	<u><i>Chairman function</i></u>
	<u>2b</u>	<u><i>Senior independent director</i></u>
	<u>2c</u>	<u><i>Chairman of the risk committee function</i></u>
	<u>2d</u>	<u><i>Chairman of the audit committee function</i></u>
	<u>2e</u>	<u><i>Chairman of the remuneration committee function</i></u>
	3	<i>Chief executive function</i>
	4	<i>Partner function</i>
	5	<i>Director of unincorporated association function</i>
	6	<i>Small friendly society function</i>
<i>Required functions*</i>	8	<i>Apportionment and oversight function</i>
	10	<i>Compliance oversight function</i>
	11	<i>Money laundering reporting function</i>
	12	<i>Actuarial function</i>
	12a	<i>With-profits actuary function</i>

	12b	<i>Lloyd's actuary function</i>
<i>Systems and controls function functions*</i>	28	<i>Systems and controls function</i>
	13	<i>Finance function</i>
	14	<i>Risk function</i>
	15	<i>Internal audit function</i>
...		

...

10.5 Significant influence functions

What are the significant influence functions?

- 10.5.1 G The *significant influence functions*, which are specified in SUP 10.4.1R, comprise the *governing functions* (see SUP 10.6), the *required functions* (see SUP 10.7), the *systems and controls function functions* (see SUP 10.8) and the *significant management functions* (see SUP 10.9). SUP 10.5 applies to each of the *significant influence functions*.

...

10.6 Governing functions

...

- 10.6.2 R Each of the *governing functions* (other than the *non-executive director function* and the function described in SUP 10.6.4R(2)) includes where apportioned under SYSC 2.1.1R or SYSC 4.3.1R and SYSC 4.4.3R:
- (1) ~~the systems and controls function;~~ and
- (2) the *significant management function*.
- 10.6.3 G The effect of SUP 10.6.2R is that a person who is *approved* to perform a *governing function* (other than the *non-executive director function* and the function described in SUP 10.6.4R(2)) will not have to be specifically approved to perform the ~~*systems and controls function*~~ or the *significant management function*. A person who is *approved* to perform a *governing function* will have to be additionally approved before he can perform any of the *systems and controls functions*, the *required functions* or the *customer function*.

...

Director function (CF1)

- 10.6.4 R If a *firm* is a *body corporate* (other than a *limited liability partnership*), the *director function* is the function of acting in the capacity of either a:
- ~~(1) director (other than a *non-executive director*) of that *firm*; or~~
 - ~~(2) a person:~~
 - ~~(a) who is a *director*, partner, officer, member (if the *parent undertaking* or *holding company* is a *limited liability partnership*), *senior manager*, or employee (other than a *non-executive director*) of a the *parent undertaking* or *holding company* (except where that *parent undertaking* or *holding company* is an *EEA firm*); and~~
 - ~~(b) whose decisions or actions are regularly taken into account by the *governing body* of the *firm*.~~
- 10.6.5 G Examples of where *SUP 10.6.4R(2)* would apply include (but are not limited to):
- ~~(1) a chairman of an audit committee of a *parent undertaking* or *holding company* of a *UK firm* where that audit committee is working for that *UK firm* (that is, functioning as the audit committee for the *group*); or~~
 - ~~(2) a director (other than a *non-executive director*) of a *parent undertaking* or *holding company* of a *UK firm* exercising significant influence by way of his involvement in taking decisions for that *UK firm*; or~~
 - ~~(3) an individual (such as a *senior manager*) of a *parent undertaking* or *holding company* of a *UK firm* who is responsible for and/or has significant influence in setting the objectives for and the remuneration of executive *directors* of that *UK firm*; or~~
 - ~~(4) an individual who is a *director* (other than a *non-executive director*) or a *senior manager* of a *parent undertaking* or *holding company* of a *UK firm* who is accustomed to influencing the operations of that *UK firm*, and acts in a manner in which it can reasonably be expected that an executive *director* or *senior manager* of that *UK firm* would act; or~~
 - ~~(5) an individual of an *overseas firm* which maintains an establishment in the *United Kingdom* from which *regulated activities* are carried on where that individual has responsibilities for those *regulated activities* which are likely to enable him to exercise significant influence over the *UK branch*. [deleted]~~

...

Non-executive director function (CF2)

- 10.6.8 R (1) If a *firm* is a *body corporate*, the *non-executive director function* is the function of acting in the capacity of either a:
- (a) *non-executive director* of that *firm*; or
 - (b) ~~*non-executive director of a parent undertaking or holding company* (except where that *parent undertaking or holding company* has a *Part IV permission* or is regulated by an *EEA regulator*) whose decisions, or actions are regularly taken into account by the *governing body* of the *firm*.~~
- (2) If a *firm* is a *long-term insurer*, the *non-executive director function* is also the function of acting in the capacity of an individual (other than an individual performing the *director function* or the *non-executive director function* under (1)) who, as a member of a committee having the purpose of a *with-profits committee*, has responsibility in relation to corporate arrangements for *with-profits business* under COBS 20.3 (Principles and Practices of Financial Management).
- 10.6.9 G ~~Examples of where SUP 10.6.8R(1)(b) would apply include (but are not limited to):~~
- (1) ~~an individual who is a *non-executive director* of a *parent undertaking or holding company* who takes an active role in the running of the business of a *UK firm*, for example, as a member of a board or committee (on audit or remuneration) of that *firm*; or~~
 - (2) ~~an individual who is a *non-executive director* of a *parent undertaking or holding company* having significant influence in setting and monitoring the business strategy of the *UK firm*; or~~
 - (3) ~~an individual who is a *non-executive director* of a *parent undertaking or holding company* of a *UK firm* involved in carrying out responsibilities such as scrutinising the approach of executive management, performance, or standards of conduct of the *UK firm*; or~~
 - (4) ~~an individual who is a *non-executive director* of a *parent undertaking or holding company* of a *UK firm* who is accustomed to influence the operations of the *UK firm*, and acts in a way in which it can reasonably be expected that a *non-executive director* of the *UK firm* would act; or~~
 - (5) ~~an individual who is a *non-executive director* of an *overseas firm* which maintains a branch in the *United Kingdom* from which *regulated activities* are carried on where that individual has responsibilities for those *regulated activities* which are likely to enable him to exercise significant influence over the *UK branch*.~~
- [deleted]

Chairman function (CF2a)

- 10.6.9A R The *chairman function* is the function of acting in the capacity of the chairman of the *governing body* of a *firm*.

Senior independent director function (CF2b)

- 10.6.9B R The *senior independent director function* is the function of acting as a *non-executive director* who has been appointed by the *non-executive directors* to act as the senior independent director.

Chairman of the risk committee function (CF2c)

- 10.6.9C R The *chairman of the risk committee function* is the function of acting in the capacity of the chairman of the *governing body* risk committee of a *firm* (if there is such a committee). For these purposes, the *governing body* risk committee means the committee described in SYSC 21.1.5G.

Chairman of the audit committee function (CF2d)

- 10.6.9D R The *chairman of the audit committee function* is the function of acting in the capacity of the chairman of the audit committee of the *governing body* of a *firm* (if there is such a committee).

Chairman of the remuneration committee function (CF2e)

- 10.6.9E R The *chairman of the remuneration committee function* is the function of acting in the capacity of the chairman of the remuneration committee of the *governing body* of a *firm* (if there is such a committee).

Application of ~~CF1 and~~ CF2a to CF2e

- 10.6.10 G (1) This paragraph explains the basis on which the *director function* and *non-executive director function* are applied to persons who have a position with the *firm's parent undertaking or holding company* under SUP 10.6.4R(2) or SUP 10.6.8R(1)(b). The *chairman function*, the *senior independent director function*, the *chairman of the risk committee function*, the *chairman of the audit committee function* and the *chairman of the remuneration committee function* are not subsumed within *controlled functions* 00, 1, 2, 3, 4, 5 or 6.
- R (2) The basic position is set out in SUP 10.3.4G. As is the case with all *controlled functions*, SUP 10.6.4R(2) and SUP 10.6.8R(1)(b) are subject to the overriding provisions in SUP 10.3.1R, which sets out the requirements of sections 59(1) and (2) of the Act. This means that unless the *firm* has an *arrangement* or a contract permitting the performance of these roles by the *persons* concerned, these *persons* will not be performing these *controlled functions*. Therefore, the FSA accepts that there will be cases in which a *person* performing these roles will not require approval.

- (3) ~~However the FSA expects that in general a person who performs these roles will perform the *director function* or the *non-executive director function*. This is because the FSA would expect that a firm that allows major decisions to be taken by a group decision making body will do so on the basis of a formal delegation from the firm's governing body. This delegation will amount to an arrangement for the purposes of section 59 of the Act.~~

10.6.10A G The effect of SUP 10.6.10R is that a person who is approved for the chairman function, the senior independent director function, the chairman of the risk committee function, the chairman of the audit committee function and the chairman of the remuneration committee function will also require approval for whichever of controlled functions 1, 2, 3, 4, 5 or 6 are applicable unless his role does not come within controlled functions 1, 2, 3, 4, 5 or 6. For example, a non-executive director who is also the chairman of a firm's audit committee will require approval for the non-executive director function and the chairman of the audit committee function.

...

Parent entity significant influence function (CF00)

- 10.6.30 R ~~[deleted]~~ The parent entity significant influence function is the function of acting in the capacity of a person:
- (1) who is a director, non-executive director, partner, officer, member (if the parent undertaking or holding company is a limited liability partnership), senior manager, or employee of a parent undertaking or holding company of that firm (except where that parent undertaking or holding company is an EEA firm or is set up in another EEA state and is regulated by an EEA regulatory body); and
 - (2) whose decisions, or actions are regularly taken into account by the governing body of the firm.
- 10.6.31 G R (1) ~~[deleted]~~ Each of the governing functions 1 to 6 (but excluding controlled functions 2a to 2e inclusive) includes, with respect to a firm, the parent entity significant influence function where performed in relation to that firm.
- (2) The parent entity significant influence function does not include any of the activities described in any other controlled function.
- 10.6.32 G ~~[deleted]~~ The effect of SUP 10.6.31R(1) is that where a person is approved to perform governing functions 1 to 6 (but excluding controlled functions 2a to 2e inclusive) in relation to a firm and, through his position with the firm's parent undertaking or holding company, he would also otherwise perform the parent entity significant influence function in relation to that subsidiary, that person will not have to be specifically approved to perform the parent entity significant influence function in relation to the subsidiary.

10.6.33 G A list of frequently asked questions concerning *controlled function* 00 is at SUP 10 Annex 9.

...

10.8 Systems and controls functions

~~Systems and controls function (CF28)~~ The finance function (CF13)

10.8.1 R The *finance function* is the function of acting in the capacity of an employee of the *firm* with responsibility for reporting to the *governing body* of a *firm*, in relation to its financial affairs.

~~The *systems and control function* is the function of acting in the capacity of an *employee* of the *firm* with responsibility for reporting to the *governing body* of a *firm*, or the audit committee (or its equivalent) in relation to:~~

- ~~(1) its financial affairs;~~
- ~~(2) setting and controlling its risk exposure (see SYSC 3.2.10G and SYSC 7.1.6R);~~
- ~~(3) adherence to internal systems and controls, procedures and policies (see SYSC 3.2.16G and SYSC 6.2).~~

10.8.1 A G The FSA expects that where a *person* is performing the *finance function* as described in SUP 10.8.1R, that *person* will be an employee of the *firm*. The FSA would expect *firms* not to outsource *controlled function* 13 to an employee of an external service provider.

The risk function (CF14)

10.8.2 G ~~[deleted]~~ The *risk function* is the function of acting in the capacity of an employee of the *firm* with responsibility for reporting to the *governing body* of a *firm*, or its risk committee (or its equivalent) in relation to setting and controlling a *firm's* risk exposure (see SYSC 3.2.10G and SYSC 7.1.6R).

10.8.2A G ~~Where an *employee* performs the *systems and control function* the FSA would expect the *firm* to ensure that the *employee* had sufficient expertise and authority to perform that function effectively. A *director* or *senior manager* would meet this expectation. [deleted]~~

The internal audit function (CF15)

10.8.3 R ~~[deleted]~~ The *internal audit function* is the function of acting in the capacity of an employee of the *firm* with responsibility for reporting to the *governing body* of a *firm*, or the audit committee (or its equivalent), in relation to controlling adherence to and effectiveness of a *firm's* internal systems and controls, procedures and policies (see SYSC 3.2.16G and SYSC 6.2).

Guidance on CF13, CF14 and CF15

- 10.8.4 G ~~{deleted}~~ Where an employee performs one of the *systems and controls functions* the FSA would expect the *firm* to ensure that the employee had sufficient expertise and authority to perform that function effectively. A director or senior manager would meet this expectation.
- 10.8.5 G ~~{deleted}~~ A *firm* may have more than one employee performing one of the *systems and controls functions*. Where this is the case, the FSA would only expect an employee to be approved for the relevant *controlled function* where that employee is responsible for the whole function, whether individually or jointly with others.
- 10.8.6 R ~~{deleted}~~ The FSA would expect the *firm* to ensure that an employee approved to perform the *internal audit function* is independent from any functions of the *firm* on which he audits, and therefore does not perform any of the *governing functions* for that *firm*.
G
- 10.8.7 G ~~{deleted}~~ A list of frequently asked questions concerning the *systems and controls functions* is at SUP 10 Annex 9.

...

10.9 Significant management functions

...

- 10.9.1 R SUP 10.9 applies only to a *firm* which:
- (1) under SYSC 2.1.1R or SYSC 4.4.4G 4.4.3R, apportions a significant responsibility, within the description of the *significant management function*, to a *senior manager* of a significant business unit; or
 - (2) undertakes *proprietary trading*; or
 - (3) (in the case of an EEA firm) undertakes the activity of *accepting deposits from banking customers* and activities connected with this.
- 10.9.2 G The FSA anticipates that there will be only a few *firms* needing to seek approval for an individual to perform the *significant management function* set out in SUP 10.9.1R(1). In most *firms*, those approved for the *governing functions*, *required functions* and, where appropriate, the *systems and controls function functions*, are likely to exercise all the significant influence at senior management level.
- 10.9.3 G The scale, nature and complexity of the *firm's* business may be such that a *firm* apportions under SUP 10.9.1R(1) a significant responsibility to an individual who is not approved to perform the *governing functions*, *required functions* or, where appropriate, the *systems and controls function functions*. If so, the *firm* should consider whether the functions of that individual fall within the *significant management function*. For the purposes of the description of the *significant management functions*, the following additional factors about the *firm* should be considered:

...

- 10.9.10 R (1) The *significant management function* is the function of acting as a *senior manager* with significant responsibility for a significant business unit that:
- (a) carries on *designated investment business* or other activities not falling within (b) to (d);
 - (b) *effects contracts of insurance* (other than *contractually based investments*);
 - (c) makes material decisions on the commitment of a *firm's* financial resources, its financial commitments, its assets acquisitions, its liability management and its overall cash and capital planning;
 - (d) processes confirmations, payments, settlements, insurance claims, and similar matters;
 - (e) (in the case of an *EEA firm*) undertakes the activity of *accepting deposits* from *banking customers* and activities connected with this.
- (1A) The *significant management function* also includes the function of acting as a *proprietary trader*.
- (2) This *controlled function* does not include any of the activities described in any other *controlled function* (except for the *parent entity significant influence function*) if that other *controlled function* applies to the *firm*.

...

10.12 Application for approval and withdrawing an application for approval

...

How to apply for approval

...

- 10.12.2B D Where a *person* performs the *parent entity significant influence function* in relation to a *UK firm*, and is already approved to perform another *governing function* in relation to the *parent undertaking* or *holding company* of that *UK firm*, the *UK firm* seeking approval should use the short Form A available on the *FSA's website*:
- <http://www.fsa.gov.uk/Pages/Doing/Regulated/Approved/persons/process/index.shtml>

...

10.13 Changes to an approved person's details

...

Ceasing to perform a controlled function

...

10.13.7A G (1) The obligations to supply information to:(a) the FSA under either SUP 10.13.6R or SUP 10.13.7R;(b) another firm under SUP 10.13.12R;

apply notwithstanding any agreement (for example a 'COT 3' Agreement settled by the Advisory, Conciliation and Arbitration Service (ACAS)) or any other arrangements entered into by a firm and an employee upon termination of the employee's employment. A firm should not enter into any such arrangements or agreements that could conflict with its obligations under this section.

(2) Failing to disclose relevant information to the FSA may be a criminal offence under section 398 of the Act.

...

Changes to an approved person's personal details

...

10.13.16 R (1) If a firm becomes aware of information which would reasonably be material to the assessment of an approved person's, or a candidate's, fitness and propriety (see FIT), it must inform the FSA on Form D, or (if it is more practical to do so and with the prior agreement of the FSA) by fax or e-mail, as soon as practicable.

(2) SUP 10.13.14R applies to the submission of Form D.

10.13.16A G Failing to disclose relevant information to the FSA may be a criminal offence under section 398 of the Act.

After 10 Annex 8, insert the following new annex. The text is not underlined.

10 Annex 9 Frequently Asked Questions concerning the Parent Entity Significant Influence Function

Q1 What do these FAQs cover?

These FAQs cover *controlled function 00: parent entity significant influence function*.

Use of the term “firm” in these FAQs refers to the authorised subsidiary.

Q2 What is the test that an individual would have to meet in order to fall within the scope of CF00?

CF00 captures those individuals, based in a *parent undertaking* or *holding company* (“parent entity”), whose decisions or actions are regularly taken into account by the *governing body* of the firm. This requirement looks at whether the *governing body* as a whole takes into account the individual’s decisions or actions in the parent entity, not whether individual members of the *governing body* have reporting lines to him.

It is not the job title held by a person within the parent entity that will determine whether they fall within the scope of the *approved persons* regime, but rather the exercise of the function fulfilled by a *person* in relation to the *regulated activities* of the firm.

There are various other conditions that need to be met as well:

- As is the case for all *controlled functions*, a function is a *controlled function* only to the extent that it is performed under an “arrangement” entered into by a firm in relation to the carrying on by the firm of a *regulated activity*. See Q6 for more on this.
- The function to be performed must be likely to enable the *person* responsible for it to exercise a significant influence on the conduct of the firm’s affairs, so far as relating to a *regulated activity*.
- The person exerting the significant influence must be a *director, non-executive director*, partner, officer, *senior manager*, or employee of one of the firm’s parent entities. If the parent entity is a limited liability partnership, this includes a member of that limited liability partnership.

Q3 When does the parent entity significant influence function apply?

Firms should be able to identify those persons in their parent entities likely to exercise significant influence, from the governance structures in place. However, we acknowledge that the situation may not always be clear cut (for example, in some cases the influence being exerted may be indirect or the “arrangement” may be informal in nature). In such cases we would encourage firms to speak with their supervisors, particularly for major complex, international groups with

subsidiaries or branches in the UK managed on a matrix basis.

Examples of where the *parent entity significant influence function* may apply are where the person:

- (1) takes an active role in the running of the business of a UK firm, for example, as a result of being a member of a group board or committee (on audit, risk or remuneration); or
- (2) has a significant influence in setting or approving the business strategy of the UK firm; or
- (3) is involved in carrying out responsibilities such as assessing the approach of executive management, performance, or standards of conduct of the UK firm; or
- (4) is accustomed to influence the operations of the UK *firm*, and acts in a way in which it can reasonably be expected that a director of the UK firm would act; or
- (5) is exercising significant influence by way of his involvement in taking decisions for that UK firm and acts in a manner in which it can reasonably be expected that a director or senior manager of that UK firm would act; or
- (6) is responsible for and/or has significant influence in setting the objectives for and the remuneration of executive directors of that UK firm; or
- (7) (in the case of an overseas firm which maintains a *branch* in the United Kingdom from which *regulated activities* are carried on) has responsibilities for those *regulated activities* which are likely to enable him to exercise significant influence over the UK *branch*.

Broadly speaking there are therefore two main situations in which the *parent entity significant influence function* may apply.

One is where the individual is formally included in the firm's reporting lines and decision-making structures. See the answers to Q4 and Q8 for more on this.

Another is where the individual has a direct but informal influence on the firm's *governing body* that is sufficiently strong that his decisions or actions are regularly taken into account by that *governing body*.

If the firm's governing body has sufficient discretion on how it applies and responds to directions or proposals coming from group committees or individuals based in parent entities, the influence is unlikely to be significant and therefore approval would not be required. This distinguishes someone who is simply carrying on a group-level function from someone who is performing a function on behalf of the firm. If the firm is unable to evidence sufficient independence or autonomy within the *governing body* of the firm, it may be that the individual will be performing the *parent entity significant influence function*.

So, where a firm (a) has in place the required functional SIFs at the local level and (b) they are effective and have sufficient control over the firm, we would not routinely expect them to have Parent CF00 SIFs in place.

Q4 Do individuals on Group Committees fall within the scope of CF00?

It is not our assumption that members of group committees will automatically exert a significant influence by virtue of their membership of the committee in question, but it may be appropriate for certain members to be approved. For example where the group committee is acting as a committee of the firm itself (see Q8 for more on this). However, as explained in Q7 to Q9, this sort of arrangement will sometimes result in the individual carrying on one of the other *controlled functions* rather than the *parent entity significant influence function*.

If the group committee is not acting as a committee of the firm itself then, even if it carries out an important role in relation to the firm, it does not necessarily follow that the individuals on that committee will fall within the scope of CF00. The question is whether the particular individual meets the tests under Q2. In practice this is only likely to be the case if the group's reporting lines are set up so that there is a reporting line between the individual and the firm's *governing body* or if the individual has the sort of informal influence described in the answer to Q3.

In determining whether or not members of group committees require approval, consideration should be given to the extent to which the group committee has the power to direct the *governing body* of the firm to take or refrain from taking certain actions.

Q5 Could shareholders require approval under CF00?

No, unless the shareholder is also a *director, non-executive director, partner, officer, senior manager, or employee* of the parent entity and is exerting significant influence over it through that role.

Q6 What is meant by an "arrangement"?

As is the case with all controlled functions, the parent entity significant influence function is subject to the overriding provisions in SUP 10.3.1R, which sets out the requirements of sections 59(1) and (2) of the *Act*. This means that unless the firm (or its contractor) has an arrangement permitting the performance of the role by the *person* concerned, he will not be performing the *parent entity significant influence function*. Therefore, the *FSA* accepts that there could be cases in which a person exercising significant influence over a firm from its parent entity will not require approval.

If a firm allows major decisions to be taken by a group decision-making body or by a person based in a parent entity on the basis of a formal delegation from the firm's governing body, such a formal delegation will amount to an arrangement for the purposes of section 59 of the *Act*. However, formal delegation of this kind **is not** the only form of "arrangement" adopted by firms. As explained in SUP

10.3.4G an arrangement can arise, for example, by conduct, custom and practice.

The *FSA* would also be likely to regard an “arrangement” as being in place between a parent entity and a firm in the following examples (NB these are not exhaustive):

- (1) where the parent entity imposes a requirement on the firm to seek prior approval from the parent entity in respect of material business decisions such as approving the firm’s strategy and business plan, making capital investments, acquiring or disposing of other companies etc.;
- (2) where the parent entity requires the firm to take certain actions affecting its risk profile: for example the taking on or limiting of significant financial risk exposures;
- (3) where the parent entity requires the firm to amend aspects of its internal control arrangements: for example to change its approach to risk or compliance monitoring arrangements;
- (4) where ‘dotted’ or functional reporting lines exist between executive management of certain functions in the firm, and executive management in the parent entity, through which group management has influence over the staffing, budgets and activities of the relevant functions within the firm. For example, this could be where business heads or control functions in the firm report to equivalent group business heads or control functions, in addition to established management reporting lines within the firm.

The above arrangements are common, but are not enough in themselves to mean that a person is automatically performing the *parent entity significant influence function*. The other requirements in Q2 must also be met.

However, although an “arrangement” does not need to be a formal contract or appointment, in any form of “arrangement” it is our expectation that both the firm and the person carrying on the *parent entity significant influence function* will be fully aware of the circumstances of that arrangement i.e. the responsibilities of the function being performed by the person on behalf of the firm, in relation to the firm’s *regulated activities*.

Q7 **If a person is fulfilling one of the governing functions, CF1 to CF6 for an authorised firm, would the individual also need to be approved for the Parent SIF function, if he is also performing a role at group level or from a parent entity?**

No. *SUP* 10.6.31R(1) and *SUP* 10.6.32G explain that he does not need to get approval for the *parent entity significant influence function* if he is already approved for one of the *governing functions* CF1 to CF6 (excluding CF2a to CF2e) in relation to the firm.

Q8 **Please explain how the granular governing functions (i.e. CF2a-CF2e) and the parent significant influence function interact when the person is performing a role at the group level.**

If the group committee is also acting as a committee of the firm itself, the chairman of the committee will require the relevant granular governing function (CF2c to CF2e). He will not require the *parent entity significant influence function* as the committee will be a committee of the firm. He would only need the *parent entity significant influence function* in addition where he has substantial influence on the *firm* that comes outside his role on the group committee. It is unlikely though that the *chairman function* or the *senior independent director function* will be exercised through a group committee in this way.

A group committee will be acting as a committee of the firm if the firm formally appoints it as one. It may also function as a committee of the firm if in practice the group committee performs that function, but only if it does so under an arrangement as described in the answer to Q6.

If, as will often be the case, the group committee is not functioning as a committee of the firm, the chairman will not be performing the granular *governing function*. If he is performing a *controlled function* at all it will be the *parent entity significant influence function*. Q4 has more on this.

Q9 Please explain how the systems and controls functions (CF13-CF15) and the parent significant influence function interact when the person is performing a role at the group level.

This deals with the group finance, risk and internal audit officers.

Two of the main features of these *controlled functions* are that the person must be an employee, partner or officer of the firm in question and that he must be responsible for reporting to the firm's *governing body* or the relevant sub-committee. In many cases these two requirements will mean that the group officer will not be performing any of the *systems and controls functions*.

If the person based in a parent entity is also an employee, officer or partner of the *firm* and is responsible for reporting to the firm's *governing body* or the relevant sub-committee, he will be carrying out a *systems and controls function* for the firm. In that case he will require approval for that *controlled function*. He would only need the *parent entity significant influence function* in addition where he has substantial influence on the firm that comes outside his *systems and controls function*.

Q10 How will the FSA assess those requiring the parent entity significant influence function?

We aim to assess the individual's fitness and propriety to perform the *controlled function* according to the requirements and responsibilities of the particular role(s) performed by them. The assessment process may include an interview. The fit and proper test (*FIT*) will be applied to *candidates* wherever they are based. The *firm* submitting applications for approval is required to have undertaken their own due diligence on the *candidate* before submitting the application to us. It is the applicant firm that is required to satisfy the *FSA* of a *candidate's* fitness and propriety, regardless of whether the individual is based in the UK or overseas. As with any *approved person's* role we would expect firms to have clear

documentation of a *candidate's* role and responsibilities.

Q11 What happens to candidates who are refused CF00 approval, or where CF00 approval is withdrawn by the FSA?

In either case the person would not be allowed to exercise significant influence over the firm, in relation to its *regulated activities*. This could mean that the *firm's* governance arrangements would need to be revised accordingly. If the person continued to exert significant influence without approval, the firm would be in breach of the *Act* and both the firm and the individual would be open to enforcement action.

Those we approve and who then breach *FIT* or *APER* could face enforcement action and have their approval withdrawn, requiring them to cease exercising significant influence over the firm, in relation to its *regulated activities*. A person may also be prohibited from carrying out any function in relation to any *regulated activity* carried out by an *authorised person*. Refusals, withdrawn approvals and prohibitions are published, and may also have consequences in their home state for the individuals based outside the UK.

Q12 Does CF00 apply where the parent entity is an EEA regulated entity?

No. See *SUP* 10.6.30R (1).

Q13 How does CF00 apply to branches of third country firms, operating in the UK?

The application of the *approved persons* regime to third country *branches* is comparable to the application of the regime to an authorised subsidiary, except that the question is whether the individual's decisions or actions are regularly taken into account by the *governing body* of that *branch*, rather than the *governing body* of the firm as a whole.

Q14 Is CF00 held for the parent entity or for the authorised firm?

As with all applications for a *controlled function*, an application should be submitted by the firm for which the person is carrying out the function, i.e. the firm on which the person will have a significant influence (and not by the parent entity).

...

Insert the following new rows in the SUP Transitional Provisions. The text is not underlined.

TP 1 Transitional provisions

Transitional provisions applying to the Supervision manual only

...

TP 1.2

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
8K	SUP 10.6.9AR to SUP 10.6.9ER	R	<p>(1) This <i>rule</i> applies to a <i>person</i> who meets the following conditions immediately before the transitional start date:</p> <ul style="list-style-type: none"> (a) he was approved to carry on one of the existing <i>governing functions</i> for a <i>firm</i>; and (b) he would otherwise have been performing one of the granular <i>governing functions</i> if those functions had existed then. <p>(2) The <i>firm</i> must notify the <i>FSA</i> of each <i>approved person</i> falling into (1). The <i>firm</i> must give that notification before the second date in column (5). The notification must include the granular <i>governing functions</i> referred to in (1)(b).</p> <p>(3) The functions described in (1)(b), as respects that <i>person</i> and that <i>firm</i>, are not treated as forming part of the granular <i>governing functions</i> until the earlier to occur of the date on which the <i>firm</i> gives the notification under (2) and the second date in column (5).</p> <p>(4) If the notification in (2) is given in accordance with that paragraph, the approval referred to in paragraph (1)(a) covers the granular <i>governing functions</i> referred to in (1)(b) as respects that <i>person</i> and that <i>firm</i>.</p> <p>(5) SUP TP 8TR contains various supplemental provisions applicable to this <i>rule</i>.</p>	1 May 2011 to 31 July 2011	1 August 2011

8L	SUP 10.6.30AR and SUP 10.13.6AR	R	<p>(1) This <i>rule</i> applies to a <i>person</i> who immediately before the transitional start date.</p> <p>(a) was approved to carry on an existing <i>governing function</i> for a subsidiary <i>firm</i>; and</p> <p>(b) would have been performing the <i>parent entity significant influence function</i> with respect to that subsidiary <i>firm</i> if that function had existed then.</p> <p>(2) SUP 10.6.31R(1) applies, so that the approval referred to in paragraph (1) covers the <i>parent entity significant influence function</i> as respects that <i>person</i> and that <i>firm</i>.</p> <p>(3) The subsidiary <i>firm</i> must notify the FSA of any <i>person</i> to whom this <i>rule</i> applies who has ceased to perform the <i>governing function</i> referred to in (1)(a) because of the removal of the functions forming part of the <i>parent entity significant influence function</i> from the <i>director function</i> and the <i>non-executive director function</i> by the Controlled Functions (Amendment) Instrument 2010. The <i>firm</i> must give that notification within three months of the date in (1). Form C does not apply for the purpose of that notification.</p> <p>(4) SUP TP 8TR contains various supplemental provisions applicable to this <i>rule</i>.</p>	Not applicable	Not applicable
8M	SUP 10.6.30R	R	<p>(1) This <i>rule</i> applies to a <i>person</i> who meets the following conditions immediately before the transitional start date:</p> <p>(a) he would otherwise have been performing the <i>parent entity significant influence function</i> with respect to a subsidiary <i>firm</i> if that function had existed then;</p> <p>(b) he is not approved to perform a <i>governing function</i> for the subsidiary <i>firm</i>;</p> <p>(c) he was not performing the <i>director function</i> or the <i>non-executive director function</i> for the subsidiary <i>firm</i> (as those <i>controlled functions</i> were defined before the Controlled Functions (Amendment) Instrument 2010); and</p>	1 May 2011 to 31 October 2011	

			<p>(d) either the parent was not a <i>UK firm</i> or he is not approved to perform any <i>governing function</i> for the parent.</p> <p>(2) The <i>parent entity significant influence function</i>, as respects that <i>person</i> and that subsidiary <i>firm</i>, is not treated as a <i>controlled function</i></p> <p>(3) If this transitional <i>rule</i> has not already expired under column (5), this <i>rule</i> comes to an end as respects that <i>person</i> and that subsidiary <i>firm</i> if and when an application is made for the person to perform the <i>parent entity significant influence function</i> for that <i>firm</i> and that application is granted.</p> <p>(4) If the <i>FSA</i> has received a completed application for that <i>person</i> to perform the <i>parent entity significant influence</i> no later than three months after the first date in column (5) and that application has not been finally decided by the time that the transitional period in column (5) would otherwise have come to an end, that transitional period is extended until the application has been finally decided.</p> <p>(5) <i>SUP TP 8TR</i> contains various supplemental provisions applicable to this <i>rule</i>.</p>		
8N	<i>SUP</i> 10.6.30R	R	<p>(1) This <i>rule</i> applies to a person who meets the following conditions immediately before the transitional start date:</p> <p>(a) he would otherwise have been performing the <i>parent entity significant influence function</i> with respect to a subsidiary <i>firm</i> if that function had existed then;</p> <p>(b) he is not approved to perform a <i>governing function</i> for that subsidiary <i>firm</i>;</p> <p>(c) the parent was a <i>UK firm</i>;</p> <p>(d) he was not performing the <i>director function</i> or the <i>non-executive director function</i> for the subsidiary <i>firm</i> (as those <i>controlled functions</i> were defined before the Controlled Functions (Amendment) Instrument 2010); and</p> <p>(e) he was approved to carry on a <i>governing function</i> for the parent.</p>	1 May 2011 to 31 July 2011	1 August 2011

			<p>(2) The subsidiary <i>firm</i> must notify the <i>FSA</i> of each <i>approved person</i> falling into (1). The <i>firm</i> must give that notification before the second date in column (5).</p> <p>(3) The <i>parent entity significant influence function</i> , as respects that <i>person</i> and that subsidiary <i>firm</i>, is not treated as a <i>controlled function</i> until the earlier to occur of the date on which the <i>firm</i> gives the notification under (2) and the second date in column (5).</p> <p>(4) If the notification in (2) is given in accordance with that paragraph, the approval referred to in paragraph (1)(e) covers the <i>parent entity significant influence function</i> as respects that <i>person</i> and that subsidiary <i>firm</i>.</p> <p>(5) <i>SUP</i> TP 8TR contains various supplemental provisions applicable to this <i>rule</i>.</p>		
80	<i>SUP</i> 10.8.1R to <i>SUP</i> 10.8.3R	R	<p>(1) This <i>rule</i> applies to a person who meets the following conditions immediately before the transitional start date:</p> <p>(a) he was approved to carry on what prior to the Controlled Functions (Amendment) Instrument 2010 was <i>controlled function 28</i> (the systems and controls function) for a <i>firm</i>; and</p> <p>(b) he would otherwise have been performing any of the <i>systems and controls functions</i> for that <i>firm</i> if those functions had existed then.</p> <p>(2) The <i>firm</i> must notify the <i>FSA</i> of each <i>approved person</i> falling into (1). The <i>firm</i> must give that notification before the second date in column (5). The notification must include the <i>systems and controls functions</i> the <i>approved person</i> would otherwise have been performing.</p> <p>(3) The deletion of what was <i>controlled function 28</i>, as respects that <i>person</i> and that <i>firm</i>, does not take effect until the earlier to occur of the date on which the <i>firm</i> gives the notification under (2) and the second date in column (5).</p> <p>(4) If the notification in (2) is given in accordance with that paragraph, the approval referred to in paragraph (1)(a) covers the <i>systems and controls functions</i> referred to in (1)(b) as respects that <i>person</i> and that <i>firm</i>.</p>	1 May 2011 to 31 July 2011	1 August 2011

			(5) <i>SUP</i> TP 8TR contains various supplemental provisions applicable to this <i>rule</i> .	
8P	<i>SUP</i> 10.8.1R to <i>SUP</i> 10.8.3R	R	<p>(1) This <i>rule</i> applies to a <i>person</i> who meets the following conditions:</p> <p>(a) immediately before the transitional start date he was approved to perform a <i>governing function</i> for a <i>firm</i>; and</p> <p>(b) as a result of the deletion of <i>SUP</i> 10.6.2R(1) by the Governance Instrument 2010 he would on the transitional start date otherwise have required approval to perform one of the <i>systems and controls functions</i> for that <i>firm</i>.</p> <p>(2) The <i>firm</i> must notify the <i>FSA</i> of each <i>approved person</i> falling into (1).</p> <p>(3) The <i>firm</i> must give the notification in (2) within the period specified in (4) or (5). The period begins from the transitional start date.</p> <p>(4) (a) The notification period is three months for a <i>firm</i> that meets at least one of the conditions in this <i>rule</i>.</p> <p>(b) The first condition is that the <i>firm</i> is a <i>UK bank</i> or <i>building society</i> that had <i>capital resources</i> exceeding £1 billion on its last <i>accounting reference date</i>.</p> <p>(c) The second condition is that the <i>firm</i> is a <i>BIPRU 730K firm</i> that had <i>capital resources</i> exceeding £750 million on its last <i>accounting reference date</i>.</p> <p>(d) The third condition is that:</p> <p>(i) the <i>firm</i> is a <i>full credit institution</i>, a <i>BIPRU 730K firm</i> or a <i>third country BIPRU 730K firm</i>;</p> <p>(ii) the <i>firm</i> is part of a <i>group</i>; and</p> <p>(iii) on the <i>firm's</i> last <i>accounting reference date</i> total <i>capital resources</i> held within the <i>group</i>:</p> <p>(A) by <i>UK banks</i> or <i>building societies</i> exceeded £1 billion; or</p>	As specified in column 4
				1 August 2011

			<p>(B) by <i>BIPRU 730K firms</i> exceeded £750 million.</p> <p>(5) The notification period is twelve months for all other <i>firms</i>.</p> <p>(6) The deletion of what was <i>controlled function</i> 28, the deletion referred to in paragraph (1) and the introduction of the <i>controlled functions</i> referred to in paragraph (1)(b), as respects that <i>person</i> and that <i>firm</i>, do not take effect until the earlier to occur of the date on which the <i>firm</i> gives the notification under (2) and the end of the notification period.</p> <p>(7) If the notification in (2) is given in accordance with that paragraph, the approval referred to in paragraph (1)(a) covers the <i>systems and controls functions</i> referred to in (1)(b) as respects that <i>person</i> and that <i>firm</i>.</p> <p>(8) <i>SUP TP 8TR</i> contains various supplemental provisions applicable to this <i>rule</i>.</p>		
8Q	<i>SUP</i> 10.1.13R to <i>SUP</i> 10.1.14R	R	<p>(1) This <i>rule</i> deals with the extension of the <i>significant management function</i> through the amendment to <i>SUP</i> 10.1.13R (Incoming EEA firms: passported activities from a branch) and <i>SUP</i> 10.1.14R (Incoming EEA firms etc with top-up permission activities from a UK branch) by the Controlled Functions (Amendment) Instrument 2010.</p> <p>(2) This <i>rule</i> applies to a <i>person</i> who would otherwise have been performing the <i>significant management function</i> with respect to a <i>firm</i> immediately before the first date in column (5) if the extension described in (1) had been in force then.</p> <p>(3) The functions that would otherwise have formed part of the <i>significant management function</i> because of the extension described in (2), as respects that <i>person</i> and that <i>firm</i>, are not treated as forming part of <i>significant management function</i>.</p> <p>(4) If this transitional <i>rule</i> has not already expired under column (5), this <i>rule</i> comes to an end as respects that <i>person</i> and that <i>firm</i> if and when an application is made for the person to perform the <i>significant management function</i> for that <i>firm</i> and that application is granted.</p>	1 May 2011 to 31 October 2011	1 November 2011

			<p>(5) If the <i>FSA</i> has received a completed application for that <i>person</i> to perform the <i>significant management function</i> no later than three months after the first date in column (5) and that application has not been finally decided by the time that the transitional period in column (5) would otherwise have come to an end, that transitional period is extended until the application has been finally decided.</p> <p>(6) <i>SUP TP 8TR</i> contains various supplemental provisions applicable to this <i>rule</i>.</p>		
8R	<i>SUP</i> 10.6.9AR to <i>SUP</i> 10.6.9ER	R	<p>(1) This <i>rule</i> applies to a <i>person</i> who meets the following conditions immediately before the transitional start date:</p> <p>(a) he was not approved to carry on one of the existing <i>governing functions</i> for a <i>firm</i> and was not performing any of those functions for that <i>firm</i>; and</p> <p>(b) he would otherwise have been performing one of the granular <i>governing functions</i> if those functions had existed then.</p> <p>(2) The granular function described in (1)(b), as respects that <i>person</i> and that <i>firm</i>, is not treated as being a <i>controlled function</i>.</p> <p>(3) If this transitional <i>rule</i> has not already expired under column (5), this <i>rule</i> comes to an end as respects that <i>person</i> and that <i>firm</i> if and when an application is made for the person to perform the granular <i>governing function</i> for that <i>firm</i> and that application is granted.</p> <p>(4) If the <i>FSA</i> has received a completed application for that <i>person</i> to perform the granular <i>governing function</i> no later than 3 months after the first date in column (5) and that application has not been finally decided by the time that the transitional period in column (5) would otherwise have come to an end, that transitional period is extended until the application has been finally decided.</p> <p>(5) <i>SUP TP 8TR</i> contains various supplemental provisions applicable to this <i>rule</i>.</p>	1 May 2011 to 31 July 2011	1 August 2011

8S		G	<p>(1) <i>SUP TP 8KR</i> deals with the introduction of the granular <i>governing functions</i> by the Controlled Functions (Amendment) Instrument 2010. It deals with a <i>firm</i> for which an <i>approved person</i> has been approved to perform any of the <i>governing functions</i> and will require approval for one of the granular <i>governing functions</i>. The <i>firm</i> is required to notify the <i>FSA</i> of all such <i>approved persons</i>. If it does, the <i>approved person</i> will be approved to carry out that granular <i>governing function</i> and no new approval to perform that <i>controlled function</i> will be required. Otherwise the <i>approved person</i> will need to apply for approval.</p> <p>(2) <i>SUP TP 8LR</i> deals with a <i>person</i> who is performing the <i>parent entity significant influence function</i> for a subsidiary <i>firm</i> and is approved to carry out one of the <i>governing functions</i> for the subsidiary. The policy in <i>SUP 10.6.31R(1)</i> is that approval for an existing <i>governing function</i> also includes approval for the <i>parent entity significant influence function</i>. The purpose of this transitional <i>rule</i> is that this should be the case for all those who fall into this category when the <i>parent entity significant influence function</i> was introduced by the Controlled Functions (Amendment) Instrument 2010.</p> <p>(3) Before the Controlled Functions (Amendment) Instrument 2010, the functions forming the <i>parent entity significant influence function</i> formed part of the <i>director function</i> and the <i>non-executive director function</i>. <i>SUP TP 8LR</i> also deals with an <i>approved person</i> who only required approval for the <i>director function</i> or the <i>non-executive director function</i> because he was performing a role that after the Controlled Functions (Amendment) Instrument 2010 falls under the <i>parent entity significant influence function</i>. As a result of the Controlled Functions (Amendment) Instrument 2010 the <i>approved person</i> will have ceased to perform the <i>director function</i> or the <i>non-executive director function</i>. The <i>firm</i> is required to notify the <i>FSA</i> of such <i>persons</i>. The result is that such <i>persons</i> will be approved for the <i>parent entity significant influence function</i> in place of the <i>director function</i> or the <i>non-executive director function</i>.</p>		
----	--	---	---	--	--

- (4) *SUP TP 8OR* deals with the splitting into the three *systems and controls functions* of what was a single *controlled function* by the *Controlled Functions (Amendment) Instrument 2010*. A *firm* must notify the *FSA* of its *approved person* who is covered by this change. If it does, the *approved person* will be approved to carry out the *systems and controls function* that he has been performing and no new approval to perform that *controlled function* will be required. Otherwise the *approved person* will need to apply for approval.
- (5) *SUP TP 8PR* deals with the same issue in the case of those also affected by the removal of the *rule* that said that a *person* performing certain of the *governing functions* did not need separate approval for the *controlled function* that was split to form the *systems and controls functions*. The same procedures apply.
- (6) *SUP TP 8MR* and *SUP TP 8NR* deal with the *parent entity significant influence function* in relation to those who are not approved to carry out a *governing function* for the subsidiary *firm*. A *person* carrying on that function for a subsidiary *firm* whose parent is a *UK firm* will not need a new approval to perform that *controlled function* as long as notice is given in accordance with *SUP TP 8TR* and he is already approved to carry on a *governing function* for the parent. In other cases *SUP TP 8MR* sets out a period within which the *person* may get approval without having to cease to carry on that function in the mean time. An example of a *firm* to which *SUP TP 8MR* applies is a *UK firm* that is a limited liability partnership.
- (7) *SUP TP 8MR*, *SUP TP 8QR* and *SUP TP 8RR* provide a period in which applications can be made. They say that if an application for approval is still being processed at the end of the transitional period, the *person* is still able to carry on performing the function while the approval is being processed. However this only applies if the application for approval is made within a specified period. If the application is made later than that there is a risk that the application will not have been decided before the end of the transitional period, in which case the *person* will have to stop carrying out the function.

			(8) <i>SUP</i> TP 8RR deals with the possibility (perhaps unlikely) that some of the granular <i>governing functions</i> are not carried out by a director or partner. It provides a transitional period during which application for approval can be made.		
8T	<i>SUP</i> TP 8KR to <i>SUP</i> TP 8SG	R	<p>(1) This <i>rule</i> defines various terms used in <i>SUP</i> TP 8KR to <i>SUP</i> TP 8SG and sets out various other supplemental matters.</p> <p>(2) An application for a <i>person</i> to perform a <i>controlled function</i> is finally decided on the earliest of the following dates:</p> <p>(a) when the application is withdrawn;</p> <p>(b) when the <i>FSA</i> grants approval;</p> <p>(c) where the <i>FSA</i> has refused the application and the matter is not referred to the <i>Tribunal</i>, on the date on which the right to refer the matter to the <i>Tribunal</i> expires;</p> <p>(d) where the <i>FSA</i> has refused the application and the matter is referred to the <i>Tribunal</i>, when the reference is determined by the <i>Tribunal</i> and the time for bringing an appeal has expired;</p> <p>(e) if the application is determined by the court, when the court makes that determination.</p> <p>(3) The notification under <i>SUP</i> TP 8KR, <i>SUP</i> TP 8LR, <i>SUP</i> TP 8NR, <i>SUP</i> TP 8OR and <i>SUP</i> TP 8PR must include sufficient information for the <i>FSA</i> to identify the <i>person</i> concerned and at a minimum must contain (i) the <i>person's</i> full name; (ii) his individual register reference number and (iii) the <i>firm's</i> register reference number. The register means the register maintained by the <i>FSA</i> under section 347 of the <i>Act</i> (The record of authorised persons etc).</p> <p>(4) The granular <i>governing functions</i> mean <i>controlled functions</i> 2a, 2b, 2c, 2d and 2e as set out in the <i>table of controlled functions</i>.</p> <p>(5) The existing <i>governing functions</i> mean <i>controlled functions</i> 1, 2, 3, 4, 5 and 6 as set out in the <i>table of controlled functions</i>.</p>		

			<p>(6) The terms subsidiary <i>firm</i> and parent refer to the <i>parent entity significant influence function</i>. The subsidiary <i>firm</i> is the <i>firm</i> referred to SUP 10.3.1R. The parent refers to the <i>holding company</i> or <i>parent undertaking</i> from which that function is being carried on.</p> <p>(7) Transitional start date means 1 May 2011.</p>		
...					

Annex F

Amendments to the Credit Unions sourcebook (CRED)

In this Annex, underlining indicates new text and striking through indicates deleted text.

4.3 Systems and Controls

...

Rules and evidential provisions

...

- 4.3.12 G The term ‘internal audit function’ in *CRED* 4.3.11E refers to the generally understood concept of internal audit within a *firm*, that is, the function of assessing adherence to and the effectiveness of internal systems and controls, procedures and policies. ~~The internal audit function is not a *controlled function* itself, but is part of the *systems and controls function* (CF28). *Guidance* on internal audit is given in *CRED* 4.3.50G to *CRED* 4.3.60G.~~ However, the *person* who reports to the *governing body* of a *firm*, or its audit committee (or its equivalent) in relation to controlling adherence to a *firm's* internal systems and controls, may perform the *internal audit function*, which is *controlled function* 15, as described in *SUP* 10.8.3R.

...

6.3 Approved persons

...

SUP 10.8: the systems and controls ~~function~~ functions

...

- 6.3.9A G Where an *employee* performs any of the *systems and controls function functions* the *FSA* would expect the *credit union* to ensure that the *employee* had sufficient expertise and authority to perform that function effectively, for example be a *director* or *senior manager*.

**INTEGRATED REGULATORY REPORTING (AMENDMENT NO 7)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of its powers under section 157(1) (Guidance) of the Financial Services and Markets Act 2000.

Commencement

- B. This instrument comes into force on 1 October 2010.

Amendments to the Handbook

- C. The Supervision manual (SUP) is amended in accordance with the Annex to this instrument.

Citation

- D. This instrument may be cited as the Integrated Regulatory Reporting (Amendment No 7) Instrument 2010.

By order of the Board
23 September 2010

Annex

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

16 Annex 25G Guidance notes for data items in SUP 16 Annex 24R

...

FSA003 – Capital adequacy validations

Internal validations

Data elements are referenced by row then column

Validation number Data element

...

91 106A = 15A – 70A or, where 69A>70A, 57A-69A

...

110 107A = (15A/70A) * 100 or, where 69A>70A,
(57A/69A)*100

...

FSA004 – Credit risk validations

Internal validations

Data elements are referenced by row then column.

Validation number	Data element		
...			
13	36B	=	36A/8% <u>[deleted]</u>
...			

...

FSA005 – Market risk validations**Internal validations**

Data elements are referenced by row then column.

Validation number	Data element		
...			
7	25G	=	$(22G * 2\%) + (24G * 4\%) + (23G * 2\%)$
...			

...

FSA008 – Large exposures validations**Internal validations**

Data elements are referenced by row then column.

...			
36	8H	=	$8F + 8G - (4B/4)$ [deleted]
...			
43	5N	=	$(5H + 5K) / 4B * 100$ [deleted]
...			

...

FSA017 – Interest rate gap report validations**Internal validations**

Data elements are referenced first by row then by column

Validation number

Data element

...

337 31N = 28N 31P + 28N

...

FSA029 – Balance sheet validations**Internal validations**

Data elements are referenced by row, then column.

Validation number	Data element
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5	28A	=	13A + 21A 4A + 13A - 55A - 27A
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...

FSA035 – Capital Adequacy (for firms subject to IPRU(INV) Chapter 5 and to the exemption in IPRU(INV) 5.2.3(2)R) validations

...

Validation number	Data element
-------------------	--------------

...

4	18A	=	0 <u>blank</u> or 5
---	-----	---	---------------------

5	19A	=	0 <u>blank</u> or 4000
---	-----	---	------------------------

6	19A		If 18A = 0 <u>blank</u> , then 4000, else 0 <u>blank</u>
---	-----	--	--

...

**INTEGRATED REGULATORY REPORTING (AMENDMENT NO 8)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in or under the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 156 (General supplementary powers); and
 - (3) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 October 2010

Amendments to the Handbook

- D. The Supervision manual (SUP) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Integrated Regulatory Reporting (Amendment No 8) Instrument 2010.

By order of the Board
23 September 2010

Annex

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

16 Annex 24R Data items for SUP 16.12

...

**FSA001
Balance Sheet**

...

		A	B
		Trading book	Non-trading book
...			
6	Credit items in the course of collection from banks		
7	Treasury bills and other eligible bills <u>Securities eligible for use in central bank operations</u>		
8	Deposits with, and loans to, credit institutions		

...

**FSA002
Income statement**

...

26	Interest paid	
27	<i>of which</i> on bank and building society deposits	
28	on retail deposits	
29	on corporate deposits	
30	on intra-group deposits	
31	on other deposits <u>items</u>	
32	Fee and commission expense	

...

**FSA005
Market risk**

Note: In this table numerical references correspond with those shown on the online submission form and are not presented here in strict numerical order.

Specific equity risk by risk bucket		USD	GBP	EUR	CHF	YEN	Other	Total
22	Qualifying equities							
	Qualifying equity							
23	indices							
24	Other equities, equity indices or equity baskets							
63	<u>Convertibles adjustment</u>							
25	PRR							

...

FSA019
Pillar 2 information

Note: In this table numerical references correspond with those shown on the online submission form and are not presented here in strict numerical order.

		B
		yes/no
1	Does GENPRU 1.2 apply to your firm?	

If so, please answer all the following questions:

		000s
2	What is the internal capital amount that How much capital do you consider adequate for the nature, scale and complexity of your firm's activities in line with its Internal Capital Adequacy Assessment Process (ICAAP)?	

3	What is the actual amount of internal capital capital resource your firm holds at the accounting reference date?	
---	---	--

		yes/no
4	Have you documented your ICAAP?	
		dd/mm/yy

...

	In your ICAAP, have you considered the impact of an economic downturn on:	
10	· your firm's financial position?	
11	· your business plans?	

Is the firm exposed to the risks listed below? And if so, what amount of ~~internal capital~~ capital resource have you allocated to each of them?

yes/no	000s
A	B

12	· market risk	
13	· credit risk	
14	· operational risk	
15	· liquidity risk	
16	· securitisation risk	
17	· insurance risk	
18	· pension obligation risk	
19	· concentration risk	
20	· residual risk	
21	· business risk	
22	· interest rate risk	
23	· other (<u>please specify</u>)	
...		
40	<u>Have you calculated the cost of an orderly wind down of the firm's business?</u>	
41	<u>What length of time have you calculated it will take to orderly wind down?</u>	
42	<u>What is the gross cost to your firm of a wind down?</u>	
43	<u>What is the net cost to your firm of a wind down?</u>	
24	Does your firm have any professional indemnity insurance cover? If so,	
25	What is the limit of the indemnity in the aggregate?	
26	What is the greatest deductible for any single claim? <u>What is the largest single claim that can be made on the insurance cover?</u>	
44	<u>What is the policy excess amount for any single claim?</u>	
		rating
27	What is the credit rating of the lead underwriter?	
		yes/no
28	In your firm's ICAAP, do you take account of the results of the stress tests set out in BIPRU 4.3.39R and BIPRU 4.3.40R?	
29	Does your firm deduct illiquid assets as set out in GENPRU 2.2.17R and 2.2.19R?	
...		000s
37	Report the result of a 200 basis point shock to interest rates on your firm's economic value.	
		yes/no
38	Does the result of the above stress test exceed 20% of your economic value <u>capital resources</u> ?	

- 39 Would the valuation adjustments required under GENPRU 1.3.35G enable you to sell or hedge out your firm's positions within a short period without incurring material losses under normal market conditions?

16 Annex 25G Guidance notes for data items in SUP 16 Annex 24G

FSA001 – Balance Sheet

This data item provides the FSA with a snapshot of the assets and liabilities of a firm, and details of items which although not on the balance sheet, nevertheless will have a potential impact on the financial health of the firm if they were to crystallise.

...

7 ~~Treasury bills and other eligible bills held~~ Securities eligible for use in central bank operations

Enter here any holdings of treasury bills or other ~~bills eligible for rediscount~~ securities eligible for use at central banks.

...

10 Debt securities

~~Report here only long positions in debt securities. All long positions in debt securities, with the exception of gilts, should be reported in data element 10.~~ If there is an overall short position, it should be reported in data element 30A.

Gilts should be reported in data element 7.

...

FSA002 – Income statement

This data item provides the FSA with information on the main sources of income and expenditure for a firm. It should be completed on a cumulative basis for the firm's current financial year up to the reporting date.

...

31B Of which: On other ~~deposits~~ items

This will only be relevant for *BIPRU investment firms* if they have issued bonds, interest rate swaps for hedging purposes or commercial paper.

Deposit takers will include all interest paid on all other balances not reported in 27B to 30B. It includes interest payments on bonds and subordinated loans, certificates of deposits and commercial paper issued.

Include here any losses on interest rate swaps used for hedging purposes.

...

FSA005 – Market risk

This data item provides the FSA with information on the market risk capital requirement under *GENPRU 2.1.40R*. The data item is intended to reflect the underlying prudential requirements contained in *GENPRU* and *BIPRU* and allows monitoring against the requirements set out there and also those individual requirements placed on firms. We have provided references to the underlying rules to assist in its completion.

...

24 Other equities

Enter the valuation of all other equities, equity indices or equities baskets.

[*CEBS' MKR SA EQU item 2.2, column 6*]

65 Convertibles adjustment

Enter the PRR adjustment here. This adjustment will be made to ensure observance of *BIPRU 7.3.13R*

25 PRR for specific equity risk

Enter the total PRR calculated in accordance with *BIPRU 7.3.33R* and *BIPRU 7.3.34R*.

[*CEBS' MKR SA EQU item 2, column 7*]

...

FSA008 – Large exposures

This data item captures information on *large exposures*, connected exposures within that, exposures by integrated groups, *trading book concentration risk excesses*, and also significant transactions with mixed activity holding companies and their subsidiaries.

...

3A Are you a member of a UK integrated group

This is only relevant for unconsolidated or solo-consolidated reporters.

The answer is either Yes or No.

If the answer to ~~7A~~ 3A is Yes, one of the members of the *UK integrated group* is also required to submit FSA018 on behalf of all members of the *UK integrated group* for the reporting date.

...

FSA019 – Pillar 2 questionnaire

This data, supplemented by other relevant data, will be used to inform the intensity of our risk assessment of a firm, or its group, under the Supervisory Review and Evaluation Process (SREP). It will allow us to reduce supervisory time by helping us to identify those firms with a risk profile for which we will carry out additional individual or thematic work.

...

2B ~~What is the internal capital amount that~~ How much capital do you consider adequate for the nature, scale and complexity of your firm's activities in line with its Internal Capital Adequacy Assessment Process (ICAAP)?

See *GENPRU* 1.2.26R. Enter the figure in 000s.

3B ~~What is the actual amount of internal capital~~ capital resource that your firm holds at the accounting reference date?

See *GENPRU* 1.2.26R. Enter the figure in 000s.

...

12B to 23B ~~If so, what is the amount of internal capital~~ capital resource you have allocated to each of them?

For each answer in Column A that is 'Yes', enter the gross amount excluding any management action offsets in column B in 000s.

BIPRU limited activity firms and *BIPRU limited licence firms* should include in 23B their assessment of the capital required to cover the fixed overheads requirement. A *firm* may assess that capital to be allocated to cover the fixed overheads requirement is more than one quarter of their annual fixed overheads.

40B Have you calculated the cost of an orderly wind down of the firm's business?

The answer is either 'Yes' or 'No'. Examples of factors to consider include costs of transferring clients and any client assets, liquidating/closing any positions etc.

41B What length of time have you calculated it will take to orderly wind down?

If the answer to data element 40B is 'Yes', enter the number of months here in digits. Examples of factors to consider include the time it takes to transfer clients and any client assets, liquidating/closing any positions etc.

42B What is the gross cost to your firm of a wind down?

If the answer to data element 40B is 'Yes', enter the amount here in 000s. This is the total cost of winding down excluding any offsets from revenue/income gained during the wind down period.

43B What is the net cost to your firm of a wind down?

If the answer to data element 40B is 'Yes', enter the amount here in 000s. This is the total cost of winding down including any offsets from revenue/income gained during the wind down period.

24B Does your firm have any professional indemnity insurance?

The answer is either 'Yes' or 'No'.

25B If so, what is the limit of the indemnity in the aggregate?

If the answer to data element 24B is 'Yes', enter the amount here in 000s.

26B What is the greatest deductible single claim? What is the largest single claim that can be made on the insurance cover?

If the answer to data element 24B is 'Yes', enter the amount here in 000s.

44B What is the policy excess amount for any single claim?

If the answer to data element 24B is 'Yes', enter the amount here in 000s.

27B What is the credit rating of the lead underwriter?

Only answer if you answered 'Yes' to data element 24B. This is a text field to accept any value.

28B In your firm's ICAAP, do you take account of the results of stress tests?

The answer is either 'Yes' or 'No'.

...

37B Report the result of a 200 basis point shock to interest rate on your firm's economic value

See *BIPRU 2.3.7R(2)*. Enter the figure in 000s.

38B Does the result of the above stress test exceed 20% of your economic value capital resources?

See *BIPRU 2.3.7R (3)*. The answer to this is either 'Yes' or 'No'.

**DISCLOSURE RULES AND TRANSPARENCY RULES SOURCEBOOK
(AMENDMENT NO 4) INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in or under the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 73A (Part 6 rules);
 - (2) section 89A (Transparency rules);
 - (3) section 89B (Provision of voteholder information);
 - (4) section 89C (Provision of information by issuers of transferable securities);
 - (5) section 89D (Notification of voting rights held by issuer);
 - (6) section 89E (Notification of proposed amendment of issuer’s constitution);
 - (7) section 89F (Transparency rules: interpretation etc);
 - (8) section 89G (Transparency rules: other supplementary provisions);
 - (9) section 89O (Corporate governance rules);
 - (10) section 101 (Part 6 rules: general provisions);
 - (11) section 138 (General rule-making power);
 - (12) section 156 (General supplementary powers);
 - (13) section 157(1) (Guidance); and
 - (14) schedule 7 (The Authority as Competent Authority for Part VI).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 November 2010.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Disclosure Rules and Transparency Rules sourcebook (DTR) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Disclosure Rules and Transparency Rules Sourcebook (Amendment No 4) Instrument 2010.

By order of the Board
23 September 2010

Annex A**Amendments to the Glossary of definitions**

In this Annex, underlining indicates new text and striking through indicates deleted text.

open offer (in *LR* and in *DTR 5*) an invitation to existing *securities* holders to subscribe or purchase *securities* in proportion to their holdings, which is not made by means of a renounceable letter (or other negotiable document).

rights issue (in *LR*, ~~and *FINMAR*~~ and *DTR 5*) an offer to existing *security* holders to subscribe or purchase further *securities* in proportion to their holdings made by means of the issue of a renounceable letter (or other negotiable document) which may be traded (as “nil paid” rights) for a period before payment for the *securities* is due.

Annex B

Amendments to the Disclosure Rules and Transparency Rules sourcebook (DTR)

In this Annex, underlining indicates new text and striking through indicates deleted text.

5.1 Notification of the acquisition or disposal of major shareholdings

...

5.1.2 R Subject to the exemption for certain third country *issuers* (DTR 5.11.6R), a *person* must notify the *issuer* of the percentage of its voting rights he holds as *shareholder* or holds or is deemed to hold through his direct or indirect holding of *financial instruments* falling within DTR 5.3.1R(1), subject to the exemption in DTR 5.3.1R(2) and DTR 5.3.1R(2A), (or a combination of such holdings) if the percentage of those voting rights:

- (1) ...
- (2) reaches, exceeds or falls below an applicable threshold in (1) as a result of events changing the breakdown of voting rights and on the basis of information disclosed by the issuer in accordance with DTR 5.6.1R and 5.6.1AR;

...

...

5.3 Notification of voting rights arising from the holding of certain financial instruments

5.3.1 R (1) A *person* must make a notification in accordance with the applicable thresholds in DTR 5.1.2R in respect of any *financial instruments* which they hold, directly or indirectly, which:

- (a) ...
- (b) unless (2) or (2A) applies:
 - (i) are referenced to the *shares* of an *issuer*, other than a non-UK *issuer*; and
 - (ii) have similar economic effects to (but which are not) qualifying *financial instruments* within DTR 5.3.2R.

(2) Paragraph (1)(b) does not apply to *financial instruments* held by a client-serving intermediary:

...

(2A) Paragraph (1)(b) does not apply to:

- (a) financial instruments being nil-paid rights received from an issuer during a rights issue, but only if the person receiving those instruments does not, during the rights issue period, dispose of any of them, or acquire or dispose of a holding in a financial instrument within the scope of DTR 5 relating to the issuer; or
- (b) financial instruments being rights to apply for open offer shares, but only if the person receiving the offer:
 - (i) chooses to purchase the full amount of shares offered to him in that open offer; and
 - (ii) does not, during the open offer period acquire, or dispose of, a holding in a financial instrument within the scope of DTR 5 relating to the issuer making the open offer.

5.3.1A G If the exemption in DTR 5.3.1R(2A) is not available in relation to any of the nil-paid rights, the person receiving them should aggregate the voting rights attached to the shares to be allotted under any nil-paid rights retained or to the shares offered which he chooses to purchase under the open offer, as the case may be, with all existing holdings in the issuer, in order to calculate whether a new disclosure is required in accordance with relevant thresholds in DTR 5.1.2R.

...

5.6 Disclosures by issuers

- 5.6.1 R An issuer must, at the end of each calendar month during which an increase or decrease has occurred, disclose to the public:
- (1) the total number of voting rights and capital in respect of each class of share which it issues ...; and
 - (2) the total number of voting rights attaching to shares of the issuer which are held by it in treasury.
- 5.6.1A R (1) Notwithstanding DTR 5.6.1R, if a relevant increase or decrease in the total number of voting rights of the kind described in (2) occurs, an issuer must disclose to the public the information in DTR 5.6.1R(1) and (2) as soon as possible and in any event no later than the end of the business day following the day on which the increase or decrease occurs.
- (2) For the purpose of (1), a relevant increase or decrease is any increase or decrease in the total number of voting rights produced when an issuer completes a transaction unless its effect on the total number of voting rights is immaterial when compared with the position before completion.

5.6.1B G In relation to the obligation in *DTR 5.6.1AR*, it is for an *issuer* to assess whether the effect on the total number of voting rights is immaterial. In the *FSA*'s view an increase or decrease of 1% or more is likely to be material, both to the *issuer* and to the public.

...

5.6.3 R Responsibility for all information drawn up and made public in accordance with *DTR 5.6.1R* and *DTR 5.6.1AR* lies with the *issuer*.

...

5.8 Procedures for the notification and disclosure of major holdings

...

5.8.8 R The number of voting rights to be considered when calculating whether a threshold is reached, exceeded or fallen below is the number of voting rights in existence according to the *issuer*'s most recent disclosure made in accordance with *DTR 5.6.1R* and *DTR 5.6.1AR* but disregarding voting rights attached to any treasury *shares* held by the *issuer* (in accordance with the *issuer*'s most recent disclosure of such holdings).

[Note: article 9(2) of the *TD* and article 11(3) of the *TD implementing Directive*]

CLIENT ASSETS SOURCEBOOK (ENHANCEMENT) INSTRUMENT 2010**Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 59 (Approved persons);
 - (2) section 138 (General rule-making power);
 - (3) section 139 (Miscellaneous ancillary matters);
 - (4) section 156 (General supplementary powers); and
 - (5) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force as follows:
- (1) Part 1 of Annex A and Part 1 of Annex B come into force on 1 January 2011;
 - (2) Part 2 of Annex A and Part 2 of Annex B and come into force on 1 March 2011;
 - (3) Part 3 of Annex B and Part 1 of Annex C comes into force on 1 June 2011; and
 - (4) Part 3 of Annex A, Part 4 of Annex B and Part 2 of Annex C come into force on 1 October 2011.

Amendments to the Handbook

- D. The modules of the FSA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Client Assets sourcebook (CASS)	Annex B
Supervision manual (SUP)	Annex C

Citation

- E. This instrument may be cited as the Client Assets Sourcebook (Enhancement) Instrument 2010.

By order of the Board
13 October 2010

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Part 1: Comes into force on 1 January 2011

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>CASS large firm</i>	has the meaning in CASS 1A.2.7R (CASS firm types).
<i>CASS medium firm</i>	has the meaning in CASS 1A.2.7R (CASS firm types).
<i>CASS small firm</i>	has the meaning in CASS 1A.2.7R (CASS firm types).
<i>CMAR</i>	a Client Money and Asset Return, containing the information specified in SUP 16 Annex 29R.

Part 2: Comes into force on 1 March 2011

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>prime brokerage agreement</i>	an agreement between a <i>prime brokerage firm</i> and a <i>client</i> for <i>prime brokerage services</i> .
<i>prime brokerage firm</i>	a <i>firm</i> that provides <i>prime brokerage services</i> to a <i>client</i> and which may do so acting as <i>principal</i> .
<i>prime brokerage services</i>	a package of services provided under a <i>prime brokerage agreement</i> which gives a <i>prime brokerage firm</i> a right to use <i>safe custody assets</i> for its own account and which comprises each of the following: <ul style="list-style-type: none"> (a) <i>custody</i> or <i>arranging safeguarding and administration of assets</i>; (b) clearing services; and (c) financing, the provision of which includes one or more of the following: <ul style="list-style-type: none"> (i) capital introduction; (ii) margin financing; (iii) <i>stock lending</i>;

- (iv) stock borrowing;
- (v) entering into repurchase or reverse repurchase transactions;

and which, in addition, may comprise consolidated reporting and other operational support.

Part 3: Comes into force on 1 October 2011

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.

CASS operational oversight function *controlled function* CF10a in the *table of controlled functions*, described more fully in *SUP 10.7.9R*.

Annex B

Amendments to the Client Assets sourcebook (CASS)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Part 1: Comes into force on 1 January 2011

After CASS 1 insert the following new chapter. The text is not underlined.

1A CASS firm classification and operational oversight

1A.1 Application

- 1A.1.1 R (1) This chapter applies to a *firm* to which either or both of CASS 6 (Custody rules) and CASS 7 (Client money rules) applies.
- (2) In relation to a *firm* to which CASS 5 (Client money: insurance mediation activity) and CASS 7 (Client money rules) apply, this chapter does not apply in relation to *client money* that a *firm* holds in accordance with CASS 5.

1A.2 CASS firm classification

- 1A.2.1 G The application of certain *rules* in this chapter depends upon the ‘CASS firm type’ within which a *firm* falls. The ‘CASS firm types’ are defined in accordance with CASS 1A.2.7R. The ‘CASS firm type’ within which a *firm* falls is also used to determine the reporting obligations that apply to it in SUP 16.14 (Client money and asset return).
- 1A.2.2 R (1) A *firm* must once every year, and within the time limit provided for by CASS 1A.2.9R, determine whether it is a *CASS large firm*, *CASS medium firm* or a *CASS small firm* according to the amount of *client money* or *safe custody assets* which it holds, using the limits set out in the table in CASS 1A.2.7R.
- (2) For the purpose of determining its ‘CASS firm type’ in accordance with CASS 1A.2.7R, a *firm* must:
- (a) if it currently holds *client money* or *safe custody assets*, calculate the higher of the highest total amount of *client money* and the highest total value of *safe custody assets* held during the previous calendar year ending on 31 December and use that figure to determine its ‘CASS firm type’;
 - (b) if it did not hold *client money* or *safe custody assets* in the previous calendar year but projects that it will do so in the

current calendar year, calculate the higher of the highest total amount of *client money* and the highest total value of *safe custody assets* that it projects that it will hold during that year and use that figure to determine its 'CASS firm type'; but

- (c) in either case, exclude from its calculation any *client money* held in accordance with CASS 5 (Client money: insurance mediation activity).

1A.2.3 R For the purpose of calculating the value of the total amounts of *client money* and *safe custody assets* that it holds on any given *day* during a calendar year a *firm* must:

- (1) in complying with CASS 1A.2.2R(2)(a), base its calculation upon internal reconciliations performed during the previous year;
- (2) in relation to *client money* or *safe custody assets* denominated in a currency other than sterling, translate the value of that *money* or that *safe custody asset* into sterling at the previous *day's* closing spot exchange rate; and
- (3) in relation to *safe custody assets* only, calculate their total value using the previous *day's* closing mark to market valuation, or if in relation to a particular *safe custody asset* none is available, the most recent available valuation.

1A.2.4 G One of the consequences of CASS 1A.2.2R is that a *firm* that determines itself to be a *CASS small firm* or a *CASS medium firm* will, at least if it exceeds during the course of a calendar year either of the limits in CASS 1A.2.7R that applies to it, become in the next calendar year:

- (1) in the case of a *CASS small firm*, a *CASS medium firm* or a *CASS large firm*; and
- (2) in the case of a *CASS medium firm*, a *CASS large firm*.

1A.2.5 R (1) Notwithstanding CASS 1A.2.2R, provided that the conditions in (2) are satisfied a *firm* may elect to be treated:

- (a) as a *CASS medium firm*, in the case of a *firm* that is classed by the application of the limits in CASS 1A.2.7R as a *CASS small firm*; and
- (b) as a *CASS large firm*, in the case of a *firm* that is classed by the application of the limits in CASS 1A.2.7R as a *CASS medium firm*.

(2) The conditions to which (1) refers are that in either case:

- (a) the election is made by including it in the notice to the *FSA* provided under CASS 1A.2.8R or CASS 1A.2.9R;

- (b) it is given at least one week before the election is intended to take effect; and
- (c) the *FSA* has not objected.

1A.2.6 G CASS 1A.2.5R provides a *firm* with the ability to opt in to a higher category of ‘CASS firm type’. This may be useful for a *firm* whose holding of *client money* and *safe custody assets* is near the upper categorisation limit for a *CASS small firm* or a *CASS medium firm*.

1A.2.7 R CASS firm types

CASS firm type	Highest total amount of <i>client money</i> held during the <i>firm</i> ’s last calendar year or as the case may be that it projects that it will hold during the current calendar year	Highest total value of <i>safe custody assets</i> held by the <i>firm</i> during the <i>firm</i> ’s last calendar year or as the case may be that it projects that it will hold during the current calendar year
<i>CASS large firm</i>	more than £1 billion	more than £100 billion
<i>CASS medium firm</i>	an amount equal to or greater than £1 million and less than or equal to £1 billion	an amount equal to or greater than £10 million and less than or equal to £100 billion
<i>CASS small firm</i>	less than £1 million	less than £10 million

1A.2.8 R In relation to the calendar year ending on 31 December 2011, a *firm* must notify the *FSA* in writing:

- (1) by 31 January 2011 of the highest total amount of *client money* and the highest total value of *safe custody assets* held during the previous calendar year, if it held *client money* or *safe custody assets* in that previous year; or
- (2) by 31 January 2011 of the highest total amount of *client money* and the highest total value of *safe custody assets* that the *firm* projects that it will hold during 2011, if it did not hold *client money* or *safe custody assets* in the previous calendar year but at the date of its notification to the *FSA* projects that it will do so in 2011; or
- (3) in any other case, before the date on which the *firm* begins to hold *client money* or *safe custody assets*, of the highest total amount of *client money* and the highest total value of *safe custody assets* that the *firm* projects that it will hold during the remainder of 2011; and
- (4) in every case, of its ‘CASS firm type’ classification.

- 1A.2.9 R In relation to each calendar year beginning with that which ends on 31 December 2012, a *firm* must notify the *FSA* in writing:
- (1) within 15 *business days* of 31 December of the previous calendar year, of the highest total amount of *client money* and the highest total value of *safe custody assets* held during the previous calendar year, if it held *client money* or *safe custody assets* in that previous calendar year; or
 - (2) within 15 *business days* of 31 December of the previous year, of the highest total amount of *client money* and the highest total value of *safe custody assets* that the *firm* projects that it will hold during the then current calendar year, if it did not hold *client money* or *safe custody assets* in the previous calendar year but at the date of its notification to the *FSA* projects that it will do so in the then current calendar year; or
 - (3) in any other case, before the date on which the *firm* begins to hold *client money* or *safe custody assets*, of the highest total amount of *client money* and the highest total value of *safe custody assets* that the *firm* projects that it will hold during the remainder of the then current calendar year; and
 - (4) in every case, of its ‘CASS firm type’ classification.
- 1A.2.10 R For the purpose of the annual notification to which CASS 1A.2.8R and CASS 1A.2.9R refer, a *firm* must apply the calculation *rule* in CASS 1A.2.3R.
- 1A.2.11 G For the purpose of CASS 1A.2.9R(1), the *FSA* will treat that obligation as satisfied if a *firm* submits a *CMAR* for the period or month ending 31 December in compliance with SUP 16.14.5R.

1A.3 Responsibility for CASS operational oversight

- 1A.3.1 R A *firm* must allocate to a *director* performing a *significant influence function* or a *senior manager* performing a *significant influence function* responsibility for:
- (1) oversight of the *firm*’s operational compliance with CASS;
 - (2) reporting to the *firm*’s *governing body* in respect of that oversight; and
 - (3) completing and submitting a *CMAR* to the *FSA* in accordance with SUP 16.14.
- 1A.3.2 R A CASS *large firm* and a CASS *medium firm* must not later than 31 January 2011 notify the *FSA* in writing of the identity of the *person* to whom responsibility has been allocated in accordance with CASS 1A.3.1R or,

where CASS 1A.2.8R(3) applies, before the date on which that *firm* begins to hold client *money* or *safe custody assets*.

- 1A.3.3 R (1) Subject to (2), a *firm* must make and retain an appropriate record of the *person* to whom responsibility is allocated in accordance with CASS 1A.3.1R.
- (2) A *CASS small firm* must make and retain such a record only where it allocates responsibility to a *person* other than the *person* in that *firm* who performs the *compliance oversight function*.
- (3) A *firm* must ensure that the record made under this *rule* is retained for a period of five years after it is made.

...

Sch 1 Record keeping requirements

...

Sch 1.3 G

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
<u>CASS 1A.3.3R</u>	<u>Allocation of the CASS oversight responsibilities in CASS 1A.3.1R</u>	<u>The <i>person</i> to whom the CASS oversight responsibilities have been allocated, subject to the provisions of CASS 1A.3.3R</u>	<u>Upon allocation</u>	<u>5 years (from the date the record was made)</u>
...

...

Sch 2 Notification requirements

Sch 2.1 G

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
<u>CASS 1A.2.5R</u>	<u>Election to be treated as a <i>CASS medium firm</i> or a <i>CASS large firm</i></u>	<u>The fact of that election</u>	<u>The fact of that election</u>	<u>To be made at least one week before the election is intended to take effect</u>

<u>CASS 1A.2.8R(1) - (3)</u>	<u>The highest total amount of <i>client money</i> and the highest total value of <i>safe custody assets</i> held by a <i>firm</i>, as more fully described in CASS 1A.2.8R</u>	<u>The highest total amount of <i>client money</i> and <i>safe custody assets</i> held by a <i>firm</i>, as more fully described in CASS 1A.2.8R.</u>	<u>The coming into force of CASS 1A.2.8R</u>	<u>31 January 2011 unless contrary provision is made in CASS 1A.2.8R.</u>
<u>CASS 1A.2.8R(4)</u>	<u>A <i>firm's</i> 'CASS firm type' classification</u>	<u>A <i>firm's</i> 'CASS firm type' classification</u>	<u>The coming into force of CASS 1A.2.8R</u>	<u>31 January 2011 unless contrary provision is made in CASS 1A.2.8R.</u>
<u>CASS 1A.2.9R(1) – (3)</u>	<u>The highest total amount of <i>client money</i> and the highest total value of <i>safe custody assets</i> held by a <i>firm</i>, as more fully described in CASS 1A.2.9R</u>	<u>The highest total amount of <i>client money</i> and <i>safe custody assets</i> held by a <i>firm</i>, as more fully described in CASS 1A.2.9R.</u>	<u>The need to comply with CASS 1A.2.9R(1) – (3)</u>	<u>Within 15 <i>business days</i> from the end of December of the previous calendar year unless contrary provision is made in CASS 1A.2.9R</u>
<u>CASS 1A.2.9R(4)</u>	<u>A <i>firm's</i> 'CASS firm type' classification</u>	<u>A <i>firm's</i> 'CASS firm type' classification</u>	<u>The need to comply with CASS 1A.2.9R(4)</u>	<u>Within 15 <i>business days</i> from the end of December of the previous calendar year unless contrary provision is made in CASS 1A.2.9R</u>
<u>CASS 1A.3.2R</u>	<u>The <i>person</i> to whom the responsibilities in CASS 1A.3.1R have</u>	<u>The name of the <i>person</i></u>	<u>Upon allocation</u>	<u>Until 31 January 2011</u>

	<u>been allocated</u>			
...

Part 2: Comes into force on 1 March 2011

3 Collateral

...

3.1.8 G *A prime brokerage firm is reminded of the additional obligations in CASS 9.3.1R which apply to prime brokerage agreements.*

...

6 Custody rules

6.1 Application

...

Prime brokerage agreements

6.1.9A G *A prime brokerage firm is reminded of the additional obligations in CASS 9.3.1R which apply to prime brokerage agreements.*

...

6.3 Depositing assets and arranging for assets to be deposited with third parties

...

6.3.3 G A *firm* should consider carefully the terms of its agreements with third parties with which it will deposit *safe custody assets* belonging to a *client*. The following terms are examples of the issues *firms* should address in this agreement:

...

- (4) ~~the restrictions over the third party's right to claim a lien, right of retention or sale over any *safe custody asset* standing to the credit of the account; [deleted]~~

...

...

6.3.5 R *Subject to CASS 6.3.6R, in relation to a third party with which a firm*

deposits safe custody assets belonging to a client, a firm must ensure that the agreement with that third party relating to the custody of those assets does not include the grant to that third party, or to any other person, of a lien or a right of retention or sale over the safe custody assets, or a right of set-off over any client money derived from those safe custody assets.

- 6.3.6 R A firm may conclude an agreement with a third party relating to the custody of safe custody assets which does confer on that third party, or on another person, a lien, right of retention or sale, or right of set-off in favour of that third party or that other person if and only if that lien or right:
- (1) is confined to an individual client's safe custody assets or client money and extends only to that third party's (or a sub-custodian's, where a sub-custodian is appointed by that third party) properly incurred charges and liabilities arising from the provision of custody services to that client; or
 - (2) arises under the operating terms of a securities depository, securities settlement system or central counterparty in whose books or accounts a client's client money or safe custody assets is or are recorded or held, and provided that it does so for the purpose only of facilitating the settlement of that client's trades; or
 - (3) arises in relation to a client's safe custody assets or client money held in a jurisdiction outside the United Kingdom provided that:
 - (a) it does so as a result of local applicable law or as a necessary precondition for participation in a local market; and
 - (b) the firm has taken reasonable steps to determine that holding those assets or that money subject to such a lien or right is in the best interests of that client.

...

- 6.5.2A R A firm must keep a copy of every executed client agreement that includes that firm's right to use safe custody assets for its own account, including in the case of a prime brokerage agreement the disclosure annex referred to in CASS 9.3.1R.

...

After CASS 8 insert the following new chapter. The text is not underlined.

9 Prime brokerage

9.1 Application

- 9.1.1 R This chapter applies to a firm:

- (1) to which CASS 6 (Custody rules) applies; and
- (2) which is a *prime brokerage firm*.

9.2 Prime broker's daily report to clients

- 9.2.1 R (1) A *firm* must make available to each of its *clients* to whom it provides *prime brokerage services* a statement in a *durable medium*:
- (a) showing the value at the close of each *business day* of the items in (3); and
 - (b) detailing any other matters which that *firm* considers are necessary to ensure that a *client* has up-to-date and accurate information about the amount of *client money* and the value of *safe custody assets* held by that *firm* for it.
- (2) The statement must be made available to those *clients* not later than the close of the next *business day* to which it relates.
- (3) The statement must include:
- (a) the total value of *safe custody assets* and the total amount of *client money* held by that *prime brokerage firm* for a *client*;
 - (b) the cash value of each of the following:
 - (i) Cash loans made to that *client* and accrued interest;
 - (ii) *securities* to be redelivered by that *client* under open short positions entered into on behalf of that *client*;
 - (iii) current settlement amount to be paid by that *client* under any *futures* contracts;
 - (iv) short sale cash proceeds held by the *firm* in respect of short positions entered into on behalf of that *client*;
 - (v) cash margin held by the *firm* in respect of open *futures* contracts entered into on behalf of that *client*;
 - (vi) mark-to-market close-out exposure of any *OTC* transaction entered into on behalf of that *client* secured by *safe custody assets* or *client money*;
 - (vii) total secured obligations of that *client* against the

prime brokerage firm; and

- (viii) all other *safe custody assets* held for that *client*.
- (c) total collateral held by the *firm* in respect of secured transactions entered into under a *prime brokerage agreement*, including where the *firm* has exercised a right of use in respect of that *client's safe custody assets*;
- (d) the location of all of a *client's safe custody assets*, including assets held with a sub-custodian; and
- (e) a list of all the institutions at which the *firm* holds or may hold *client money*, including money held in *client bank accounts* and *client transaction accounts*.

9.3 Prime brokerage agreement disclosure annex

- 9.3.1 R (1) A *firm* must ensure that every *prime brokerage agreement* that includes its right to use *safe custody assets* for its own account includes a disclosure annex.
- (2) A *firm* must ensure that the disclosure annex sets out a summary of the key provisions within the *prime brokerage agreement* permitting the use of *safe custody assets*, including:
- (a) the contractual limit, if any, on the *safe custody assets* which a *prime brokerage firm* is permitted to use;
 - (b) all related contractual definitions upon which that limit is based;
 - (c) a list of numbered references to the provisions within that *prime brokerage agreement* which permit the *firm* to use the *safe custody assets*; and
 - (d) a statement of the key risks to that *client's safe custody assets* if they are used by the *firm*, including but not limited to the risks to the *safe custody assets* on the *failure* of the *firm*.
- (3) A *firm* must ensure that it sends to the *client* in question an updated disclosure annex if the terms of the *prime brokerage agreement* are amended after completion of that agreement such that the original disclosure annex no longer accurately records the key provisions of the amended agreement.
- 9.3.2 G (1) *Principle 10* (Clients' assets) requires a *firm* to arrange adequate protection for *clients' assets* when it is responsible for them. As part of these protections, the *custody rules* require a *firm* to take appropriate steps to protect *safe custody assets* for which it is

responsible.

(2) A *prime brokerage firm* should not enter into “right to use arrangements” for a *client’s safe custody assets* unless the *person* to whom the responsibilities set out in CASS 1A.3.1R have been allocated and each of the *firm’s* managers who are responsible for those *safe custody assets* are satisfied that the *firm* has adequate systems and controls to discharge its obligations under *Principle 10* which include:

- (a) the daily reporting obligation in CASS 9.2.1R; and
- (b) the record-keeping obligations in CASS 6.5.

TP 1 Transitional Provisions

...

TP 1.1

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
8	CASS 6.3.5R	R	The <i>rule</i> listed in column (2) does not apply in relation to agreements executed before 1 March 2011.	1 March 2011 until 1 October 2011	1 March 2011

...

Sch 1 Record keeping requirements

...

Sch 1.3 G

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period

...
<u>CASS 6.5.2AR</u>	<u>Client agreements that include a firm's right to use safe custody assets for its own account</u>	<u>A copy of every executed client agreement that includes a firm's right to use safe custody assets for its own account</u>	<u>Maintain up-to-date records</u>	<u>5 years (from the date the record was made)</u>
...

Part 3: Comes into force on 1 June 2011

7.4 Segregation of client money

...

7.4.9A R A firm must limit the funds that it deposits or holds with a relevant group entity or combination of such entities so that those funds do not at any point in time exceed 20 per cent of the balance on:

- (1) all of its general client bank accounts considered in aggregate;
- (2) each of its designated client bank accounts; and
- (3) each of its designated client fund accounts.

7.4.9B R For the purpose of CASS 7.4.9AR an entity is a relevant group entity if it is:

- (1) a BCD credit institution, a bank authorised in a third country, a qualifying money market fund, or the entity operating or managing a qualifying money market fund; and
- (2) a member of the same group as that firm.

7.4.9C G The rules in SUP 16.14 provide that a firm must report to the FSA in relation to the identity of the entities with which it deposits client money and the amounts of client money deposited with them. The FSA will use that information to monitor compliance with the diversification rule in CASS 7.4.9AR.

...

Part 4: Comes into force on 1 October 2011**1A.2 CASS firm classification**

- 1A.2.1 G The application of certain *rules* in this chapter depends upon the ‘CASS firm type’ within which a *firm* falls. The ‘CASS firm types’ are defined in accordance with CASS 1A.2.7R. The ‘CASS firm type’ within which a *firm* falls is also used to determine whether it is required to have the CASS operational oversight function described in CASS 1A.3.1AR and the reporting obligations that apply to it in SUP 16.14 (Client money and asset return).

...

1A.3 Responsibility for CASS operational oversight

- 1A.3.1 R A CASS small firm must allocate to a *director* performing a *significant influence function* or a *senior manager* performing a *significant influence function* responsibility for:

- (1) oversight of the *firm’s* operational compliance with CASS;
- (2) reporting to the *firm’s governing body* in respect of that oversight; and
- (3) completing and submitting a *CMAR* to the *FSA* in accordance with SUP 16.14.

CF10a: the CASS operational oversight function

- 1A.3.1A R A CASS medium firm and a CASS large firm must allocate to a director or senior manager the function of:

- (1) oversight of the operational effectiveness of that firm’s systems and controls that are designed to achieve compliance with CASS;
- (2) reporting to the firm’s governing body in respect of that oversight; and
- (3) completing and submitting a CMAR to the FSA in accordance with SUP 16.14.

- 1A.3.1B G CASS 1A.3.1AR describes the controlled function known as the CASS operational oversight function. The table of controlled functions in SUP 10.4.5R together with SUP 10.7.9R specify the CASS operational oversight function as a required function for a firm to which CASS 1A.3.1AR applies.

- 1A.3.2 R ~~A CASS large firm and a CASS medium firm must not later than 31 January 2011 notify the FSA in writing of the identity of the person to whom responsibility has been allocated in accordance with CASS 1A.3.1R or, where CASS 1A.2.8R(3) applies, before the date on which that firm begins to~~

~~hold client money or safe custody assets. [deleted]~~

- 1A.3.3 R (1) Subject to (2), a *firm* must make and retain an appropriate record of the *person* to whom the responsibility or function is allocated in accordance with CASS 1A.3.1R or CASS 1A.3.1AR.
- (2) A CASS *small firm* must make and retain such a record only where it allocates responsibility to a *person* other than the *person* in that *firm* who performs the *compliance oversight function*.
- (3) A *firm* must ensure that the record made under this *rule* is retained for a period of five years after it is made.

9.3 Prime brokerage agreement disclosure annex

- 9.3.2 G (1) ...
- (2) A *prime brokerage firm* should not enter into “right to use arrangements” for a *client’s safe custody assets* unless:
- ... (a) in the case of a CASS *small firm*, the *person* in that *firm* to whom the responsibilities set out in CASS 1A.3.1R have been allocated; or
- (b) in the case of any other *firm*, the *person* who carries out the CASS *operational oversight function*; and
- (c) ~~and each of the~~ those of that *firm*’s managers who are responsible for those *safe custody assets*;
- are each satisfied that the *firm* has adequate systems and controls to discharge its obligations under *Principle 10* which include:
- (a) (i) the daily reporting obligation in CASS 9.2.1R; and
- (b) (ii) the record-keeping obligations in CASS 6.5.
- ...

Sch 1 Record keeping requirements

...

Sch 1.3G

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
CASS 1A.3.3R	Allocation of the CASS oversight responsibilities in CASS 1A.3.1R <u>or of the CASS operational oversight function, as relevant</u>	The <i>person</i> to whom the CASS oversight responsibilities have been allocated, subject to the provisions of <u>CASS 1A.3.3R, or to whom the CASS operational oversight function has been allocated in accordance with CASS 1A.3.1AR</u>	Upon allocation	5 years (from the date the record was made)
...				

Annex C

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Part 1: Comes into force on 1 June 2011

16 Reporting requirements

...

16.1.2 G The only categories of *firm* to which no section of this chapter applies are:

- (1) an *ICVC*;
- (2) an *incoming EEA firm* or *incoming Treaty firm*, unless it is:
 - (a) a *firm* of a type listed in SUP 16.1.3 R as a type of *firm* to which SUP 16.6, SUP 16.7, SUP 16.9 or SUP 16.12, or SUP 16.14 applies; or

...

...

16.1.3 R Application of different sections of SUP 16

(1) Section(s)	(2) Categories of firm to which section applies	(3) Applicable rules and guidance
...		
<u>SUP 16.14</u>	<u>A firm with permission to conduct MiFID business or, to the extent that any business is not MiFID business, designated investment business, except for those categories of firm which are excluded by SUP 16.14.2R.</u>	<u>Entire section</u>

...

16.3.2 G This chapter has been split into the following sections, covering:

...

- (9) integrated regulatory reporting (*SUP 16.12*); ~~and~~
- (10) reporting under the *Payment Services Regulations*; and
- (11) client money and asset return (*SUP 16.14*).

...

After SUP 16.13 insert the following new section. The text is not underlined.

16.14 Client money and asset return

Application

- 16.14.1 R Except as provided for in *SUP 16.14.2R*, this section applies to a *firm* with *permission* to conduct *MiFID business* or, to the extent that any business is not *MiFID business*, *designated investment business*.
- 16.14.2 R This section does not apply to a *firm* that falls into any of the following categories:
- (1) The *firm* is:
 - (a) an *ICVC*;
 - (b) a *UCITS qualifier*;
 - (c) an *incoming EEA firm* but this exclusion only applies with respect to its *passport activities*;
 - (d) an *authorised professional firm* but this exclusion only applies with respect to its *non-mainstream professional activities*; or
 - (e) an *insurer* unless it is a *long-term insurer* which is also a *MiFID investment firm*.
 - (2) The *firm's permission* prevents it from holding *safe custody assets* and:
 - (a) the *firm* is an *authorised professional firm* and it complies with the requirements in *CASS 7.1.15R* in respect of any money received or held by it that falls into *CASS 7.1.1R*; or
 - (b) the *firm's permission* prevents it from holding *client money* in relation to either:
 - (i) all the activities in *SUP 16.14.1R* for which it has *permission*; or
 - (ii) all the activities in (i) except for *insurance mediation activities* in relation to *life policies* but in

this case this exclusion only applies if the *firm* has validly elected to act in accordance with CASS 5 (Client money: insurance mediation activity) in relation to its *client money*.

- (3) The *firm's permission* prevents it from holding *client money* and it meets the following conditions:
- (a) it acts as the *operator* of a *regulated collective investment scheme* or it is a *personal investment firm*; and
 - (b) either it holds no *safe custody assets* or all the *safe custody assets* that it holds are exempt from CASS 6 (Custody rules) due to CASS 6.1.16BR (Operators of regulated collective investment schemes) or CASS 6.1.16CR (Personal investment firms).

- 16.14.3 R The exclusions in SUP 16.4.2R only apply to a *firm* with respect to the obligation to submit a particular *CMAR* if it meets the conditions for the whole of the period that would have been covered by that *CMAR* and for the period up to the date by which the *CMAR* would otherwise have had to be submitted.

Purpose

- 16.14.4 G The purpose of the *rules* and *guidance* in this section is to ensure that the *FSA* receives regular and comprehensive information from a *firm* which is able to hold *client money* and *safe custody assets* on behalf of its *clients*.

Report

- 16.14.5 R (1) A *CASS large firm* and a *CASS medium firm* must submit a completed *CMAR* to the *FSA* within 15 *business days* of the end of each *month*.
- (2) A *CASS small firm* must submit a completed *CMAR* to the *FSA* within 15 *business days* of the conclusion of each six *month* period ending on 30 June and 31 December.
- ... (3) In SUP 16.14.5R *month* means a calendar month and SUP 16.3.13R(4) does not apply.
- 16.14.6 R For the purposes of the *CMAR*:
- (1) *client money* is that to which the *client money rules* in CASS 7 apply; and
 - (2) *safe custody assets* are those to which the *custody rules* in CASS 6 apply.
- 16.14.7 G For the avoidance of doubt, the effect of SUP 16.14.6R(1) is that any *client money* held in accordance with CASS 5 is to be excluded from any

calculations which the *CMAR* requires.

- 16.14.8 G Nil returns are required for reporting in this section. In other words, if this section applies to a *firm* but it does not hold *client money* to which the *client money rules* in *CASS 7* apply then it should still complete the *CMAR*. It should report that it does not hold *client money*. The same applies to *safe custody assets* under *CASS 6*.

...

After SUP 16 Annex 28BG insert the following new annex. The text is not underlined.

16 Annex 29R Client Money and Asset Return (CMAR)

This annex consists only of one or more forms. Forms are to be found through the following address:

Client Money and Asset Return: [insert link to form included below]

see next page

Section 1 – Firm information

For further guidance please go to section 0 and validation at section 9

Please ensure all monetary values are entered in GBP thousands (000's): (£1000 =1)

- 1a) Firm Name
- 1b) FSA firm reference number
- 1c) Reporting Period End Date
- 1d) What is your reporting frequency?
- 1e) Name of CASS audit firm
- 1f) Name of CASS audit firm (if Other was selected above)
- 1g) Does the firm hold Client Money?
- 1h) Does the firm safeguard and administer custody assets?
- 1i) Are you subject to the CFTC Part 30 Exemption Order?

Alternative Approach:

- 1j) Do you operate the Alternative Approach? (CASS 7.4.14G)
- 1k) Has the Alternative Approach been signed off by your auditors (as detailed in CASS 7.4.15R)?

Overview of firm's activities subject to CASS

- 1l) Please complete the table below with all business types undertaken for segregated clients

Type of Business Activity	Number of clients	Balance of Client Money as at reporting period end date	Value of Custody Assets as at reporting period end date

Section 2 - Balances

Please ensure all monetary values are entered in GBP thousands (000's): (£1000 =1)

CASS – Client Money and Client Asset balances

Firms are reminded that this form should not be completed for client money subject to CASS 5

Please provide the following information:

- 2a) Highest Client Money balance during this reporting period:
- 2b) Lowest Client Money balance during this reporting period:
- 2c) Highest value of Custody Assets held during this reporting period:
- 2d) Lowest value of Custody Assets held during this reporting period:

Provision of the above figures does not have any immediate effect on your categorisation. Any re-assessment of a firm's categorisation will normally take place on an annual basis, based on year end data.

Section 3a – Segregation of Client Money

Please ensure all monetary values are entered in GBP thousands (000's): (£1000 =1)

Firms are reminded that this form should not be completed for client money subject to CASS 5

Where the firm holds client money as at reporting period end date

	Type - Select from drop down box	Institution where client money held	Client Money Balances	Country of incorporation of the institution (select from list)	Is this a group entity?
			Total: 0		
1					
2					

Section 3b – Segregation of Safe Custody Assets

Please ensure all monetary values are entered in GBP thousands (000's): (£1000 =1)

Where the firm holds safe custody assets as at reporting period end date

	Where & How Held? - Select from drop down box?	Name of Institution	Number of lines of stock	Value of Assets as at reporting period end date	Country of incorporation of the institution (select from list)	Is this a group entity?
				Total: 0		
1						
2						

Section 4 - Client Money Requirement and Resource

Please ensure all monetary values are entered in GBP thousands (000's): (£1000 =1)

Client Money Requirement and Resource

CASS 7 Annex 1G
Enter Amount

4a) Client Money Requirement
of which:

Enter Amount

- 4ai) Unallocated to individual clients but identified as client money
- 4aii) Unidentified client money in client money bank accounts
- 4aiii) Uncleared payments e.g. unrepresented cheques sent to clients
- 4aiv) Excess cash in segregated accounts

4b) Client Money resource
: Money Requirement v Resource

(Autocalc: 4a – 4b)

4bi) Any adjustments made to withdraw an excess or rectify a deficit identified as a result of an internal reconciliation?

Section 5a – Safe Custody Asset Reconciliations

Please ensure all monetary values are entered in GBP thousands (000's): (£1000 =1)

Safe Custody Asset unreconciled items

	30days	60days	90days
Please enter value:			

	Method	Frequency	Type of custody asset	Frequency (if 'g' is Other)
1				
2				

Section 5b - Client money reconciliations

Please ensure all monetary values are entered in GBP thousands (000's): (£1000 =1)

Client money reconciliations

Type	Frequency
5a) Client Money Internal Reconciliation	
5b) Frequency (if Other was selected above)	
5c) Client Money External reconciliation	
5d) Frequency (if Other was selected above)	

Client Money unreconciled items	6-29 days	30-59 days	60-90 days	90+ days

Enter number of unreconciled items even if it is 0

Section 6 - Record Keeping & Breaches

Record Keeping

	Type of Account:	Total number of accounts held at beginning of reporting period	Number of new accounts opened during the reporting period	Number of accounts closed during the reporting period	Total number of accounts at the end of the reporting period	Number of trust status letters and/or acknowledgement letters in place which cover these accounts	Explanation of Discrepancies.
6a)	Client Bank Account						
6b)	Client Transaction Account						
		(Enter values even if 0)		TOTAL:			

Breaches

6c) Has the firm reported any of the following notifiable breaches? Must be completed either Yes or No

Custody Asset Notification requirements (CASS 6.5.13R)

6d) Has the firm complied with the requirements in CASS 6.5.1R, 6.5.2R and 6.5.6R? Must be completed if 6c is Yes

6e) Following reconciliation, is the firm able to comply with the requirements in CASS 6.5.10R without material differences? Must be completed if 6c is Yes

Client Money Notification Requirements CASS 7.6.16R)

6f) Has the firm complied with the requirements in CASS 7.6.1R, 7.6.2R and 7.6.9R? Must be completed if 6c is Yes

6g) Following reconciliation, is the firm able to comply with the requirements in CASS 7.6.13R and 7.6.15R without material differences? Must be completed if 6c is Yes

6h) Are there any other CASS matters you wish to draw to our attention?

Section 7 - Does the firm outsource and/or offshore any of your client money and/or custody asset operations?

	Who do you outsource and/or offshore these operations to? (name of entity)	What function of your CASS operations do you outsource and/or offshore?	Location of outsourcer/ TPA
1			
2			

Are there any significant changes being made or planned changes being considered to the firms existing outsourcing arrangements? Please provide the detail of any such consideration:

--

TP 1 Transitional Provisions

...

TP 1.2

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional Provision	Transitional provision: dates in force	Handbook provisions: coming into force
...					
<u>13B</u>	<u>SUP 16.14.5R(2)</u>	<u>R</u>	<u>In the case of a CASS small firm with a reporting period ending on 30 June 2011, that period begins on 1 June 2011</u>	<u>1 June 2011 until 30 June 2011</u>	<u>1 June 2011</u>

...

Sch 2 Notification requirements

...

Sch 2.2 G

...

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
...
<i>SUP 16.13.3 D to SUP 16.13.4 D</i>	...	...	...	...
<u>SUP 16.14.5R</u>	<u>CMAR</u>	<u>The items listed in the form contained in SUP 16 Annex 29R</u>	<u>For CASS large firms and CASS medium firms, the end of each month.</u> <u>For CASS small firms, the conclusion of each six month</u>	<u>For CASS large firms and CASS medium firms, within 15 business days of the end of each month.</u> <u>For CASS small firms, within 15</u>

			<u>period ending on 30 June and 31 December.</u>	<u>business days of the conclusion of each six month period ending on 30 June and 31 December.</u>
...				

Part 2: Comes into force on 1 October 2011

10.4 Specification of functions

...

10.4.5 R Controlled functions

Type	CF	Description of controlled function
...		
<i>Required functions*</i>		
...		
	<u>10a</u>	<u>CASS operational oversight function</u>
...		

...

10.7 Required functions

...

CASS operational oversight function (CF10a)

10.7.9 G ~~{deleted}~~ In relation to a CASS medium firm and a CASS large firm, the
 R CASS operational oversight function is the function of acting in the capacity of a person to whom is allocated the function set out in CASS 1A.3.1AR.

**PUBLIC AWARENESS OBJECTIVE (FINANCIAL SERVICES ACT 2010)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the powers and related provisions in the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 156 (General supplementary powers); and
 - (c) section 157(1) (Guidance); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 11 November 2010.

Amendments to the Handbook

- D. The modules of the FSA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
General Provisions (GEN)	Annex B
Supervision manual (SUP)	Annex C
Credit Unions sourcebook (CRED)	Annex D
Professional Firms sourcebook (PROF)	Annex E

Citation

- E. This instrument may be cited as the Public Awareness Objective (Financial Services Act 2010) Instrument 2010.

By order of the Board
10 November 2010

Annex A**Amendments to the Glossary of definitions**

In this Annex, underlining indicates new text and striking through indicates deleted text.

regulatory objectives (as described in sections 2(2) and 3 to 6 of the *Act*):

- (a) market confidence;
- (b) ~~public awareness~~; [deleted]

...

Annex B

Amendments to the General Provisions (GEN)

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 4.2.1 G The purpose of this chapter is to build upon *Principle 7* (Communications with clients), which requires a *firm* to pay due regard to the information needs of its *clients*. This chapter requires the provision of appropriate minimum information about the identity of the regulator that authorised a *firm*. It also governs the way in which a *firm* may describe its regulation by the *FSA*. This assists in the achievement of the *regulatory objectives* of consumer protection, ~~public awareness and~~ market confidence and financial stability.

Annex C

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 1.1.3 G The design of these arrangements is shaped by the *regulatory objectives*. These are set out in section 2 of the *Act* (The Authority's general duties) and are:
- (1) ...
 - (1A) ...
 - (2) ~~promoting public understanding of the *UK financial system*;~~
[deleted]
 - ...
- ...
- 1.3.3 G The impact of a *firm* is assessed by reference to a range of factors derived from the *regulatory objectives*, including:
- (1) ...
 - (1A) ...
 - (2) ~~the extent to which the *firm* may pose risks to the achievement of the objective of promoting public understanding;~~ [deleted]
 - ...

Annex D**Amendments to the Credit Unions sourcebook (CRED)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 14.1.4 G The design of these arrangements is shaped by the *regulatory objectives*. These are set out in section 2 of the *Act* (The Authority's general duties) and are:
- (1) ...
 - (1A) ...
 - (2) ~~promoting public understanding of the *UK financial system*;~~
[deleted]
 - ...

Annex E**Amendments to the Professional Firms sourcebook (PROF)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 1.1.6 G The *rules* and *guidance* in this sourcebook are intended to:
- (1) ...
 - (2) ~~promote public understanding of the UK financial system~~ secure the appropriate degree of protection for consumers by ensuring that the *clients* of an *exempt professional firm* are made aware that the firm is not an *authorised person*;
- ...

**FINANCIAL SERVICES COMPENSATION SCHEME (DEPOSIT TARIFF BASE
AMENDMENT) INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 156 (General supplementary powers);
 - (3) section 213 (The compensation scheme); and
 - (4) section 214 (General).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 31 December 2010.

Amendments to the Handbook

- D. The Fees manual (FEES) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Financial Services Compensation Scheme (Deposit Tariff Base Amendment) Instrument 2010.

By order of the Board
10 November 2010

Annex

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text.

6 Annex 3R Financial Services Compensation Scheme – classes and sub-classes

This table belongs to *FEES* 6.5.7R and *FEES* TP 2.5.2R

Class A	Deposit
...	
Tariff base	<p>(1) <i>Protected deposits</i> and/or</p> <p>(2) <i>Protected dormant accounts</i> multiplied by 0.2 as at 31 December. Except where paragraph (4) says otherwise, <i>protected deposits</i> must be adjusted as follows.</p>
	<p>(1) Only include a <i>protected deposit</i> to the extent that an <i>eligible claimant</i> would have a claim in respect of it.</p> <p>(2) Exclude any amount in respect of which the <i>FSCS</i> would not pay compensation due to the maximum payment limits in <i>COMP</i> 10.2.</p> <p>(3) The tariff base calculation is made on the basis of the information that the <i>firm</i> would have to include in the <i>single customer view</i> it has to be able to produce under <i>COMP</i> 17 (Systems requirements for firms that accept deposits). The information must be of the extent and standard required if the <i>firm</i> was preparing the <i>single customer views</i> as at the valuation date for the tariff base (31 December).</p> <p>(4) (a) If this paragraph applies, the adjustments in (1) to (3) do not apply and the calculation is based on <i>protected deposits</i>.</p> <p>(b) This paragraph applies with respect to a <i>protected deposit</i> to the extent that, under <i>COMP</i> 17, the <i>firm</i> does not have to identify an <i>eligible claimant</i> with respect to that <i>protected deposit</i> because the account is held by the account holder on behalf of others.</p> <p>(c) <u>This paragraph applies with respect to a <i>protected deposit</i> that has been excluded from the <i>single customer view</i> because it is an account that is not active, as defined in <i>COMP</i> 17.2.3R(2).</u></p>

**CONDUCT OF BUSINESS SOURCEBOOK (RECORDING OF TELEPHONE
CONVERSATIONS AND ELECTRONIC COMMUNICATIONS) (NO 2)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 156 (General supplementary powers); and
 - (3) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 14 November 2011.

Amendments to the Handbook

- D. The Conduct of Business sourcebook (COBS) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Conduct of Business Sourcebook (Recording of Telephone Conversations and Electronic Communications) (No 2) Instrument 2010.

By order of the Board
10 November 2010

Annex

Amendments to the Conduct of Business sourcebook (COBS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

11.8 Recording telephone conversations and electronic communications

...

Recording telephone conversations, etc

11.8.5 R A *firm* must take reasonable steps to record relevant telephone conversations, and keep a copy of relevant electronic communications, made with, sent from or received on equipment:

- (1) provided by the *firm* to an employee or contractor; or
- (2) the use of which by an employee or contractor has been sanctioned or permitted by the *firm*;

to enable that employee or contractor to carry out any of the activities referred to in *COBS* 11.8.1R.

11.8.5A R A *firm* must take reasonable steps to prevent an employee or contractor from making, sending or receiving relevant telephone conversations and electronic communications on privately-owned equipment which the *firm* is unable to record or copy.

11.8.6 R The obligation in *COBS* 11.8.5R and *COBS* 11.8.5AR does not apply to:

- (1) ~~telephone conversations and electronic communications (except emails) made with, sent from or received on a mobile telephone or other mobile handheld electronic communication device; or [deleted]~~

...

...

11.8.8 R For the purposes of *COBS* 11.8.5R and *COBS* 11.8.5AR, a relevant conversation or communication is any one of the following:

- (1) a conversation or communication between an employee or contractor of the *firm* with a *client*, or when acting on behalf of a *client*, with another *person*, which concludes an agreement by the *firm* to carry out the activities referred to in *COBS* 11.8.1R as principal or as agent;
- (2) a conversation or communication between an employee or contractor of the *firm* with a *professional client* or an *eligible counterparty*, or

when acting on behalf of a *professional client* or an *eligible counterparty*, with another *person*, which is carried on with a view to the conclusion of an agreement referred to in (1) above, and whether or not it is part of the same conversation or communication as in (1).

**CONDUCT OF BUSINESS SOURCEBOOK (STEWARDSHIP CODE)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 156 (General supplementary powers);
 - (c) section 247 (Trust scheme rules); and
 - (d) regulation 6(1) (FSA Rules) of the Open-Ended Investment Company Regulations 2001 (SI 2001/1228); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 6 December 2010.

Amendments to the Handbook

- D. The Conduct of Business sourcebook (COBS) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Conduct of Business Sourcebook (Stewardship Code) Instrument 2010.

By order of the Board
10 November 2010

Annex

Amendments to the Conduct of Business sourcebook (COBS)

In this Annex, underlining indicates new text.

2.2 Information disclosure before providing services

...

Disclosure of commitment to the Financial Reporting Council's Stewardship Code

2.2.3 R A firm, other than a venture capital firm, which is managing investments for a professional client that is not a natural person must disclose clearly on its website, or if it does not have a website in another accessible form:

- (1) the nature of its commitment to the Financial Reporting Council's Stewardship Code; or
- (2) where it does not commit to the Code, its alternative investment strategy.

CONDUCT OF BUSINESS SOURCEBOOK (ABOLITION OF CONTRACTING OUT FOR DEFINED CONTRIBUTION SCHEMES) INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power); and
 - (b) section 156 (General supplementary powers); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 24 November 2010.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Conduct of Business sourcebook (COBS) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Conduct of Business Sourcebook (Abolition of Contracting Out for Defined Contribution Schemes) Instrument 2010.

By order of the Board
10 November 2010

Annex A**Amendments to the Glossary of definitions**

In this Annex, underlining indicates new text and striking through indicates deleted text.

*contracting out
comparison*

a description of:

- (a) the benefits that minimum contributions would secure if a *retail client* did not contract out of the State Second Pension;
and
- (b) the material differences between the anticipated position if a *retail client* remains contracted into the State Second Pension and the anticipated position of that *client* contracts out;

which is calculated to the *client's* state retirement age using the *lower* and *higher rates of return* and aggregate contributions for the current tax year and ~~the next two tax years~~ any future tax years in the period ending 5 April 2012.

Annex B

Amendments to the Conduct of Business sourcebook (COBS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

13 Annex 2 Projections

...

R	
4	How to calculate a projection for an appropriate personal pension
4.1	(If a <i>client</i> is considering whether to contract out), a <i>projection</i> for an <i>appropriate personal pension</i> must include or be accompanied by
	(1) a <i>contracting out comparison</i> providing a description of:
	(a) the benefits that minimum contributions would secure if a <i>retail client</i> did not contract out of the State Second Pension; and
	(b) the material differences between the anticipated position if a <i>retail client</i> remains contracted into the State Second pension and the anticipated position if that <i>client</i> contracts out;
	which is calculated to the <i>client's</i> state retirement age using the lower and higher rates of return in 4.2R and aggregate contributions for the current <u>tax year</u> and the next two tax years <u>any future tax years in the period ending 5 April 2012</u> :-
	(2) an explanation that the figures in the comparison are intended to illustrate:
	(a) the amount of pension that <u>the</u> <i>client</i> might get compared with the benefit to be given up under the State Second Pension; and
	(b) what might happen if the lower and higher rates of return were achieved each year.
...	

**CLIENT ASSETS SOURCEBOOK (TITLE TRANSFER) (AMENDMENT)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 139 (Miscellaneous ancillary matters);
 - (3) section 156 (General supplementary powers); and
 - (4) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 December 2010.

Amendments to the Handbook

- D. The Client Assets sourcebook (CASS) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Client Assets Sourcebook (Title Transfer) (Amendment) Instrument 2010.

By order of the Board
10 November 2010

Annex

Amendments to the Client Assets sourcebook (CASS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Title transfer collateral arrangements

- 6.1.6 R (1) The *custody rules* do not apply where a *client* transfers full ownership of a *safe custody asset* to a *firm* for the purpose of securing or otherwise covering present or future, actual, contingent or prospective obligations.

[Note: recital 27 to *MiFID*]

(2) Excepted from (1) is a transfer of the full ownership of a *safe custody asset*:

- (a) belonging to a *retail client*;
- (b) whose purpose is to secure or otherwise cover that *client's* present or future, actual, contingent or prospective obligations under a *contract for differences* (other than a *rolling spot forex contract*) entered into with a *firm* acting as *market maker*; and
- (c) which is made to that *firm* or to any other *person* arranging on its behalf.

- 6.1.6A R (1) Subject to (2), where a *firm* makes arrangements for the purpose of securing or otherwise covering present or future, actual, contingent or prospective obligations of a *retail client* those arrangements must not provide for the taking of a transfer of full ownership of any of that *client's safe custody assets*.

(2) The application of (1) is confined to the taking of a transfer of full ownership:

- (a) whose purpose is to secure or otherwise cover that *retail client's* obligations under a *contract for differences* (other than a *rolling spot forex contract*) entered into with a *firm* acting as *market maker*; and
- (b) which is made to that *firm* or to any other *person* arranging on its behalf.

...

Title transfer collateral arrangements

- 7.2.3 R (1) Where a *client* transfers full ownership of *money* to a *firm* for the purpose of securing or otherwise covering present or future, actual or contingent or prospective obligations, such *money* should no longer be regarded as *client money*.

[**Note:** recital 27 to *MiFID*]

- (2) Excepted from (1) is a transfer of the full ownership of *money*:
- (a) belonging to a *retail client*;
 - (b) whose purpose is to secure or otherwise cover that *client's* present or future, actual, contingent or prospective obligations under a *contract for differences* (other than a *rolling spot forex contract*) entered into with a *firm* acting as *market maker*; and
 - (c) which is made to that *firm* or to any other *person* arranging on its behalf.

- 7.2.3A R (1) Subject to (2), where a *firm* makes arrangements for the purpose of securing or otherwise covering present or future, actual, contingent or prospective obligations of a *retail client* those arrangements must not provide for the taking of a transfer of full ownership of any of that *client's money*.

(2) The application of (1) is confined to the taking of a transfer of full ownership:

- (a) whose purpose is to secure or otherwise cover that *retail client's* obligations under a *contract for differences* (other than a *rolling spot forex contract*) entered into with a *firm* acting as *market maker*; and
- (b) which is made to that *firm* or to any other *person* arranging on its behalf.

...

- 7.2.10A G *Firms* are reminded that, notwithstanding that *money* may be due and payable to them, they have a continuing obligation to segregate *client money* in accordance with the *client money rules*. In particular, in accordance with *CASS 7.6.2R*, *firms* must ensure the accuracy of their records and accounts and are reminded of the requirement to carry out internal reconciliations of *client money* balances, either in accordance with the *standard method of internal client money reconciliation* or a different method which meets the requirements of *CASS 7.6.7R* and *CASS 7.6.8R*.

...

TP 1 Transitional Provisions

1.1

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
...					
9	<u>CASS 6.1.6R(2) and CASS 6.1.6AR</u>	R	<u>The rules to which column (2) refers do not apply in relation to an agreement that would otherwise be prohibited by CASS 6.1.6AR.</u>	<u>1 December 2010 to 31 December 2010</u>	<u>1 December 2010</u>
		G	<u>Notwithstanding the operation of CASS TP 1.1(9)R, a firm should as soon as reasonably practicable modify its contractual agreement with that retail client so as to remove its ability to utilise that title transfer collateral arrangement.</u>		
10	<u>CASS 7.2.3R(2) and CASS 7.2.3AR</u>	R	<u>The rules to which column (2) refers do not apply in relation to an agreement that would otherwise be prohibited by CASS 7.2.3AR.</u>	<u>1 December 2010 to 31 December 2010</u>	<u>1 December 2010</u>
		G	<u>Notwithstanding the operation of CASS TP 1.1(10)R, a firm should as soon as reasonably practicable modify its contractual agreement with that retail client so as to remove its ability to utilise that title transfer collateral arrangement.</u>		

HANDBOOK ADMINISTRATION (NO 20) INSTRUMENT 2010**Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force as follows:
- (1) Annex F (COMP) comes into force on 31 December 2010;
 - (2) Annex B (Glossary) and Annex E (ICOBS) come into force on 1 January 2011;
 - (3) the remainder of this instrument comes into force on 6 January 2011.

Amendments to the Handbook

- D. The modules of the FSA's Handbook of rules and guidance listed in Annex A to this instrument are amended in accordance with that Annex.
- E. The modules listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex B
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex C
General provisions (GEN)	Annex D
Insurance: Conduct of Business sourcebook (ICOBS)	Annex E
Compensation sourcebook (COMP)	Annex F
Listing Rules sourcebook (LR)	Annex G
Prospectus Rules sourcebook (PR)	Annex H

Citation

- F. This instrument may be cited as the Handbook Administration (No 20) Instrument 2010.

By order of the Board
16 December 2010

Annex A

Amendments to various modules of the Handbook

The text of Schedule 6 (Rules that can be waived) in each of the modules listed below is deleted and replaced with the following text.

Sch 6 **Rules that can be waived**

Sch 6.1G As a result of regulation 10 of the Regulatory Reform (Financial Services and Markets Act 2000) Order 2007 (SI 2007/1973) the *FSA* has power to waive all its *rules*, other than *rules* made under section 247 (Trust scheme rules) or section 248 (Scheme particulars rules) of the *Act*. However, if the *rules* incorporate requirements laid down in European directives, it will not be possible for the *FSA* to grant a waiver that would be incompatible with the *United Kingdom's* responsibilities under those directives.

The modules of the Handbook in which this amendment is made are as follows:

The Principles for Businesses	PRIN
Senior Management Arrangements, Systems and Controls sourcebook	SYSC
Financial Stability and Market Confidence sourcebook	FINMAR
Fees manual	FEES
Conduct of Business sourcebook	COBS
Mortgages and Home Finance: Conduct of Business sourcebook	MCOB
Client Assets sourcebook	CASS
Market Conduct sourcebook	MAR
Training and Competence sourcebook	TC
Supervision manual	SUP
Dispute Resolution: Complaints sourcebook	DISP
Compensation sourcebook	COMP
Professional Firms sourcebook	PROF
Disclosure Rules and Transparency Rules sourcebook	DTR

Annex B

Amendments to the Glossary of definitions

This Annex comes into force on 1 January 2011.

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definition in the appropriate alphabetical place. The new text is not underlined.

Consolidated Motor Insurance Directive the European Parliament and Council Directive of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability (No 2009/103/EC). This Directive codifies Council Directives 72/166/EEC, 84/5/EEC, 90/232/EEC, 2000/26/EC and 2005/14/EC.

Amend the following as shown.

Fourth Motor Insurance Directive ~~the Directive of the European Parliament and the Council of 16 May 2000 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and amending Council Directives 73/239/EEC and 88/357/EEC (No 2000/26/EC).~~

Fifth Motor Insurance Directive ~~the European Parliament and Council Directive of 11 May 2005 amending Council Directives 72/166/EEC, 84/5/EEC, 88/357/EEC and 90/232/EEC and European Parliament and Council Directive 2006/26/EC relating to insurance against civil liability in respect of the use of vehicles (No 2005/14/EC).~~

IMA SORP the Statement of Recommended Practice for financial statements of *authorised funds* issued by the Investment Management Association in ~~November 2008~~ October 2010.

information centre a centre established by an *EEA State* to meet its obligations under article 5 23 of the ~~*Fourth Motor Insurance Directive*~~ *Consolidated Motor Insurance Directive* (Information Centres).

Motor Insurers' Information Centre the information centre appointed to meet the *United Kingdom's* obligations under article 5 23 of the ~~*Fourth Motor Insurance Directive*~~ *Consolidated Motor Insurance Directive* (Information Centres).

State of the risk (in accordance with paragraph 6(3) of Schedule 12 to the *Act* (Transfer schemes: certificates)) (in relation to the *EEA State* in which a risk is situated):

- (a) ...
- (b) ...
- (ba) if the insurance relates to a *vehicle* dispatched from one *EEA State* to another, in respect of the period of 30 days beginning with the day on which the purchaser accepts delivery, the *EEA State* of destination (and not, as provided by sub-paragraph (b), the *EEA State* of registration);
[**Note:** article 4(4)(4a) 15(1) of the *Fifth Motor Insurance Directive Consolidated Motor Insurance Directive*]

...

UK Corporate Governance Code (~~in LR and DTR~~) the UK Corporate Governance Code published in May 2010 by the Financial Reporting Council.

Annex C

**Amendments to the Senior Management Arrangements, Systems and Controls
sourcebook (SYSC)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

4.4.6 G Frequently asked questions about allocation of functions in SYSC 4.4.5R

	Question	Answer
...		
14	What if generally accepted principles of good corporate governance recommend that the <i>chief executive</i> should not be involved in an aspect of corporate governance?	The Note to SYSC 4.4.5R provides that the <i>chief executive</i> or other executive director or <i>senior manager</i> need not be involved in such circumstances. For example, the Combined Code developed by the Committee on Corporate Governance <u>UK Corporate Governance Code</u> recommends that the board of a listed company should establish an audit committee of non-executive directors to be responsible for oversight of the audit. That aspect of the oversight function may therefore be allocated to the members of such a committee without involving the <i>chief executive</i> . Such individuals may require approval by the <i>FSA</i> in relation to that function (see Question 1).
...		

...

TP 4 Combined Code

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provisions: coming into force
1.	SYSC 2.1.6G, and SYSC 3.1.3G and SYSC 4.4.6G	R	References to provisions in the <i>UK Corporate Governance Code</i> are to be read as references to the equivalent provisions in the <i>Combined Code</i> for accounting periods	From 29 June 2010 to 28 December 2011	6 August 2010

			beginning before 29 June 2010.		
--	--	--	-----------------------------------	--	--

Annex D

Amendments to the General Provisions (GEN)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Sch 6 Rules that can be waived

Sch 6.1	G	1	<p>GEN 1.2.2R (Referring to approval by the FSA) and the rules in GEN 4 (Statutory status disclosure) can be waived by the FSA under section 148 of the ACT (Modification or waiver of rules). <u>As a result of regulation 10 of the Regulatory Reform (Financial Services and Markets Act 2000) Order 2007 (SI 2007/1973) the FSA has power to waive all its rules, other than rules made under section 247 (Trust scheme rules) or section 248 (Scheme particulars rules) of the Act. However, if the rules incorporate requirements laid down in European directives, it will not be possible for the FSA to grant a waiver that would be incompatible with the United Kingdom's responsibilities under those directives. It therefore follows that if a rule contains provisions which derive partly from a directive, and partly not, the FSA will be able to consider a waiver of the latter requirements only, unless the directive provisions are optional rather than mandatory.</u></p>
		...	

Annex E

Amendments to the Insurance: Conduct of Business sourcebook (ICOBS)

This Annex comes into force on 1 January 2011.

In this Annex, underlining indicates new text and striking through indicates deleted text.

1 Annex 1 Application (see ICOBS 1.1.2R)

...		
Part 4: Guidance		
...		
6.1	G	The scope of the Fourth Motor Insurance Directive and Fifth Motor Insurance Directive <u>Consolidated Motor Insurance Directive</u> covers <i>insurers</i> conducting <i>motor vehicle liability insurance business</i> . The rules in this sourcebook within the Directives' <u>Directive's</u> scope are those regarding the appointment of claims representatives and handling of claims by <i>injured parties</i> (see ICOBS 8.2).
6.2	G	The Directives require <u>Directive requires</u> a <i>motor vehicle liability insurer</i> to appoint a claims representative in each <i>EEA State</i> other than its <i>Home State</i> . They specify <u>It specifies</u> minimum requirements regarding function and powers of claims representatives in handling claims and regarding the settlement of claims by <i>injured parties</i> .
6.3	G	The Directives' <u>Directive's</u> provisions apply to <i>motor vehicle liability insurers</i> for which the <i>United Kingdom</i> is the <i>Home State</i> . (See article 4 of the Fourth Motor Insurance Directive <u>articles 21 and 22 of the Consolidated Motor Insurance Directive</u>).
...		

...

2.2.4 G (1) ...

(2) Such a *financial promotion* should:

...

(c) comply with other legislative requirements, including ~~The Control of Misleading Advertisements Regulations 1988~~ the Consumer Protection from Unfair Trading Regulations 2008

and the Business Protection from Misleading Marketing Regulations 2008.

...

TP 1

Transitional Provisions

	Fifth Motor Insurance Directive <u>Consolidated Motor Insurance Directive</u>	
1	R	In relation to a claim by an <i>injured party</i> received by a <i>motor vehicle liability insurer</i> or its claims representative on or before 10 June 2007, the motor vehicle liability claims handling rules (see <i>ICOBS 8.2.6R</i> to <i>ICOBS 8.2.11G</i>) only apply if the claim results from an accident occurring in an <i>EEA State</i> other than the <i>injured party's EEA State</i> of residence which was caused by the use of a <i>vehicle</i> insured through an establishment in, and <i>normally based</i> in, an <i>EEA State</i> other than the <i>injured party's EEA State</i> of residence.
...		

Annex F

Amendments to the Compensation sourcebook (COMP)

This Annex comes into force on 31 December 2010.

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 5.5.2 R *COMP* 5.5.1R only applies if the *protected investment business* was carried on from:
- (1) ...
 - (2) a *branch* of a *UK firm* which is:
 - (a) a *MiFID investment firm* established in another EEA State; or
 - (b) ...
 and the *claim* is an *ICD claim*; or
 - (3)
- ...
- 7.2.6 G As an example of the circumstances which *COMP* 7.2.5R is designed to address, take two claimants, A and B.
- (1) Both A and B have a *protected investment business claim* of £60,000 against a *relevant person in default*. The *FSCS* offers both claimants ~~£48,000~~£50,000 compensation (the maximum amount payable for such claims *COMP* 10.2.3R). A accepts immediately, and assigns his rights against the *relevant person* to the *FSCS*, but B delays accepting the *FSCS's* offer of compensation.
 - (2) ...
 - (3) However, if the payment were made by the liquidator after A had accepted the *FSCS's* offer of compensation and assigned his rights to the *FSCS*, but before B accepted the *FSCS* offer of compensation, A would be disadvantaged relative to B even though he has received ~~£48,000~~£50,000 compensation from the *FSCS*. A would be disadvantaged relative to B because he promptly accepted the *FSCS's* offer and assigned his rights to the *FSCS*. Because A has assigned his rights to the *FSCS*, any payment from the liquidator will be made to the *FSCS* rather than A. In this case the *FSCS* has paid A more than £30,000, so the £30,000 from the liquidator that would have been payable to A will be payable in full to the *FSCS* and not to A.

- (4) B is able to exercise his rights against the liquidator because he delayed accepting the *FSCS's* offer and receives £30,000 from the liquidator. B can then make a *claim* for the remaining £30,000 to the *FSCS* which the *FSCS* can pay in full (see *COMP 10.2.2G*). B therefore suffers no loss whereas A is left with a loss of ~~£12,000~~10,000, being the difference between his *claim* of £60,000 and the compensation paid by the *FSCS* of ~~£48,000~~50,000.

...

16 Disclosure requirements for firms that accept deposits

16.3 UK domestic firms, non-EEA firms and incoming EEA firms

UK domestic firms and non-EEA firms

- 16.3.1 R A *firm* that is a *UK domestic firm* or a *non-EEA firm* must disclose the following information to any *protected deposit* holder with that *firm* who is or is likely to be an *eligible claimant*.

“Important information about compensation arrangements

We are covered by the Financial Services Compensation Scheme (FSCS). The FSCS can pay compensation to depositors if a [bank/building society/credit union - delete as appropriate] is unable to meet its financial obligations. Most depositors - including most individuals and small businesses - are covered by the scheme.

In respect of deposits, an eligible depositor is entitled to claim up to [insert *FSCS* maximum payment for *protected deposits*]. For joint accounts each account holder is treated as having a claim in respect of their share so, for a joint account held by two eligible depositors, the maximum amount that could be claimed would be [insert *FSCS* maximum payment for *protected deposits*] each (making a total of [insert *FSCS* maximum payment for *protected deposits* x 2]). The [insert *FSCS* maximum payment for *protected deposits*] limit relates to the **combined** amount in all the eligible depositor's accounts with the [bank/building society/credit union - delete as appropriate], including their share of any joint account, and not to each separate account.

For further information about the scheme (including the amounts covered and eligibility to claim) please [insert as appropriate one or more of the following:] call us on [insert *firm's* phone number] / contact your firm representative / ask at your local branch, refer to the FSCS website www.FSCS.org.uk or call [insert *FSCS* phone number].”

...

Incoming EEA firms that accept deposits through UK branches and have not obtained top-up cover

16.3.3 R ...

...

For further information about the [insert name of *Home State* compensation scheme] (including the amounts covered and eligibility to claim) please [insert as appropriate one or more of the following:] call us on [insert *firm's* phone number] / contact your firm representative / contact your branch or refer to [insert contact details of the *Home State* compensation scheme].”

TP 1.1 Transitional Provisions Table

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional Provision	Transitional provision: dates in force	Handbook Provisions: coming into force
...					
<u>25</u>	<u>COMP 12.2.1R and COMP 12.2.6A and the amendment of all references in COMP (other than in COMP 12.2.1R and the heading in respect of COMP 12.2.4R) to “overall net claim” to “overall claim”</u>	<u>R</u>	<u>The changes referred to in (2) made by the Financial Services Compensation Scheme (Banking Compensation Reform) Instrument 2009 do not apply in relation to a claim against a relevant person that was in default before 31 December 2010.</u>	<u>From 31 December 2010 indefinitely</u>	<u>From 31 December 2010</u>
<u>26</u>	<u>COMP 12.3.1R and COMP 15.1.12R</u>	<u>R</u>	<u>The changes referred to in (2) made by the Financial Services Compensation Scheme (Banking Compensation Reform) Instrument 2009 do not apply in relation to a claim against a relevant</u>	<u>From 31 December 2010 indefinitely</u>	<u>From 31 December 2010</u>

			<u>person that was in default before 31 December 2010.</u>		
--	--	--	--	--	--

...

Annex G

Amendments to the Listing Rules sourcebook (LR)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Early consultation with FSA

1.2.5 G ...

Address for correspondence

Note: The *FSA*'s address for correspondence is:

...

~~Fax: 020 7066 8362~~

...

...

Statement regarding compliance with ~~Combined Code~~ UK Corporate Governance Code

15.6.6 R ...

(2) *A closed-ended investment fund's* statement required by LR 9.8.6R(6) need not include details about the following principles and provisions of the ~~Combined Code~~ UK Corporate Governance Code except to the extent that those principles or provisions relate specifically to non-executive *directors*:

- (a) Principle D.1 (including Code Provisions D.1.1 to D.1.5); and
- (b) Principle D.2 (including Code Provisions D.2.1 to D.2.4).

...

TR 8 Transitional Provisions for the Combined Code

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provision coming into force
1.	LR 9.8.6R(5) and (6) LR 9.8.10R(2) LR 15.6.6R(2)	R	References to provisions in the <i>UK Corporate Governance Code</i> are to be read as references to the equivalent provisions in the <i>Combined Code</i> for	From 29 June 2010 to 28 December 2011	6 August 2010

		<p>accounting periods beginning before 29 June 2010. For the avoidance of doubt, in <i>LR 9.8.10R(2)(b)</i> <i>Combined Code</i> provision <i>C.2.1</i> became <i>UK Corporate Governance Code</i> provision <i>C.2.2</i>; <i>LR 15.6.6R(2)</i> <i>Combined Code</i> Principles B.1 and B.2 became <i>UK Corporate Governance Code</i> Principles D.1 and D.2 respectively; and <i>Combined Code</i> provisions B.1.1 to B.1.56 and B.2.1 to B.2.4 became <i>UK Corporate Governance Code</i> provisions D.1.1 to D.1.5 and D.2.1 to D.2.4 respectively.</p>		
--	--	---	--	--

...

Sch 6 ~~[to follow]~~ **Rules that can be waived**

Sch 6.1G As a result of regulation 10 of the Regulatory Reform (Financial Services and Markets Act 2000) Order 2007 (SI 2007/1973) the FSA has power to waive all its rules, other than rules made under section 247 (Trust scheme rules) or section 248 (Scheme particulars rules) of the Act. However, if the rules incorporate requirements laid down in European directives, it will not be possible for the FSA to grant a waiver that would be incompatible with the United Kingdom's responsibilities under those directives.

Sch 6.2G In addition section 82 (Exemptions from disclosure) of the Act provides the FSA with discretion to authorise omissions from disclosure requirements derived from the Consolidated Admissions and Reporting Directive in the circumstances specified in that section.

Annex H**Amendments to the Prospectus Rules sourcebook (PR)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

Sch 6 ~~[to follow]~~ **Rules that can be waived**

Sch 6.1G As a result of regulation 10 of the Regulatory Reform (Financial Services and Markets Act 2000) Order 2007 (SI 2007/1973) the FSA has power to waive all its rules, other than rules made under section 247 (Trust scheme rules) or section 248 (Scheme particulars rules) of the Act. However, if the rules incorporate requirements laid down in European directives, it will not be possible for the FSA to grant a waiver that would be incompatible with the United Kingdom's responsibilities under those directives.

Sch 6.2G In addition section 87B (Exemptions from disclosure) of the Act provides the FSA with discretion to authorise omissions from disclosure requirements derived from the Prospectus Directive in the circumstances specified in that section.

FEES PROVISIONS (AMENDMENT NO 3) INSTRUMENT 2010

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 156 (General supplementary powers);
 - (2) section 157(1) (Guidance); and
 - (3) paragraph 17(1) (Fees) of Schedule 1 (The Financial Services Authority).
- B. The rule-making powers listed above are specified for the purposes of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 17 December 2010.

Amendments to the Handbook

- D. The Fees manual (FEES) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Fees Provisions (Amendment No 3) Instrument 2010.

By order of the Board
16 December 2010

Annex

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text and striking through indicates deleted text.

4 Annex 1 R Activity groups, tariff bases and valuation dates applicable

...

Part 2

...

Activity group	Tariff base
A.1	<p>MODIFIED ELIGIBLE LIABILITIES For banks and building societies: Part 1: Liabilities In sterling: $\pounds 2 + \pounds 3 + \pounds 4 + \pounds 5A + \pounds 5B + \pounds 6B + \pounds 6C + \pounds 6D + \pounds 6E + \pounds 6F + \pounds 6G + \pounds 6H + \pounds 6J + \pounds 8 + \pounds 10 + 60\% \text{ of } \pounds 11A + \pounds 44$ plus In foreign currency, one third of: $E2 + E3 + E4 + E5A + E5B + E6B + E6C + E6D + E6E + E6F + E6G + E6H + E6J + E8 + E10 + 60\% \text{ of } E11A + E44 + C2 + C3 + C4 + C5A + C5B + C6B + C6C + C6D + C6E + C6F + C6G + C6H + C6J + C8 + C10 + 60\% \text{ of } C11A$: less Assets In sterling: $\pounds 21B + 60\% \text{ of } \pounds 22A + \pounds 23D + \pounds 23E + \pounds 23F + \pounds 30A + \pounds 30B + \pounds 30C + \pounds 32AA1 + \pounds 32AA2 + \pounds 32BA$ plus In foreign currency, one third of: $E21B + 60\% \text{ of } E22A + E23D + E23E + E23F + E30A + E30B + E30C + E32AA1 + E32AA2 + E32BA + C21B + 60\% \text{ of } C22A + C23D + C23E + C23F + C23G + C30A + C30B + C30C + C32AA1 + C32AA2 + C32BA$</p> <p><u>Item B of Form ELS (Note (1)):</u></p> $\frac{(\pounds 1 + \pounds 2 + \pounds 3 + \pounds 4 + 0.6 * \pounds 5 + \pounds 6 - \pounds 8 - \pounds 9A - \pounds 9B - \pounds 10A - \pounds 10B - \pounds 10C - \pounds 11A - \pounds 11B - 0.6 * \pounds 12) + (1/3) * (F1 + F2 + F3 + F4 + 0.6 * F5 + F6 - F8 - F9A - F9B - F10A - F10B - F10C - F11A - F11B - 0.6 * F12)}{- \pounds 13M}$

	<p>Part 2: Non-resident office offset</p> <p>The fee base is adjusted by deducting from the amount calculated in accordance with part 1 above, the Non-Resident Office Offset amount obtained by subtracting item £45D plus one third of both E45D and C45D from the sum of item £45BA, plus one third of both E45BA and C45BA in the Form BT. The Non-Resident Office Offset amount, if it would otherwise have been a negative number, is zero.</p> <p>Notes:</p> <p>(1) All references in the above formula are to entries on Form BT <u>ELS</u> (that is, the <u>Balance Sheet Form Eligible Liabilities Return</u> completed to provide information required following the <u>Banking Statistics Review 1997</u> and returned by <i>banks</i> and <i>building societies</i> to the Bank of England as required by the Bank of England Act 1998).</p> <p>(2) 'E' refers to assets and liabilities denominated in euro (as referred to in column 2 of Form BT) and 'C' refers to assets and liabilities denominated in currencies other than sterling and euro (as referred to in column 3 of Form BT). In accordance with Form BT, assets and liabilities in currencies other than sterling are to be recorded in sterling.</p> <p>(3) (2) The figures reported on the Form BT <u>ELS</u> relate to business conducted out of offices in the <i>United Kingdom</i>.</p>
	...

**FEES (MISCELLANEOUS AMENDMENTS AND FINANCIAL OMBUDSMAN
SERVICE RULES) INSTRUMENT 2010**

Powers exercised

A. The Financial Ombudsman Service Limited makes in Annex B to this instrument:

- (1) the rules and guidance relating to the payment of fees under the Compulsory Jurisdiction;
- (2) the rules and guidance for licensees relating to payment of fees under the Consumer Credit Jurisdiction; and
- (3) the standard terms for VJ participants relating to the payment of fees under the Voluntary Jurisdiction;

in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):

- (a) paragraph 8 (Guidance) of Schedule 17;
- (b) paragraph 15 (Fees) of Schedule 17;
- (c) paragraph 16C (Fees) of Schedule 17; and
- (d) paragraph 18 (Terms of reference to the scheme) of Schedule 17.

B. The making of these rules, standard terms and guidance by the Financial Ombudsman Service Limited is subject to the consent and approval of the Financial Services Authority.

C. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in or under:

- (1) the Act:
 - (a) section 156 (General supplementary powers);
 - (b) section 157(1) and (4) (Guidance);
 - (c) section 234 (Industry funding);
 - (d) paragraph 17(1) (Fees) of Schedule 1 (The Financial Services Authority); and
 - (e) paragraph 12(1) (Funding of the relevant costs by authorised persons or payment service providers) of Part 2 of Schedule 1A (Further provision about the Consumer Financial Education Body);
- (2) the following provisions of the Payment Services Regulations 2009 (SI 2009/209):
 - (a) regulation 82 (Reporting requirements);
 - (b) regulation 92 (Costs of supervision); and
 - (c) regulation 93 (Guidance).

D. The rule-making powers listed above are specified for the purposes of section 153(2) (Rule-making instruments) of the Act.

Commencement

E. This instrument comes into force on 17 December 2010.

Amendments to the Handbook

F. The modules of the FSA's Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Fees manual (FEES)	Annex B
Dispute Resolution: Complaints sourcebook (DISP)	Annex C

Citation

G. This instrument may be cited as the Fees (Miscellaneous Amendments and Financial Ombudsman Service Rules) Instrument 2010.

By order of the Board of the Financial Ombudsman Service Limited
15 December 2010

By order of the Board
16 December 2010

Annex A

Amendments to the Glossary of definitions

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.

International Securities Identification Number (ISIN) a 12-character, alphanumeric code which uniquely identifies a *financial instrument* and provides for the uniform identification of *securities* at trading and settlement.

Annex B

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

...

Purpose

- 3.1.3 G The purpose of this chapter is to set out the *FSA* fee paying requirements on the persons set out in *FEES* 1.1.2R(1). ~~The *FSA's* power to charge in respect of *guidance* regarding the Basel Capital Accord is derived from section 157(4)(c) of the Act.~~

...

Method of payment

- 3.2.3 R (1) Unless (2) or (3) applies, the sum payable under *FEES* 3.2.1R must be paid by bankers draft, cheque or other payable order.

...

- (3) The sum payable under *FEES* 3.2.1R by a *firm* applying for a variation of its *Part IV permission* (*FEES* 3.2.7R(p)) must be paid by any of the methods described in (1) or by Maestro/~~Switch~~ or credit card (Visa/Mastercard only). Any payment by a permitted credit card must include an additional 2% of the sum paid.

...

- 3.2.7 R Table of application, notification and vetting fees

(1) Fee payer	(2) Fee payable	Due date
...		
(q) A super transaction, being one where: (i) the <i>issuer</i> has a market capitalisation in excess of £1.5 billion and it is a new applicant for a <u><i>primary premium listing</i></u> under the <i>listing rules</i> , or involved in a reverse or hostile takeover or a significant restructuring; or
...		

Method of payment

4.2.4 R (1) Unless (2) applies, a periodic fee must be paid using either direct debit, credit transfer (BACS/CHAPS), cheque, ~~switch~~ Maestro or by credit card (Visa/Mastercard only). Any payment by permitted credit card must include an additional 2% of the sum paid.

...

...

4.2.11 R Table of periodic fees

1 Fee payer	2 Fee payable	3 Due date	4 Events occurring during the period leading to modified periodic fee
...			
<i>UK recognised body</i>	<i>FEES 4 Annex 6 R, Part 1</i>	...	<i>Recognition order is made. The Modified <u>modified</u> periodic fee: (1) for a <i>UK recognised investment exchange</i>, £150,000; (2) for a <i>UK recognised clearing house</i>, £250,000 is specified in <u>FEES 4 Annex 6R, Part 1</u>.</i>
<i>Overseas recognised body</i>	<i>FEES 4 Annex 6R, part 2</i>	...	<i>Recognition order is made. The Modified <u>modified</u> periodic fee: (1) for an <i>overseas investment exchange</i>, £10,000; (2) for a <i>overseas clearing house</i>, £35,000 is specified in <u>FEES 4 Annex 6R, Part 2</u>.</i>
...			

...

4 Annex 1R Activity groups, tariff bases and valuation dates applicable

Part 1	...
--------	-----

Activity group	Fee payer falls in the activity group if
...	
A.16 Pensions review levy firms	it was liable to pay the Pensions Levy to PIA in 2001/2002. Not applicable.
...	

Part 2	...
--------	-----

Activity group	Tariff base
...	
A.7	...
	<p>Notes on FuM</p> <p>(a) ...</p> <p>(b) <u>Assets managed by the firm on a discretionary basis exclude the firm's own assets.</u> Assets managed on a non-discretionary basis, being assets that the firm has a contractual duty to keep under continuous review but in respect of which prior specific consent of the client must be obtained for proposed transactions, are <u>also excluded</u> NOT included as this activity is covered in those charged to fees in activity groups A.12 and A.13.</p> <p>...</p>
...	
A.16	Percentage share of the amount paid towards PIA's 2001/2002 pensions review levy by fee payers in fee block A.16. Not applicable.
...	

...

4 Annex 3R Transaction reporting fees

This table shows the fees payable for firms using the FSA's Transaction Reporting System where firms do not have a written contract with the FSA in relation to their use of the System.

...

4 Annex 9R Periodic fees in respect of securities derivatives for the period from 1 April 2010 to 31 March 2011

Part 1

...

Fee amount for <i>firms</i>	
...	
<i>Market operators</i> providing facilities for trading in <i>securities derivatives</i> that do not identify those <i>securities derivatives</i> using an International Securities Identity Number <u>International Securities Identification Number</u>	...

...

5.2.7 G This chapter sets out the framework for the funding arrangements of the *Financial Ombudsman Service*, including, where relevant, the method by which fees will be calculated. Details of the actual fees payable will vary from year to year, depending on the *annual budget* of the *Financial Ombudsman Service*. These details will be set out in ~~an annex~~ annexes to this chapter (~~FEES 5 Annex 1R~~). ~~A new annex~~ New annexes will be prepared and consulted on for each *financial year*.

...

5.3.1 G Each *financial year*, the *FSA* and *FOS Ltd* will consult on the amount of the ~~annual budget~~ annual budget of the *Financial Ombudsman Service* which is to be raised by the *general levy*.

...

5.3.4 G ~~Part 2 of FEES 5 Annex 1R~~ sets out the fee tariffs for each *industry block*.

...

5.3.8 R A *firm's general levy* under the compulsory jurisdiction is calculated as follows:

- (1) identify each of the tariff bases set out in ~~Part 2 of FEES 5 Annex 1R~~ which apply to the *relevant business* of the *firm* for the relevant year;

...

...

5.3.10 R For the purpose of *FEES 5.3*, references to *relevant business* for a *firm*

which falls in *industry block* 16 or 17 and which so elects under ~~Part 2 of FEES 5 Annex 1R~~, are references to the *firm's* total amount of annual income reported in accordance with Part 2 of *FEES 4*.

...

- 5.4.1 R (1) A *firm* must provide the *FSA* by the end of February each year (or, if the *firm* has become subject to the *Financial Ombudsman Service* part way through the *financial year*, by the date requested by the *FSA*) with a statement of the total amount of *relevant business* (measured in accordance with the appropriate tariff base(s)) which it conducted, as at or in the year to 31 December of the previous year as appropriate, in relation to the tariff base for each of the relevant *industry blocks* set out in ~~part 2 of FEES 5 Annex 1R~~.

...

- (4) For the purpose of *FEES 5.4.1R*, references to *relevant business* for a *firm* which falls in *industry block* 16 or 17 and which so elects under ~~part 2 of FEES 5 Annex 1R~~, are references to the *firm's* total amount of annual income reported in accordance with Part 2 of *FEES 4 Annex 1R*.

...

5.5 Case fees

Standard case fee

- 5.5.1 R A *firm* or *licensee* must pay to *FOS Ltd* the standard case fee specified in ~~part 3 of FEES 5 Annex 4R~~ 3R in respect of each *chargeable case* relating to that *firm* or *licensee* which is closed by the *Financial Ombudsman Service*, unless a special case fee is payable or has been paid in respect of that case under *FEES 5.5.6R* to *FEES 5.5.12R*.

...

- 5.5.4 R Any *firm* falling into either *industry block* 13 or *industry block* 15 in ~~part 2 of FEES 5 Annex 1R~~ is not required to pay the standard case fee in respect of *chargeable cases* relating to those *industry blocks*.

...

Special case fees: complaints from small businesses

- 5.5.6 R A *firm* must pay to *FOS Ltd* a special case fee, as specified in ~~part 3 of FEES 5 Annex 4R~~ 3R in respect of each *chargeable case* relating to that *firm* closed by the *Financial Ombudsman Service* which was referred to the *Financial Ombudsman Service* by *eligible complainants* who fall within *DISP 2.7.3R(2)*, *DISP 2.7.6R(12)(a)* and *DISP 2.7.6R(12)(a)*.

...

5.5.7 R A firm which ceases to be *authorised* must pay to FOS Ltd a special case fee, as specified in ~~part 3 of FEES 5 Annex 1R~~ 3R, in respect of each *chargeable case* relating to that firm closed by the *Financial Ombudsman Service* which concerned an act or omission occurring when the firm was *authorised* and where the complaint was made after its *authorisation* ceased.

5.5.7A R ~~DISP FEES~~ 5.5.7R applies to persons which cease to be *licensees* in the same way as it applies to firms which cease to be *authorised*.

...

Special case fees: relevant complaints against persons who were subject to a former scheme

5.5.8 R An *unauthorised person* who is subject to the *Compulsory Jurisdiction* in relation to a *relevant complaint* must pay to FOS Ltd a special case fee as specified in ~~part 3 of FEES 5 Annex 1R~~ 3R in respect of each *chargeable case* relating to that *unauthorised person* closed by the *Financial Ombudsman Service*.

...

5.5.10 R A firm which was a *member* of PIA before *commencement* must pay to FOS Ltd a special case fee, as specified in FEES 5 Annex ~~1R~~ 3R, in respect of each *chargeable case* relating to that firm received by the *Financial Ombudsman Service* after *commencement* and before 31 March 2002.

...

5.5.12 R A firm which was not a *member* of a *former scheme* before the *commencement day* must pay to FOS Ltd a special case fee, as specified in FEES 5 Annex ~~1R~~ 3R, in respect of each *chargeable case* which relates to business conducted by the firm after the *commencement day* and which is closed by the *Financial Ombudsman Service* before 31 March 2002.

...

5.9.2 G Firms which cease to be *authorised* and therefore subject to the *Compulsory Jurisdiction* part way through the year will not receive a refund of their *general levy* except in exceptional circumstances. Firms and *payment service providers* will continue to be liable for any case fees relating to *chargeable cases* closed by the *Financial Ombudsman Service* after they cease to be *authorised*, or cease to be *payment service providers*. Firms and *payment service providers* will be charged the standard case fee where the complaint was closed by the *Financial Ombudsman Service* before the end of the year in which their *authorisation* ceased or, as the case may be, they ceased to be *payment service providers*. The special case fee will apply to any complaint closed after the end of that year since the firm or *payment*

service provider will no longer be contributing to the *general levy*.

...

5 Annex 1 R ~~Annual Fees Payable in Relation to 2010/11~~ Annual General Levy Payable in Relation to the Compulsory Jurisdiction for 2010/11

Introduction: annual budget

1. The *annual budget* for 2010/11 approved by the *FSA* is £113.7m.

~~Part 1: General levy~~

2. The total amount expected to be raised through the *general levy* in 2010/11 will be £17.7m (net of £1.8m to be raised from consumer credit firms).

~~Part 2: Fee tariffs for general levy~~

Compulsory jurisdiction - general levy

Industry block	Tariff base	General levy payable by firm
...		

Delete Parts 3, 3A and 4 of FEES 5 Annex 1 and insert the following new Annexes. The new text is not underlined.

5 Annex 2R Annual Levy Payable in Relation to the Voluntary Jurisdiction for 2010/11

Voluntary jurisdiction – annual levy for VJ participants				
Industry block and business activity		Tariff basis	Tariff rate	Minimum levy
1V	Deposit acceptors, <i>mortgage lenders</i> and <i>mortgage administrators</i> , including debit/credit/charge card issuers and electronic money institutions	number of relevant accounts, adjusted in respect of <i>e-money accounts</i> on the same basis as for industry block 1 in <i>FEES 5 Annex 1R</i>	£0.0278	£100
2V	<i>VJ participants</i> undertaking insurance activities subject only to	per £1,000 of relevant annual gross premium income	£0.103	£100

	prudential regulation			
3V	<i>VJ participants</i> undertaking insurance activities subject to prudential and conduct of business regulation	Per £1,000 of relevant adjusted annual gross premium income	£0.025	£100
6V	Intermediaries	n/a	n/a	£75
7V	Freight-forwarding companies	n/a	n/a	£75
8V	National Savings & Investments	n/a	n/a	£10,000
9V	Post Office Limited	n/a	n/a	£10,000
10V	Persons not covered by 1V to 9V undertaking activities which would be <i>regulated activities</i> or <i>payment services</i> or <i>consumer credit activities</i> if they were carried on from an establishment in the <i>United Kingdom</i>	n/a	n/a	£75

5 Annex 3R Case Fees Payable for 2010/11

Table of case fees payable		
	Standard case fee	Special case fee
Compulsory jurisdiction	£500	£500
Voluntary jurisdiction	£500	£500
Consumer credit jurisdiction	£500	£500

Notes

1	The definitions of standard case fee and special case fee are in <i>FEES 5.5</i> (Case fees).
2	<i>Firms, licensees</i> and <i>VJ participants</i> will only be charged for the fourth and subsequent <i>chargeable case</i> in each financial year. The definition of <i>chargeable case</i> is in the Glossary to the <i>Handbook</i> .

Annex C

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

- 4.2.6 R The following *rules* in *FEES* apply to *VJ participants* as part of the *standard terms*, but substituting '*VJ participant*' for '*firm*':
- ...
- (5) *FEES* 5.3.8R (calculation of general levy) but substituting '~~part 4~~' '*FEES* 5 Annex 2R' for '~~part 2~~' '*FEES* 5 Annex 1R';
- (6) *FEES* 5.4.1R (information) but substituting:
- (a) '*FOS Ltd*' for 'the *FSA*'; and
- (b) '~~part 4~~' '*FEES* 5 Annex 2R' for '~~part 2~~' '*FEES* 5 Annex 1R';
- (7) *FEES* 5.5.1R (standard case fee) ~~but substituting 'part 4' for 'part 3'~~;
- ...
- (12) ~~*FEES* 5 Annex 1R (fees payable)~~ *FEES* 5 Annex 2R and *FEES* 5 Annex 3R.

Sch 4 Powers Exercised

Sch 4.5 G

The powers to make rules relating to the Ombudsman Scheme are shared between the <i>FSA</i> and the <i>FOS Ltd</i> . <i>FOS Ltd</i> 's rules are subject to <i>FSA</i> consent or approval. The rules made exclusively by <i>FOS Ltd</i> are:	
...	
<i>FEES</i> 5	... <i>FEES</i> 5.9.1R <u><i>FEES</i> 5 Annex 2R</u> <u><i>FEES</i> 5 Annex 3R</u>
<i>FEES</i> 5	<i>FEES</i> 5 Annex 1R parts 3 and 4

**SENIOR MANAGEMENT ARRANGEMENTS, SYSTEMS AND CONTROLS
(REVERSE STRESS TESTING) (AMENDMENT) INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 150(2) (Actions for damages); and
 - (c) section 156 (General supplementary powers); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 28 March 2011.

Amendments to the Handbook

- D. The Senior Management Arrangements, Systems and Controls sourcebook (SYSC) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Senior Management Arrangements, Systems and Controls (Reverse Stress Testing) (Amendment) Instrument 2010.

By order of the Board
16 December 2010

Annex

**Amendments to the Senior Management Arrangements,
Systems and Controls sourcebook (SYSC)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

20 Reverse stress testing

20.1 Application and purpose

Application

20.1.1 R (1) SYSC 20 applies to:

(a) ~~a BIPRU firm, unless it is a BIPRU investment firm excluded in accordance with (2)~~ which is:

(i) a bank; or

(ii) a building society; or

(iii) a BIPRU investment firm which meets any of the criteria set out in (2) on an individual basis, or in (3) on a consolidated basis; and

...

(2) ~~Subject to (3) and (4), SYSC 20 applies to a BIPRU investment firm is excluded from the scope of SYSC 20 if:~~

(a) ~~where it carries out the regulated activity of managing investments or safeguarding and administering investments, it has assets under management or administration of no more than at least £10 billion (or the equivalent amount in foreign currency); or~~

(b) ~~the total annual fee and commission income arising from its regulated activities is no more than at least £250 million (or the equivalent amount in foreign currency); or~~

(c) ~~it has assets and or liabilities of no more than at least £2 billion (or the equivalent amount in foreign currency).~~

(3) ~~In order to determine whether a BIPRU investment firm is excluded from the scope of SYSC 20, the exclusion criteria in (2) will apply on a consolidated basis to~~ Subject to (4), where all of the BIPRU investment firms within the same UK consolidation group or non-EEA sub-group, taken together as if they were one firm, meet any of the criteria in (2) as if they were one firm, SYSC 20 applies to each of

those BIPRU investment firms as if it individually met the inclusion criteria in (2).

- (4) Any *BIPRU investment firm* which is ~~not excluded~~ included within the scope of SYSC 20 in accordance with (2) ~~and~~ or (3) in any given year will continue to be subject to SYSC 20 for the following two years irrespective of whether or not it ~~satisfies the criteria to be excluded~~ continues to meet the inclusion criteria in any of those subsequent years.

**TRAINING AND COMPETENCE SOURCEBOOK (QUALIFICATION
REQUIREMENTS AND TIME LIMITS) INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 64 (Conduct: statements and codes);
 - (b) section 138 (General rule-making power);
 - (c) section 149 (Evidential provisions);
 - (d) section 156 (General supplementary powers);
 - (e) section 157(1) (Guidance); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 January 2011.

Amendments to the Handbook

- D. The modules of the FSA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex A
Statements of Principle and Code of Practice for Approved Persons (APER)	Annex B
Training and Competence sourcebook (TC)	Annex C
Supervision manual (SUP)	Annex D

Move of module

- E. The Training and Competence sourcebook (TC) is moved from the Business Standards block of the Handbook to the High Level Standards block.

Citation

- F. This instrument may be cited as the Training and Competence Sourcebook (Qualification Requirements and Time Limits) Instrument 2010.

By order of the Board
16 December 2010

Annex A

Amendments to the Senior Management Arrangements, Systems and Controls sourcebook (SYSC)

In this Annex, underlining indicates new text and striking through indicates deleted text.

3.1 Systems and Controls

...

- 3.1.9 G *Firms* which are carrying on activities that are not subject to *TC* may nevertheless wish to take *TC* into account in complying with the ~~training and~~ competence requirements in *SYSC*.

...

5.1 Skills, knowledge and expertise

...

- 5.1.4A G *Firms* which are carrying on activities that are not subject to *TC* may nevertheless wish to take *TC* into account in complying with the ~~training and~~ competence requirements in *SYSC*.

Annex B

Amendments to the Statements of Principle and Code of Practice for Approved Persons (APER)

In this Annex, underlining indicates new text and striking through indicates deleted text.

4.1 Statement of Principle 1

...

4.1.2 E In the opinion of the *FSA*, conduct of the type described in *APER* 4.1.3E, *APER* 4.1.5E, *APER* 4.1.6E, *APER* 4.1.8E, *APER* 4.1.10E, *APER* 4.1.12E, ~~*APER* 4.1.13E, *APER* 4.1.14E or *APER* 4.1.15E~~ does not comply with *Statement of Principle* 1 (*APER* 2.1.2P).

...

4.1.14 E Deliberately not paying due regard to the interests of a *customer* falls within *APER* 4.1.2E.

4.1.15 E Deliberate acts, omissions or business practices that could be reasonably expected to cause consumer detriment fall within *APER* 4.1.2E.

4.2 Statement of Principle 2

...

4.2.2 E In the opinion of the *FSA*, conduct of the type described in *APER* 4.2.3E, *APER* 4.2.5E, *APER* 4.2.6E, *APER* 4.2.8E, *APER* 4.2.10E, *APER* 4.2.11E, ~~*APER* 4.2.13E or *APER* 4.2.14E~~ does not comply with *Statement of Principle* 2 (*APER* 2.1.2P).

...

4.2.14 E Failing to pay due regard to the interests of a *customer*, without good reason, falls within *APER* 4.2.2E.

...

4.5 Statement of Principle 5

...

Suitability of individuals

4.5.13A G The appropriate *approved person* performing a *significant influence function* should take reasonable steps to satisfy himself, on reasonable grounds, that each area of the business for which he is responsible has in place appropriate policies and procedures for reviewing the competence, knowledge, skills and

performance of each individual member of staff.

Annex C

Amendments to the Training and Competence sourcebook (TC)

This sourcebook is moved from the Business Standards block of the Handbook to the High Level Standards block.

In this Annex, underlining indicates new text and striking through indicates deleted text unless otherwise stated.

2.1 Assessing and maintaining competence

Assessment of competence and supervision

- 2.1.1 R (1) A *firm* must not assess an *employee* as competent to carry on an activity in *TC* Appendix 1 until the *employee* has demonstrated the necessary competence to do so and has (if required by *TC* Appendix 1) ~~passed~~ attained each module of an appropriate ~~examination~~ qualification. This assessment need not take place before the *employee* starts to carry on the activity.
- (2) A *firm* may assess an *employee* who is subject to, but has not satisfied, an appropriate ~~examination~~ qualification requirement as competent to the extent that:
- (a) that *employee* works in a *branch* in an *EEA State* other than the *United Kingdom*;
 - (b) the *employee* is engaging in *MiFID business*; and
 - (c) there is no appropriate ~~examination~~ qualification or equivalent in that *EEA State*.

...

Supervisors

- 2.1.4 G *Firms* should ensure that those supervising *employees* carrying on an activity in *TC* Appendix 1 have the necessary coaching and assessment skills as well as technical knowledge to act as a competent supervisor and assessor. In particular *firms* should consider whether it is appropriate to require those supervising *employees* not assessed as competent to ~~pass~~ attain an appropriate ~~examination~~ qualification as well except where the *employee* is giving advice on *packaged products*, see *TC* 2.1.5R.
- 2.1.5 R Where an *employee* is giving advice on ~~packaged products~~ packaged products to *retail clients* and has not been assessed as competent to do so, the *firm* must ensure that the individual supervising and assessing that *employee* has ~~passed~~ attained an appropriate ~~examination~~ qualification.

~~Examination~~ Qualification requirements before starting activities

- 2.1.6 R A *firm* must ensure that an *employee* does not carry on an activity in *TC Appendix 1* (other than an overseeing activity) for which there is ~~an examination~~ a qualification requirement without first ~~passing~~ attaining the relevant regulatory module of an appropriate ~~examination~~ qualification.
- 2.1.7 R A *firm* must ensure that an *employee* does not carry on any of the following activities without first ~~passing~~ attaining each module of an appropriate ~~examination~~ qualification:
- (1) ~~“advising and dealing” activities in *TC Appendix 1*; [deleted]~~
- (1A) advising on and dealing in securities which are not stakeholder pension schemes or broker funds;
- (1B) advising on and dealing in derivatives;
- (2) the activity of a *broker fund adviser*;
- (3) *advising on syndicate participation at Lloyd’s*; or
- (4) the activity of a *pension transfer specialist*.
- 2.1.8 G ~~Where there is an examination requirement, *firms* may wish to impose limits on the time they allow their *employees* to pass an appropriate examination or place limits on the number of times the examination can be taken. [deleted]~~

Exemption from appropriate ~~examination~~ qualification requirements

- 2.1.9 R (1) If a *firm* is satisfied that an *employee* meets the conditions in this *rule* then the requirements to have ~~passed~~ attained each module of an appropriate ~~examination~~ qualification will only apply if that *employee* is carrying on one of the activities specified in this *rule*.
- (2) The conditions are that a *firm* should be satisfied that an *employee*:
- (a) has at least three years’ up-to-date relevant experience in the activity in question obtained while employed outside the *United Kingdom*;
- (b) has not previously been required to comply fully with the relevant ~~examination~~ qualification requirements in *TC 2.1.1R*; and
- (c) has ~~passed~~ attained the relevant regulatory module of an appropriate ~~examination~~ qualification;
- but (b) and (c) do not apply to an *employee* who is benefiting from the “30-day rule” exemption in *SUP 10.10.7BR*, unless the *employee* benefits from that rule because he is advising *retail clients* on *packaged products* or is a *broker fund adviser*.

- (3) The relevant activities are:
- (a) *advising on investments which are packaged products*, if that advice is given to *retail clients*;
 - (b) the activity of a *broker fund adviser*;
 - (c) *advising on syndicate participation at Lloyd's*; or
 - (d) the activity of a *pension transfer specialist*.

Selecting an appropriate examination

- 2.1.10 E (1) This *rule* applies for the purposes of *TC 2.1.1R, TC 2.1.5R, TC 2.1.6R, TC 2.1.7R, and TC 2.1.9R, TC 2.2A.1R, TC 2.2A.3R and TC 2.2A.6R*.
- (2) ~~In ensuring~~ To ensure that ~~an examination~~ a qualification is appropriate, a *firm* must select an appropriate ~~examination~~ qualification from the list of ~~examinations maintained by the Financial Services Skills Council~~ qualifications set out in TC Appendix 4E.
- (3) ~~Compliance with~~ Contravention of (2) may be relied on as tending to establish ~~compliance with~~ contravention of the *rules* referred to in (1).
- 2.1.10A G TC Appendix 5G sets out:
- (1) the criteria which the FSA may take into account when assessing a qualification provider; and
 - (2) the information the FSA will expect the qualification provider to provide if it asks the FSA to add a qualification to the list of appropriate qualifications in TC Appendix 4E.
- ...
- 2.1.13 G A ~~firm~~ *firm* should ensure that maintaining competence for an ~~employee~~ employee takes into account such matters as:
- (1) technical knowledge and its application;
 - (2) skills and expertise; and
 - (3) changes in the market and to products, legislation and regulation.
- 2.1.14 G A firm may choose to establish, implement and maintain a training and competence scheme

After TC 2.2 (deleted) insert the following new section. The text is not underlined.

2.2A Time limits

Calculation of time limits for attaining an appropriate qualification

- 2.2A.1 R (1) For the purposes of TC 2.1.1R, if an *employee* carries on an activity in TC Appendix 1 (other than an overseeing activity), a *firm* must ensure that the *employee* attains an appropriate qualification within 30 *months* of starting to carry on that activity.
- (2) For the purposes of (1), a *firm* must record the date on which the *employee* starts to carry on that activity.
- 2.2A.2 R For the purposes of calculating the 30 *months* referred to in TC 2.2A.1R, a *firm* must:
- (1) aggregate periods of time spent carrying on the activity during different periods of employment; and
- (2) disregard any period of 60 *business days* or more during which the *employee* is not carrying on the activity due to being continuously absent from work.
- 2.2A.3 R A *firm* must ensure that any *employee* who does not attain an appropriate qualification within the specified time:
- (1) ceases to engage in the activity to which that qualification would relate; and
- (2) does not resume that activity without first attaining an appropriate qualification.
- 2.2A.4 G *Firms* may wish their *employees* to attain an appropriate qualification within an earlier time limit or to place limits on the number of times that qualification can be taken.
- 2.2A.5 G *Firms* may wish *employees* who carry on an overseeing activity specified in TC Appendix 1 to attain an appropriate qualification within 30 *months* of starting the activity.

Record-keeping

- 2.2A.6 R A *firm* should, for the purposes of TC 3.1.1R (Record keeping), make and retain records of the time limits within which the appropriate qualification has been attained.

Amend the following as shown.

Appendix 1.1 Activities and Products/Sectors to which TC applies subject to TC Appendices 2 and 3

App 1.1.1R

Activity	Products/Sectors		Is there an appropriate examination <u>qualification</u> requirement?
...			
<u>Dealing</u>	<u>13A</u>	<u>Securities which are not stakeholder pension schemes or broker funds</u>	<u>No</u>
	<u>13B</u>	<u>Derivatives</u>	<u>No</u>
...			

After Appendix 3 insert the following new appendices. The text is not underlined.

TC Appendix 4E – Appropriate Qualification tables

(Unless otherwise indicated all qualifications are valid if awarded by examination only)

Key for the following qualification tables

1	meets full qualification requirement
2 +3	meets full qualification requirement
4 + 5 + 6	Meets full qualification requirement

Qualification table for : Advising on (but not dealing in) *securities* (which are not *stakeholder pension schemes* or *broker funds*) – Activity number 2 in TC Appendix 1.1.1R

Qualification	Qualification provider	Key
Certified International Wealth Manager	Association of International Wealth Managers	1
Chartered Financial Analyst Program Level 1 plus Investment Management Certificate (Level 4 certificate)	CFA Institute/ CFA Society of UK	1
Chartered Financial Analyst plus Unit 1 of the Investment Management Certificate (Level 4 certificate)	CFA Institute/ CFA Society of UK	1
Investment Management Certificate (Level 4 certificate) plus other qualifications that meet specialist standards for advising on securities	CFA Institute/ CFA Society of UK	1
Chartered Financial Analyst plus Unit 1 of the Investment Management Certificate	CFA Institute/ CFA Society of UK	1
Chartered Financial Analyst Program Level 1 plus Investment Management Certificate	CFA Institute/ CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	1
Investment Management Certificate	CFA Institute/ CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/	1

	Institute of Investment Management and Research)	
Fellow by examination	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	1
Associate	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	1
Investment Advice Diploma (where candidate holds 3 modules including the securities module)	The Chartered Institute for Securities & Investment	1
Masters in Wealth Management (Post 2010 examination standards)	The Chartered Institute for Securities & Investment	1
Masters in Wealth Management (pre 2010 examination standards)	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Certificate in Private Client Investment Advice and Management	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Certificate in Private Client Investment Advice and Management (attained through competency interview and presentation only)	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Diploma (where candidate holds 3 modules as recommended by the <i>firm</i>)	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Investment Advice Certificate	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Member of the Securities Institute (MSI Dip) (where candidate holds 3 modules as recommended by the <i>firm</i>)	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Certificate in Securities	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Certificate in Investment Management	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Level 6 Diploma in Wealth Management	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	1
Securities Institute Level 3 Certificate in Investments (Investment Management)	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	1
Securities Institute Level 3 Certificate in Investments (Securities)	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	1
Securities Institute Level 3 Certificate in Investments (Securities and Financial Derivatives)	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	1
Certificate in Securities and Financial Derivatives – Retail	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	1
SFA Securities Representatives Examination	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	1
Fellow or Associate	Faculty or Institute of Actuaries	1

Registered Representative Full Membership Exams – where candidates hold all 3 papers or have both the Stock Exchange Practice and Techniques of Investment papers	London Stock Exchange (records now kept by The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)).	1
BA (Hons) Financial Services, Planning and Management	Manchester Metropolitan University	1
TSA Registered Representative Examinations	The Securities Association (now The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute))	1
BA in Accounting and Finance	University of Stirling	1
BA in Finance	University of Stirling	1
MSc in Finance	University of Stirling	1
MSc in International Accounting and Finance (where candidates hold modules as recommended by the <i>firm</i>)	University of Stirling	1
MSc in Investment Analysis	University of Stirling	1
ACI Dealing Certificate	ACI	2
ACI Diploma	ACI	2
Secondary Examination	Analyst Association of Japan	2
Diploma	Association of Belgian Financial Analysts	2
Certified International Investment Analyst (CIIA)	The Association of Certified International Investment Analysts (ACIIA)	2
Canadian Securities course plus Conduct and Practices Handbook	Canadian Securities Institute	2
Investment Practice version of the Investment Management Certificate	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals / Institute of Investment Management and Research)	2
Securities Institute Level 3 Certificate in Investments (Investment Management) – Unit 5	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	2
Securities Institute Level 3 Certificate in Investments (Securities) plus Securities Institute Level 3 Certificate in Investments (Derivatives) – Unit 3	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	2
Certified European Financial Analyst	EFFAS Societies with accredited examinations	2
Series 7 – General Securities Representative Examination	Financial Industry Regulatory Authority (FINRA) – Formerly the National Association of Securities Dealers (NASD)	2
Certificate in Financial Markets	Financial Services Institute of Australasia (Formerly the Securities Institute of Australia)	2
Diploma of Financial Markets	Financial Services Institute of Australasia (Formerly the Securities Institute of Australia)	2

Examination	French Society of Investment Analysts	2
International Fixed Income and Derivatives (IFID) Certificate Programme	ICMA Centre / University of Reading (Formerly ISMA Centre / University of Reading)	2
Registered Representative Examination	Irish Stock Exchange / Dublin City University	2
Registered Stock Broker	The Irish Stock Exchange	2
Promotore Finanziario Examination	Italian Exchange	2
Membership Examination	Johannesburg Stock Exchange	2
Registered Representative of Public Securities Examination (pre-April 1990)	Japanese Bankers Association	2
Representative of Public Securities Qualification – Class 1	Japanese Bankers Association	2
Representative of Public Securities Examination (pre- April 1990)	Japanese Securities Dealers Association	2
Representative of Public Securities Qualification – Type 1	Japanese Securities Dealers Association	2
Trainee Dealers Representative Examination	Kuala Lumpur Stock Exchange	2
Elementary, Intermediate and International Capital Markets course	Korea Securities Trading Institute	2
Certificate	New Zealand Stock Exchange	2
Examination	NIBE SVV The Dutch Institute for the Banking, Insurance and Stockbroking Industry	2
International Capital Markets Qualification (including the Fixed Interest and Bond Markets Module)	Securities Institute/ South African Institute of Financial Markets	2
Dealers Representative Examinations	Singapore Exchange	2
Ordinary and Senior Certificates	South African Institute of Financial Markets	2
Unit 1 – UK Regulation and Markets	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals / Institute of Investment Management and Research)	3
Diploma – Regulation and Compliance Paper	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	3
Unit 1 – Financial Regulation	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	3
Unit 6 – Principles of Financial Regulation	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	3
Investment Administration Qualification – IMRO Regulatory Environment Module	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	3
Investment Administration Qualification – SFA Regulatory Environment Module	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	3
Securities and Investment Institute – Unit 1 Financial Regulation – (Formerly the Securities Institute Regulatory Paper)	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	3

Investment Administration Qualification – Unit 2 SFA Regulatory Environment – (Formerly the Investment Administration Qualification – Regulatory Environment Module)	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	3
Investment Advice Certificate – Paper 1	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	3
SFA Registered Persons Examination – Section 1 (Regulation)	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	3

Qualification table for : Advising on (but not dealing in) Derivatives – Activity number 3 in TC Appendix 1.1.1R		
Qualification	Qualification Provider	Key
Certified International Wealth Manager	Association of International Wealth Managers	1
Chartered Financial Analyst plus Unit 1 of the Investment Management Certificate (Level 4 certificate)	CFA Institute/ CFA Society of UK	1
Investment Management Certificate (Level 4 certificate) plus other qualifications that meet RDR specialist standards for securities	CFA Institute/ CFA Society of UK	1
Chartered Financial Analyst plus Unit 1 of the Investment Management Certificate	CFA Institute/ CFA Society of UK	1
Chartered Financial Analyst Program Level 1 plus Investment Management Certificate (Level 4 certificate)	CFA Institute/ CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	1
Chartered Financial Analyst Program Level 1 plus Investment Management Certificate	CFA Institute/ CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	1
Associate	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	1
Investment Management Certificate	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	1
Fellow by examination	CFA Society UK (Formerly United Kingdom Society of Investment Professionals/Institute of Investment Management and Research)	1
Masters in Wealth Management (post 2010 examination standards)	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Investment Advice Diploma	The Chartered Institute for Securities & Investment	1
Member of the Securities Institute (MSI Dip)	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1

(where candidate holds 3 modules as recommended by the <i>firm</i>)		
Masters in Wealth Management (pre 2010 examination standards)	The Chartered Institute for Securities & Investment	1
Diploma (where candidate holds 3 modules as recommended by the <i>firm</i>)	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Certificate in Private Client Investment Advice and Management	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Certificate in Private Client Investment Advice and Management (attained through a CISI competency interview and presentation only)	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Investment Advice Certificate	The Chartered Institute for Securities and Investment (Formerly the Securities & Investment Institute)	1
Certificate in Derivatives	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Certificate in Financial Derivatives	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Certificate in Investment Management	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Level 6 Diploma in Wealth Management	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	1
Certificate in Securities and Financial Derivatives	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	1
Securities Institute Level 3 Certificate in Investments (Derivatives)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
Securities Institute Level 3 Certificate in Investments (Investment Management)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
Securities Institute Level 3 Certificate in Investments (Securities & Financial Derivatives)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
SFA Futures and Options Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
SFA Securities and Financial Derivatives Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
SFA Securities Representative plus Financial Derivatives Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
Advanced Financial Planning Certificate (must include a pass in G70 paper)	Chartered Insurance Institute	1
Associate or Fellow (life and pensions route only)	Chartered Insurance Institute	1
Fellow or Associate	Faculty or Institute of Actuaries	1
Registered Representative Full Membership	London Stock Exchange (records now kept by The Chartered Institute for Securities & Investment)	1

Exams – where candidates hold all 3 papers or have both the Stock Exchange Practice and Techniques of Investment papers	(Formerly the Securities and Investment Institute)).	
BA (Hons) Financial Services, Planning and Management	Manchester Metropolitan University	1
TSA Registered Representative Examinations	The Securities Association	1
International Capital Markets Qualification (ICMQ) including a pass in Futures, Options and other Derivative Products paper	Securities Institute/South African Institute of Financial Markets	1
BA in Finance and Accounting	University of Stirling	1
MSc in Finance	University of Stirling	1
MSc in International Accounting and Finance (where candidates hold modules as recommended by the <i>firm</i>)	University of Stirling	1
MSc in Investment Analysis	University of Stirling	1
ACI Dealing Certificate	ACI	2
ACI Diploma	ACI	2
Secondary Examination	Analyst Association of Japan	2
Certified International Investment Analyst (CIIA)	The Association of Certified International Investment Analysts (ACIIA)	2
Chartered Financial Analyst	CFA Institute	2
Investment Practice paper of the Investment Management Certificate	CFA Society UK (Formerly United Kingdom Society of Investment Professionals/Institute of Investment Management and Research)	2
Securities Institute Level 3 Certificate in Investments (Investment Management) – Unit 5	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	2
Diploma including passes in both the Australian Futures Trading and Options papers	Financial Services Institute for Australasia (Formerly the Securities Institute of Australia)	2
International Fixed Income and Derivatives (IFID) Certificate Programme	ICMA Centre / University of Reading (Formerly ISMA Centre / University of Reading)	2
Registered Representative of Public Securities Examination (pre April 1990)	Japanese Bankers Association	2
Representative of Public Securities Qualification – Class 1	Japanese Bankers Association	2
Representative of Public Securities Examination (pre April 1990)	Japanese Securities Dealers Association	2
Representative of Public Securities	Japanese Securities Dealers Association	2

Qualification – Type 1		
Series 3 – Futures Representative Examination	National Futures Association	2
Examination	NIBE SVV the Dutch Institute for Banking, Insurance and Stockbroking Industry	2
Examination	Norwegian Society of Financial Analysts	2
Singapore Exchange Futures Trading Test	Singapore Institute of Banking and Finance	2
Registered Representative Examination	Sydney Futures Exchange	2
Diploma – Regulation and Compliance Paper	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Investment Administration Qualification – IMRO Regulatory Environment module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Investment Administration Qualification – SFA Regulatory Environment module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Investment Administration Qualification – Unit 2 SFA Regulatory Environment (Formerly the Investment Administration Qualification – Regulatory Environment module)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Investment Advice Certificate – Paper 1	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Securities & Investment Institute – Unit 1 Financial Regulation (Formerly the Securities Institute Regulatory Paper)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
SFA Registered Persons Examination – Section 1 (Regulation)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Unit 1 – Financial Regulation	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Unit 1 – UK Regulation and Markets	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	3
Unit 6 – Principles of Financial Regulation	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3

Qualification table relating to : Advising on *Packaged Products* (which are not *broker funds*) and *Friendly Society* tax-exempt policies - Activity Numbers 4 and 6 in TC Appendix 1.1.1 R

Qualification	Qualification Provider	Key
BA in Financial Services (1995 to 2001)	Bournemouth University	1
MA in Financial Services (1995 to 2001)	Bournemouth University	1
Post Graduate in Financial Services (1995 to 2001)	Bournemouth University	1
Diploma in Professional Financial Advice	Calibrand/Scottish Qualifications Authority	1

Diploma in Investment Planning (Existing Adviser) Post 2010 examination standards	Chartered Institute of Bankers in Scotland	1
Diploma in Investment Planning (New Adviser) Post 2010 examination standards	Chartered Institute of Bankers in Scotland	1
Diploma in Investment Planning (Retail Banking) (New Adviser) Post 2010 examination standards	Chartered Institute of Bankers in Scotland	1
Diploma in Investment Planning (Retail Banking) (Existing Adviser) Post 2010 examination standards	Chartered Institute of Bankers in Scotland	1
Associate (March 1992 to July 1994 syllabus (including top-up test))	Chartered Institute of Bankers in Scotland	1
Associate (post August 1994 syllabus)	Chartered Institute of Bankers in Scotland	1
Certificate in Investment Planning	Chartered Institute of Bankers in Scotland	1
Chartered Banker (where candidates hold UK Financial Services and Investment modules)	Chartered Institute of Bankers in Scotland	1
Diploma in Investment Planning (current)	Chartered Institute of Bankers in Scotland	1
Certificate in Financial Planning (Post 17/09/2004)	Chartered Institute of Bankers in Scotland	1
Masters in Wealth Management	The Chartered Institute for Securities & Investment	1
Masters in Wealth Management (Post 2010 examination standards)	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Investment Advice Diploma	The Chartered Institute for Securities & Investment	1
Investment Advice Certificate	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
Certificate in Private Client Investment Advice and Management (attained through competency interview and presentation only)	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Certificate in Private Client Investment Advice and Management	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Diploma (where candidates hold 3 modules as recommended by the firm)	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Member of the Securities Institute (MSI Dip) (where candidate holds 3 modules as recommended by the firm)	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Level 6 Diploma in Wealth Management	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	
Regulated Diploma in Financial Planning	Chartered Insurance Institute	1
Diploma in Regulated Financial Planning	Chartered Insurance Institute	1

(attained through a CII alternative assessment day)		
Advanced Diploma in Financial Planning	Chartered Insurance Institute	1
Advanced Financial Planning Certificate	Chartered Insurance Institute	1
Associate (ACII) (where candidate holds appropriate life and pension modules)	Chartered Insurance Institute	1
Associate (ALIA Dip)	Chartered Insurance Institute	1
Diploma in Financial Planning	Chartered Insurance Institute	1
Fellow (FCII) (where candidates hold appropriate life and pensions modules)	Chartered Insurance Institute	1
Certificate in Financial Planning	Chartered Insurance Institute	1
Financial Planning Certificate (No new registrations after 17/12/2004)	Chartered Insurance Institute	1
Fellow (FLIA Dip)	Chartered Insurance Institute	1
Fellow or Associate	Faculty or Institute of Actuaries	1
FSSC Advanced Apprenticeship in Advising on Financial Products (Financial Advice Pathway)		1
Associate (where candidate has passed the investment module)	<i>Ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	1
Diploma for Financial Advisers (pre 2010 examination standards)	<i>Ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	1
Professional Investment Certificate	<i>Ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	1
Diploma for Financial Advisers (post 2010)	<i>Ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	1
Certificate for Financial Advisers (Post 1/11/2004)	<i>Ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	1
Certificate for Financial Advisers (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly Chartered Institute of Bankers)	1
Professional Certificate in Banking (PCertB)	<i>ifs</i> School of Finance (Formerly Chartered Institute of Bankers)	1
Certified Financial Planner	Institute of Financial Planning	1
Fellowship	Institute of Financial Planning	1
BA (Hons) Financial Services, Planning and Management	Manchester Metropolitan University	1
BA in Financial Services (1995 to 2001)	Sheffield Hallam University	1
MA in Financial Services (1995 to 2001)	Sheffield Hallam University	1
Post Graduate in Financial Services (1995 to 2001)	Sheffield Hallam University	1

BA in Finance	University of Stirling	1
BA in Finance and Accounting	University of Stirling	1
BA in Financial Services (1995 to 2001)	University of the West of England	1
MA in Financial Services (1995 to 2001)	University of the West of England	1
Post Graduate in Financial Services (1995 to 2001)	University of the West of England	1
Certificate in Investment Planning Paper 1 (Pre 31/10/2004)	Chartered Institute of Bankers in Scotland	3
Certificate in Investment Planning (Post 17/09/2004)	Chartered Institute of Bankers in Scotland	3
Certificate in Investment and Financial Advice – Paper 1	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Investment Advice Certificate Paper 1	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Financial Planning Certificate – Paper 1	Chartered Insurance Institute	3
Certificate in Financial Planning – Paper 1	Chartered Insurance Institute	3
Certificate for Financial Advisers – Paper 1 (Post 1/11/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	3
Certificate for Financial Advisers Paper 1 (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	3
Certificate in Mortgage Advice and Practice (CeMAP) – Paper 1 (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	3

Qualification table for : Advising on, and dealing in *Securities* (which are not *stakeholder pension schemes* or *broker funds*) – Activity number 12 in TC Appendix 1.1.1R

Qualification	Qualification Provider	Key
Certified International Wealth Manager	Association of International Wealth Managers	1
Chartered Financial Analyst Program Level 1 plus Investment Management Certificate (Level 4 certificate)	CFA Institute/ CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	1
Chartered Financial Analyst plus Unit 1 of the Investment Management Certificate (Level 4 certificate)	CFA Institute/ CFA Society of UK	1
Investment Management Certificate (Level 4 certificate) plus other qualifications that meet RDR specialist standards for securities	CFA Institute/ CFA Society of UK	1

Chartered Financial Analyst Program Level 1 plus Investment Management Certificate	CFA Institute/ CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	1
Fellow by examination	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	1
Associate	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	1
Investment Advice Diploma (where candidate holds 3 modules including the securities module)	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Masters in Wealth Management (based on post 2010 examination standards)	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Masters in Wealth Management (based on pre 2010 examination standards)	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Certificate in Private Client Investment Advice and Management	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Certificate in Private Client Investment Advice and Management (attained through competency interview and presentation only)	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Diploma (where candidate holds 3 modules as recommended by the <i>firm</i>)	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Member of the Securities Institute (MSI Dip) (where candidate holds 3 modules as recommended by the <i>firm</i>)	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Certificate in Securities - Retail	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Certificate in Securities and Financial Derivatives – Retail	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	1
Certificate in Investment Management	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Level 6 Diploma in Wealth Management	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	1
Securities Institute Level 3 Certificate in Investments (Investment Management)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
Securities Institute Level 3 Certificate in Investments (Securities & Financial Derivatives)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
Securities Institute Level 3 Certificate in Investments (Securities)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
SFA Securities Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1

SFA Securities and Financial Derivatives Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
Advanced Financial Planning Certificate (must include a pass in G70 paper)	Chartered Insurance Institute	1
Associateship (must include a pass in the Investment Paper)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	1
Registered Representative Full Membership Exams – where candidates hold all 3 papers or have both the Stock Exchange Practice and Techniques of Investment papers	London Stock Exchange (records now kept by The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)).	1
BA (Hons) Financial Services, Planning and Management	Manchester Metropolitan University	1
TSA Registered Representative Examinations	The Securities Association	1
BA in Finance	University of Stirling	1
BA in Finance and Accounting	University of Stirling	1
MSc in Investment Analysis	University of Stirling	1
MSc in Finance	University of Stirling	1
ACI Dealing Certificate	ACI	2
ACI Diploma	ACI	2
Secondary Examination	Analyst Association of Japan	2
Diploma	Association of Belgian Financial Analysts	2
Certified International Investment Analyst (CIIA)	The Association of Certified International Investment Analysts (ACIIA)	2
Canadian Securities Course plus Conduct and Practices Handbook	Canadian Securities Institute	2
Certified European Financial Analyst	EFFAS Societies with accredited examinations	2
Series 7 – General Securities Representatives Examination	Financial Industry Regulatory Authority (FINRA) – Formerly the National Association of Securities Dealers (NASD)	2
Certificate in Financial Markets	Financial Services Institute of Australasia (Formerly the Securities Institute of Australia)	2
Diploma of Financial Markets Examination	Financial Services Institute of Australasia (Formerly the Securities Institute of Australia)	2
International Fixed Income and Derivatives (IFID) Certificate Programme	French Society of Investment Analysts	2
General Certificate Programme	ICMA Centre / University of Reading (Formerly ISMA Centre / University of Reading)	2
Irish Registered Representative Examination	ICMA Centre / University of Reading (Formerly ISMA Centre / University of Reading)	2
	Irish Stock Exchange/ Dublin City University	2

Promotore Finanziario Examination	Italian Exchange	2
Registered Representative of Public Securities Examination (pre April 1990)	Japanese Bankers Association	2
Representative of Public Securities Qualification – Class 1	Japanese Bankers Association	2
Registered Representative of Public Securities Examination (pre April 1990)	Japanese Securities Dealers Association	2
Representative of Public Securities Qualification – Type 1	Japanese Securities Dealers Association	2
Membership Examinations	Johannesburg Stock Exchange	2
Elementary, Intermediate and International Capital Markets Courses	Korea Securities Training	2
Trainee Dealers Representative Examination	Kuala Lumpur Stock Exchange	2
Certificate	New Zealand Stock Exchange	2
Examination	NIBE SVV the Dutch Institute for the Banking, Insurance and Stockbroking Industry	2
International Capital Markets Qualification (inclusive of the Fixed Interest and Bond Markets Module)	Securities Institute/ South African Institute of Financial Markets	2
Dealers Representative Examination	Singapore Exchange	2
Diploma	The Swiss Stock Exchange	2
Professional Certificate in Stockbroking	University College Dublin (UCD) / The Institute of Bankers School of Professional Finance	2
Investment Administration Qualification – IMRO Regulatory Environment Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Investment Administration Qualification – SFA Regulatory Environment Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Investment Administration Qualification – Unit 2 SFA Regulatory Environment – (Formerly the Investment Administration Qualification Regulatory Environment Module)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Securities & Investment Institute – Unit 1 Financial Regulation (Formerly the Securities Institute Regulatory Paper)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Unit 1 – Financial Regulation	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Unit 1 – UK Regulation and Markets	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	3

Unit 6 – Principles of Financial Regulation	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
SFA Registered Persons Examination – Section 1 (Regulation)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3

Qualification table for : Advising on and dealing with or for clients in <i>Derivatives</i> – Activity number 13 in TC Appendix 1.1.1R		
Qualification	Qualification Provider	Key
Certified International Wealth Manager	Association of International Wealth Managers	1
Chartered Financial Analyst Program Level 1 plus Investment Management Certificate (Level 4 certificate)	CFA Institute/ CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	1
Chartered Financial Analyst Program Level 1 plus Investment Management Certificate	CFA Institute/ CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	1
Associate	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	1
Chartered Financial Analyst plus Unit 1 of the Investment Management Certificate (Level 4 certificate)	CFA Institute/ CFA Society of UK	1
Investment Management Certificate (Level 4 certificate) plus other qualifications that meet specialist standards for advising on securities	CFA Institute/ CFA Society of UK	1

Fellow by examination	CFA Society UK (Formerly United Kingdom Society of Investment Professionals/Institute of Investment Management and Research)	1
Associateship – must include a pass in the Investment Paper	Chartered Institute of Bankers in Scotland	1
Investment Advice Diploma	The Chartered Institute for Securities & Investment	1
Certificate in Private Client Investment Advice and Management	The Chartered Institute for Securities & Investment	1
Certificate in Private Client Investment Advice and Management (attained through a CISI competency interview and presentation only)	The Chartered Institute for Securities & Investment	1
Masters in Wealth Management (based on pre 2010 examination standards)	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1

Diploma (where candidate holds 3 modules as recommended by the <i>firm</i>)	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Certificate in Derivatives	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Certificate in Financial Derivatives	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Certificate in Investment Management	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Level 6 Diploma in Wealth Management	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	1
Certificate in Securities and Financial Derivatives	The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute)	1
Securities Institute Level 3 Certificate in Investments (Derivatives)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
Securities Institute Level 3 Certificate in Investments (Investment Management)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
Securities Institute Level 3 Certificate in Investments (Securities & Financial Derivatives)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
Member of the Securities Institute (MSI Dip) (where candidate holds 3 modules as recommended by the <i>firm</i>)	The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
SFA Futures and Options Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
SFA Securities and Financial Derivatives Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
Financial Derivatives paper of Diploma	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
SFA Securities Representative Examination plus Financial Derivatives Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
Financial Futures and Options paper of the Diploma	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
Advanced Financial Planning Certificate (must include a pass in G70 paper)	Chartered Insurance Institute	1
Associateship – (must include a pass in the Investment Paper)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	1
Associateship – (must include a pass in the Investment Management Paper)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	1
Registered Representative Full Membership Exams – where candidates hold all 3 papers or have both the Stock	London Stock Exchange (records now kept by The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)).	1

Exchange Practice and Techniques of Investment papers		
BA (Hons) Financial Services, Planning and Management	Manchester Metropolitan University	1
TSA Registered Representative Examination	The Securities Association	1
International Capital Markets Qualification (ICMQ) including pass in Futures, Options and other Derivative Products	Securities Institute/ South African Institute of Financial Markets	1
BA in Finance and Accounting	University of Stirling	1
MSc in Finance	University of Stirling	1
MSc in International Accounting and Finance (where candidates hold modules as recommended by the <i>firm</i>)	University of Stirling	1
MSc in Investment Analysis	University of Stirling	1
ACI Dealing Certificate	ACI	2
ACI Diploma	ACI	2
Secondary Examination	Analyst Association of Japan	2
Certified International Investment Analyst (CIIA)	The Association of Certified International Investment Analysts (ACIIA)	2
Derivatives Fundamentals Course and Futures/Options Licensing Course	Canadian Securities Institute	2
Diploma including passes in both the Australian Futures Trading and Options Trading papers	Financial Services Institute of Australasia (Formerly the Securities Institute of Australia)	2
International Fixed Income and Derivatives (IFID) Certificate Programme	ICMA Centre / University of Reading (Formerly ISMA Centre / University of Reading)	2
Registered Representative of Public Securities Examination (pre April 1990)	Japanese Bankers Association	2
Representative of Public Securities Qualifications – Class 1	Japanese Bankers Association	2
Representative of Public Securities Examination (pre April 1990)	Japanese Securities Dealers Association	2
Representative of Public Securities Qualifications – Type 1	Japanese Securities Dealers Association	2

Series 3 National Commodities Futures Examination	National Futures Association	2
Examination	NIBE SVV the Dutch Institute for the Banking, Insurance and Stockbroking Industry	2
Examination	Norwegian Society of Financial Analysts	2
Singapore Exchange Futures Trading Test	Singapore Institute of Banking and Finance	2
Ordinary and Senior Certificates	South African Institute of Financial Markets	2
Unit 1 – Financial Regulation	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Unit 1 – UK Regulation and Markets	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	3
Unit 6 – Principles of Financial Regulation	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Diploma – Regulation and Compliance Paper	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Investment Administration Qualification – IMRO Regulatory Environment Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Investment Administration Qualification – SFA Regulatory Environment Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Investment Administration Qualification – Unit 2 SFA Regulatory Environment (Formerly the Investment Administration Qualification – Regulatory Environment Module)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Securities & Investment Institute – Unit 1 Financial Regulation (Formerly the Securities Institute Regulatory Paper)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3

Qualification table for : Advising on *Long-term care insurance contracts* – Activity number 7 in TC Appendix 1.1.1R

Qualification	Body	Key
Certificate in Financial Planning & Long Term Care Insurance	Chartered Insurance Institute	1
G80 paper of Advanced Financial Planning Certificate (October 2004) plus appropriate exam requirements for TC 2.1.4R(1)(f)	Chartered Insurance Institute	1

Certificate for Financial Advisers & Certificate in Long-term Care Insurance	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	1
FSSC Advanced Apprenticeship in Advising on Financial Products (Long Term Care Insurance Pathway)		1
National Diploma:Financial Services Long-Term Risk Assessment	Insurance Sector Education and Training Authority	2

Qualification table for : Advising on *investments* in the course of *corporate finance business* – Activity number 8 in TC Appendix 1.1.1R

Qualification	Body	Key
Fellow or Associate by examination	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals / Institute of Investment Management and Research)	1
Investment Management Certificate	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals / Institute of Investment Management and Research)	1
Certificate in Corporate Finance	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
Certificate in Investment Management	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
Certificate in Securities	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
Certificate in Securities and Financial Derivatives	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
Diploma (must include a pass in Regulation and Compliance Paper)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
SFA Corporate Finance Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
SFA Securities Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
SFA Securities and Financial Derivatives Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
Securities Institute Level 3	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1

Certificate in Investments (Investment Management)		
Securities Institute Level 3 Certificate in Investments (Securities & Financial Derivatives)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
Securities Institute Level 3 Certificate in Investments (Securities)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
G70 paper of Advanced Financial Planning Certificate	Chartered Insurance Institute	1
Fellow or Associate	Institute of Chartered Accountants in England and Wales	1
Fellow or Associate	Institute of Chartered Accountants in Ireland	1
Member	Institute of Chartered Accountants in Scotland	1
Member or Affiliate	Association of Chartered Certified Accountants	1
Stock Exchange Registered Representative Examination	London Stock Exchange (records now kept by The Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)).	1
TSA Registered Representative Examination	The Securities Association (now The Chartered Institute for Securities and Investment (Formerly the Securities and Investment Institute))	1
Secondary Examination	Analyst Association of Japan	2
Investment Practice version of the Investment Management Certificate	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/Institute of Investment Management and Research)	2
Certificate in Investment Management – Paper 2	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	2
Diploma – Corporate Finance Paper	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	2
Securities Institute Level 3 Certificate in Investments (Investment Management) – Unit 5	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	2
Registered Representative of Public Securities Examination (pre-April 1990)	Japanese Bankers Association	2
Representative of Public Securities Examination (pre-April 1990)	Japanese Securities Dealers Association	2

Representative of Public Securities Qualification – Class 1	Japanese Bankers Association	2
Representative of Public Securities Qualification – Type 1	Japanese Securities Dealers Association	2
Module B(ii), Securities and Portfolio Management	Law Society of England and Wales	2
Examination	NIBE SVV the Dutch Institute for the Banking , Insurance and Stockbroking Industry	2
Ordinary and Senior Certificates	South African Institute of Financial Markets	2
MSc in international Accounting and Finance (where candidates hold modules as recommended by the <i>firm</i>)	University of Stirling	2
UK Regulation and Markets version of Investment Management Certificate	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals / Institute of Investment Management and Research)	3
Diploma – Regulation and Compliance Paper	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Investment Administration Qualification – IMRO Regulatory Environment Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Investment Administration Qualification – SFA Regulatory Environment Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Investment Administration Qualification – Unit 2 SFA Regulatory Environment – (Formerly the Investment Administration Qualification – Regulatory Environment Module)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Principles of Financial Regulation	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
SFA Registered Persons Examination – Section 1 (Regulation)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Securities & Investment Institute – Unit 1 Financial Regulation –	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3

(Formerly the Securities Institute Regulatory Paper)		
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Qualification table for : <i>Advising on syndicate participation at Lloyd's</i> - Activity number 9 in TC Appendix 1.1.1R		
Qualification	Qualification Provider	Key
Lloyd's Market Certificate	Lloyd's / Chartered Insurance Institute	1
Lloyd's and London Market Introductory Test (Formerly the Lloyd's Introductory Test)	Lloyd's	1

Qualification table for : <i>Acting as a Pension transfer specialist</i> – Activity number 11 in TC Appendix 1.1.1R		
Qualification	Qualification Provider	Key
Fellow or Associate including three pensions-related subjects as confirmed by the examining body	Chartered Insurance Institute	1
G60 paper of Advanced Financial Planning Certificate	Chartered Insurance Institute	1
Unit AF3 of the Advanced Diploma in Financial Planning	Chartered Insurance Institute	1
Fellow or Associate	Faculty or Institute of Actuaries	1
Pensions paper of Professional Investment Certificate	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	1
Fellow or Associate by examination	Pensions Management Institute	1
Fellow or Associate by examination	Pensions Management Institute	1

Qualification table for : <i>Managing investments</i> or <i>Acting as a Broker fund adviser</i> – Activity number 14 and 10 in TC Appendix 1.1.1R		
Qualification	Qualification Provider	Key

Certified International Wealth Manager Diploma (CIWM)	Association of International Wealth Management (AIWM)	1
Investment Management Certificate (both pre and post 2010 examination standards)	CFA Society UK (Formerly United Kingdom Society of Investment Professionals / Institute of Investment Management and Research)	1
Fellow by examination	CFA Society UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	1
Certificate in Private Client Investment Advice and Management	The Chartered Institute for Securities & Investment	1
Certificate in Private Client Investment Advice and Management (attained through a CISI competency interview and presentation only)	The Chartered Institute for Securities & Investment	1
Investment Advice Diploma (where candidates hold technical modules as recommended by the <i>firm</i>)	The Chartered Institute for Securities & Investment	1
Masters in Wealth Management	The Chartered Institute for Securities & Investment	1
Certificate in Investment Management	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	1
Level 6 Diploma in Wealth Management	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	1
Investment Advice Certificate	Chartered Institute for Securities & Investment (Formerly the Securities and Investment Institute)	1
Securities Institute Level 3 Certificate in Investments (Investment Management)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	1
Registered Representative Full Membership Exams – where candidates hold all three papers or hold both the Stock Exchange Practice and Technique of Investment Papers	London Stock Exchange (records are now kept by the Chartered Institute for Securities & Investment; formerly the Securities and Investment Institute)	1
Advanced Financial Planning Certificate (must include a pass in G70 paper)	Chartered Insurance Institute	1

Associate – achieved by examination passed before 1 December 2001 (must include a pass in Subject 301 – Investment and Asset Management (syllabus in force from 1998))	Faculty or Institute of Actuaries	1
Fellow – achieved by examination (must include a pass in subjects 301 and 401 Investment and Asset Management (syllabus in force from 1998))	Faculty or Institute of Actuaries	1
Fellow or Associate by examination (must include Investment Paper E (Syllabus in force until 1998))	Faculty or Institute of Actuaries	1
MSc in International Accounting (where candidates hold modules as recommended by the <i>firm</i>)	University of Stirling	1
MSc in Investment Analysis	University of Stirling	1
Certified International Investment Analyst (CIIA)	The Association of Certified International Investment Analysts (ACIIA)	2
Chartered Financial Analyst (Level 1)	CFA Institute	2
Investment Management Asset Allocation Qualification	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	2
Investment Practice Version of Investment Management Certificate (both pre and post 2010 reformed Appropriate Exam standards versions)	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	2
Certificate in Investment Management – paper 2	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	2
Securities Institute Level 3 Certificate in Investments	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	2

(Investment Management) – unit 5		
Certified European Financial Analyst	EFFAS Societies with accredited examinations	2
IPF Certificate in Property Investment	Investment Property Forum	2
Associate – achieved by examination passed after 30 November 2001 (must include a pass in subject 301 – Investment and Asset Management (syllabus in force from 1998))	Faculty or Institute of Actuaries	2
Chartered Member	Securities Analysts Association of Japan	2
Certificate in Investment Management (at least 3 papers passed by examination)	Society of Investment Analysts in Ireland	2
Ordinary and Senior Certificates	South African Institute of Financial Markets	2
Dual degree Executive MBA in Asset and Wealth Management	Swiss Finance Institute	2
Unit 1 – UK Regulation & Markets	CFA Society UK (Formerly United Kingdom Society of Investment Professionals / Institute of Investment Management and Research)	3
Unit 1 – Financial Regulation	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	3
Unit 6 – Principles of Financial Regulation	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	3
Diploma – Regulation and Compliance Paper	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Investment Administration Qualification – IMRO Regulatory Environment Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Investment Administration Qualification – FSA Regulatory Environment Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Investment Administration Qualification – Unit 2 FSA Regulatory Environment –	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3

(Formerly the Investment Administration Qualification – Regulatory Environment Module)		
SFA Registered Persons Examination – Section 1 (Regulation)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3

Qualification table for : Overseeing on a day to day basis operating a *collective investment scheme* or undertaking activities of a *trustee* or *depository* of a *collective investment scheme* – Activity number 15 in TC Appendix 1.1.1R

Qualification	Qualification Provider	Key
Member	Association of Accounting Technicians	4
Fellow or Associate	Association of Chartered Certified Accountants	4
Fellow or Associate	Association of Corporate Treasurers	4
Fellow or Associate	Chartered Institute of Bankers in Ireland	4
Certificate in Investment Planning – Paper 1	Chartered Institute of Bankers in Scotland	4
Member or Associate	Chartered Institute of Bankers in Scotland	4
Fellow or Associate	Chartered Institute of Management Accountants	4
Fellow or Associate	Chartered Institute of Public Finance and Accountancy	4
Fellow or Associate by examination	CFA Society UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	4
Investment Management Certificate	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	4
Investment Administration Qualification – Introduction to Securities and Investment module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Certificate in Corporate Finance	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Certificate in Derivatives – Paper 2	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Certificate in Investment Management	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Certificate in Securities – Paper	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4

2		
Certificate in Securities and Financial Derivatives – Paper 2	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Client Services Qualification	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Diploma	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Diploma – Global Operations Management Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Diploma International Operations Management module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Diploma Operations Management module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Investment Advice Certificate – Paper 1	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Member of the Securities Institute by examination	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Securities Institute Level 3 Certificate in Investments (Derivatives) – Unit 3	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Securities Institute Level 3 Certificate in Investments (Investment Management)	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Securities Institute Level 3 Certificate in Investments (Securities & Financial Derivatives)	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Securities Institute Level 3 Certificate in Investments (Securities & Financial Derivatives) – Unit 4	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Securities Institute Level 3 Certificate in Investments (Securities) – Unit 2	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
SFA Corporate Finance Representative Examination	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
SFA Futures and Options Representative Examination	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4

SFA Securities Representative Examination	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
SFA Securities and Financial Derivatives Representative Examination	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Stock Exchange Registered Representative Examination	London Stock Exchange (records are now kept by the Chartered Institute for Securities & Investment; formerly the Securities and Investment Institute)	4
Fellow or Associate	Chartered Insurance Institute	4
Financial Planning Certificate – Paper 1	Chartered Insurance Institute	4
Certificate for Financial Advisers – Paper 1 (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	4
Fellow or Associate	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	4
Fellow or Associate	Institute of Chartered Accountants in England and Wales	4
Fellow or Associate	Institute of Chartered Accountants in Ireland	4
Member	Institute of Chartered Accountants in Scotland	4
Certificate in Collective Investment Scheme Administration	Institute of Chartered Secretaries and Administrators	4
Certificate in Company Secretarial Practice and Share Registration Practice (including the Regulatory module within the examination)	Institute of Chartered Secretaries and Administrators	4
Fellow or Associate	Institute of Chartered Secretaries and Administrators	4
Solicitor	Law Society of England and Wales/ Law Society of Northern Ireland	4
TSA Registered Representative Examination	The Securities Association	4
Fellow or Associate	Pensions Management Institute	4
Investment Management Certificate	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	5
Investment Regulation and Practice Paper of the Associate Examination	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	5
UK Regulation and Markets version of the Investment	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	5

Management Certificate		
Certificate in Investment Planning – Paper 1	Chartered Institute of Bankers in Scotland	5
Investment Administration Qualification – FSA Regulatory Environment	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Unit 6 – Principles of Financial Regulation	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Certificate in Investment Management	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Diploma – Global Operations Management Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Diploma – International Operations Management Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Diploma Operations Management Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Diploma Regulation and Compliance Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Investment Administration Qualification – IMRO Regulatory Environment Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Investment Administration Qualification – FSA Regulatory Environment Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Investment Advice Certificate Paper 1	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Securities Institute Level 3 Certificate in Investments (Investment Management)	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Securities & Investment Institute – Unit 1 Financial Regulation – (Formerly the Securities Institute Regulatory Paper)	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
SFA Futures and Options	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5

Representative Examination		
SFA Securities and Financial Derivatives Representative Examination	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
SFA Registered Persons Examination – Section 1 (Regulation)	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Stock Exchange Registered Representative Examination	London Stock Exchange (records are now kept by the Chartered Institute for Securities & Investment; formerly the Securities and Investment Institute)	5
Financial Planning Certificate – Paper 1	Chartered Insurance Institute	5
Certificate for Financial Advisers Paper 1 (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	5
Certificate for Financial Advisers – Paper 1	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	5
Certificate in Collective Investment Scheme Administration	Institute of Chartered Secretaries and Administrators	5
Certificate in Company Secretarial Practice and Share Registration Practice (including the Regulatory module within the examination)	Institute of Chartered Secretaries and Administrators	5
TSA Registered Representative Examination	The Securities Association	5
Diploma – Global Operations Management Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Diploma International Operations Management Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Diploma Operations Management Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Collective Investment Schemes Administration module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6

Investment Administration Qualification – Asset Servicing Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Basics of CREST Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Bond Settlement Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification CREST Settlement Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification Derivatives Operations Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Exchange – Traded Derivative Administration Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification Global Custody Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Global Settlement Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – ISA Administration Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – ISA and PEP Administration Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification OEIC Administration Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Operational Risk Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6

Investment Administration Qualification – OTC Derivatives Administration Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification PEP Administration Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Portfolio Performance Measurement Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Private Client Administration Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification Unit Trust Administration Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Certificate in Collective Investment Scheme Administration	Institute of Chartered Secretaries and Administrators	6
Certificate in Company Secretarial Practice and Share Registration Practice (including the Regulatory module within the examination)	Institute of Chartered Secretaries and Administrators	6
Investment Administration Management Award	Investment Management Association	6
In house module (only where the firm can demonstrate that none of the listed examinations is appropriate)		6

Qualification table for : Overseeing on a day to day basis safeguarding and administering *investments* or holding *client money* – Activity number 16 in TC Appendix 1.1.1R

Qualification	Qualification Provider	Key
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Member	Association of Accounting Technicians	4
Fellow or Associate	Association of Chartered Certified Accountants	4
Fellow or Associate	Association of Corporate Treasurers	4
Fellow or Associate by examination	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	4
Investment Management Certificate	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	4
Fellow or Associate	Chartered Institute of Bankers in Ireland	4
Certificate in Investment Planning – Paper 1	Chartered Institute of Bankers in Scotland	4
Fellow or Associate	Chartered Institute of Management Accountants	4
Fellow or Associate	Chartered Institute of Public Finance and Accountancy	4
Investment Administration Qualification – Introduction to Securities and Investment module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Diploma	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Certificate in Corporate Finance	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Certificate in Derivatives – Paper 2	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Certificate in Investment Management	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Certificate in Securities – Paper 2	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Certificate in Securities and Financial Derivatives – Paper 2	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Client Services Qualification	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Diploma – Global Operations Management Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Diploma International Operations Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Diploma Operations Management Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Investment Advice Certificate – Paper 1	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Membership of the Securities Institute by examination	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4

Securities Institute Level 3 Certificate in Investments (Derivatives) – Unit 3	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Securities Institute Level 3 Certificate in Investments (Investment Management)	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Securities Institute Level 3 Certificate in Investments (Securities) – Unit 2	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Securities Institute Level 3 Certificate in Investments (Securities & Financial Derivatives) – Unit 4	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
SFA Corporate Finance Representative Examination	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
SFA Futures and Options Representative Examination	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
SFA Securities and Financial Derivatives Representative Examination	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
SFA Securities Representative Examination	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Stock Exchange Registered Representative Examination	London Stock Exchange (records are now kept by the Chartered Institute for Securities & Investment; formerly the Securities and Investment Institute)	4
Fellow or Associate	Chartered Insurance Institute	4
Financial Planning Certificate – Paper 1	Chartered Insurance Institute	4
Fellow or Associate	Faculty or Institute of Actuaries	4
Certificate for Financial Advisers Paper 1 (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	4
Fellow or Associate	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	4
Fellow or Associate	Institute of Chartered Accountants in England and Wales	4
Fellow or Associate	Institute of Chartered Accountants in Ireland	4
Member	Institute of Chartered Accountants in Scotland	4
Member or Associate	Chartered Institute of Bankers in Scotland	4
Certificate in Collective	Institute of Chartered Secretaries and Administrators	4

Investment Scheme Administration		
Certificate in Company Secretarial Practice and Share Registration Practice (including Regulatory module within the examination)	Institute of Chartered Secretaries and Administrators	4
Fellow or Associate	Institute of Chartered Secretaries and Administrators	4
Fellow or Associate	Pensions Management Institute	4
TSA Registered Representative Examination	The Securities Association	4
Investment Management Certificate	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	5
Investment Regulation and Practice Paper of the Associate Examination	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	5
UK Regulation and Markets version of the Investment Management Certificate	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	5
Certificate in Investment Planning – Paper 1	Chartered Institute of Bankers in Scotland	5
Investment Administration Qualification – FSA Regulatory Environment	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Unit 6 – Principles of Financial Regulation	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Certificate in Investment Management	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Diploma – Global Operations Management Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Diploma International Operations Management Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Diploma Regulation and Compliance Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Investment Administration Qualification – IMRO	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5

Regulatory Environment Module		
Investment Administration Qualification – FSA Regulatory Environment Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Investment Advice Certificate – Paper 1	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Securities Institute Level 3 Certificate in Investments (Investment Management)	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Securities & Investment Institute – Unit 1 Financial Regulation (Formerly the Securities Institute Regulatory Paper)	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
SFA Futures and Options Representative Examination	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
SFA Registered Persons Examination – Section 1 (Regulation)	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
SFA Securities Representative Examination	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
SFA Securities and Financial Derivatives Representative Examination	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Stock Exchange Registered Representative Examination	London Stock Exchange (records are now kept by the Chartered Institute for Securities & Investment; formerly the Securities and Investment Institute)	5
Financial Planning Certificate Paper 1	Chartered Insurance Institute	5
Certificate for Financial Advisers – Paper 1 pre 31/10/2004	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	5
Certificate in Collective Investment Scheme Administration	Institute of Chartered Secretaries and Administrators	5
Certificate in Company Secretarial Practice and Share	Institute of Chartered Secretaries and Administrators	5

Registration Practice (including the Regulatory module within the examination)		
TSA Registered Representative Examinations	The Securities Association	5
Investment Administration Qualification – Global Securities Operations module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Private Client Administration module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Diploma International Operations Management Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Diploma – Global Operations Management Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Diploma Operations Management Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Asset Servicing Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Basics of CREST Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification –Bond Settlement Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification CREST Settlement Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification Derivatives Operations Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Exchange-Traded Derivative Administration Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6

Investment Administration Qualification Global Custody Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Global Settlement Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – ISA Administration Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – ISA and PEP Administration Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification OEIC Administration Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Operational Risk Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – OTC Derivatives Administration Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification PEP Administration Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification Portfolio Performance Measurement Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification Unit Trust Administration Module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Operations Certificate Programme (OCP)	ICMA Centre / University of Reading (Formerly ISMA Centre / University of Reading)	6
Certificate in Collective Investment Scheme Administration	Institute of Chartered Secretaries and Administrators	6

Certificate in Company Secretarial Practice and Share Registration Practice (including the Regulatory module within the examination)	Institute of Chartered Secretaries and Administrators	6
Investment Administration Management Award	Investment Management Association	6
In-house module (only where the firm can demonstrate that none of the listed examinations are appropriate)		6

Qualification table for : Overseeing on a day to day basis administrative functions in relation to managing *investments*

- (i) arranging settlement;
- (ii) monitoring and processing corporate actions;
- (iii) client account administration, liaison and reporting including valuation and performance measurement;
- (iv) ISA, PEP or CTF administration;
- (v) Investment trust savings scheme administration.

Activity number 17 in TC Appendix 1.1.1R

Qualification	Qualification Provider	Key
Member	Association of Accounting Technicians	4
Fellow or Associate	Association of Chartered Certified Accountants	4
Fellow or Associate	Association of Corporate Treasurers	4
Fellow or Associate by examination	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	4
Investment Management Certificate	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	4
Fellow or Associate	Chartered Institute of Bankers in Ireland	4
Certificate in Investment Planning	Chartered Institute of Bankers in Scotland	4
Member or Associate	Chartered Institute of Bankers in Scotland	4
Fellow or Associate	Chartered Institute of Management Accountants	4
Fellow or Associate	Chartered Institute of Public Finance and Accountancy	4

Investment Administration Qualification – Introduction to Securities and Investment module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	4
Certificate in Corporate Finance	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Certificate in Derivatives – Paper 2	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Certificate in Investment Management	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Certificate in Securities – Paper 2	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Certificate in Securities and Financial Derivatives – Paper 2	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Client Services Qualification	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Diploma	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Diploma – Global Operations Management Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Diploma – International Operations Management Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Diploma – Operations Management Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Investment Advice Certificate – Paper 1	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Member of the Securities Institute by examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Securities Institute Level 3 Certificate in Investments (Derivatives) – Unit 3	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Securities Institute Level 3 Certificate in Investments (Investment Management)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Securities Institute Level 3 Certificate in Investments (Securities) – Unit 2	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Securities Institute Level 3 Certificate in Investments	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4

(Securities & Financial Derivatives) – Unit 4		
SFA Corporate Finance Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
SFA Futures and Options Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
SFA Securities Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
SFA Securities and Financial Derivatives Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Stock Exchange Registered Representative Examination	London Stock Exchange (records are now kept by the Chartered Institute for Securities & Investment; formerly the Securities and Investment Institute)	4
Fellow or Associate	Chartered Insurance Institute	4
Financial Planning Certificate – Paper 1	Chartered Insurance Institute	4
Fellow or Associate	Faculty or Institute of Actuaries	4
FSSC Advanced Apprenticeship in Retail Financial Services (investment Administration Pathway including the Introduction to Securities and Investment module)		4
Certificate for Financial Advisers – Paper 1 (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	4
Fellow or Associate	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	4
Fellow or Associate	Institute of Chartered Accountants in England and Wales	4
Fellow or Associate	Institute of Chartered Accountants in Ireland	4
Member	Institute of Chartered Accountants in Scotland	4
Certificate in Collective Investment Scheme Administration	Institute of Chartered Secretaries and Administrators	4
Certificate in Company Secretarial Practice and Share Registration (including the Regulatory module within the	Institute of Chartered Secretaries and Administrators	4

examination)		
Fellow or Associate	Institute of Chartered Secretaries and Administrators	4
Solicitor	Law Society of England and Wales/ Law Society of Scotland/ Law Society of Northern Ireland	4
Fellow or Associate	Pensions Management Institute	4
TSA Registered Representative Examinations	The Securities Association	4
Investment Management Certificate	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	5
Investment Regulation and Practice Paper of the Associate Examination	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	5
UK Regulation and Markets version of Investment Management Certificate	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	5
Certificate in Investment Planning – Paper 1	Chartered Institute of Bankers in Scotland	5
Investment Administration Qualification – FSA Regulatory Environment module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Unit 6 – Principles of Financial Regulation	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	5
Certificate in Investment Management	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
Diploma – Global Operations Management Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
Diploma – International Operations Management Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
Diploma – Operations Management Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
Diploma – Regulation and Compliance Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
Investment Administration Qualification – IMRO Regulatory Environment Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
Investment Administration	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5

Qualification – Regulatory Environment Module		
Investment Administration Qualification – FSA Regulatory Environment Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
Investment Advice Certificate – Paper 1	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
Securities Institute Level 3 Certificate in Investments (Investment Management)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
Securities & Investment Institute – Unit 1 Financial Regulation (Formerly the Securities Institute Regulatory Paper)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
SFA Futures and Options Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
SFA Registered Persons Examination – Section 1 (Regulation)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
SFA Securities Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
SFA Securities and Financial Derivatives Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
Financial Planning Certificate – Paper 1	Chartered Insurance Institute	5
FSSC Advanced Apprenticeship in Retail Financial Services (Investment Administration Pathway including FSA Regulatory Environment or Principles of Financial Regulation)		5
Diploma in Capital Markets, Regulation and Compliance	ICMA Centre / University of Reading (Formerly ISMA Centre / University of Reading)	5
Operations Certificate	ICMA Centre / University of Reading (Formerly ISMA Centre / University of Reading)	6

Programme (OCP)		
Certificate for Financial Advisers – Paper 1 (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	5
Certificate in Collective Investment Scheme Administration	Institute of Chartered Secretaries and Administrators	5
Certificate in Company Secretarial Practice and Share Registration (including the Regulatory module within the examination)	Institute of Chartered Secretaries and Administrators	5
Investment Administration Qualification – Asset Servicing module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – CREST Settlement module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Global Securities Operation module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – ISA and CTF Administration module	The Chartered Institute for Securities & Investments (Formerly the Securities & Investment Institute)	6
Diploma – Global Operations Management Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	6
Diploma – International Operations Management Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	6
Diploma – Operations Management Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Basics of CREST module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	6
Investment Administration	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	6

Qualification – Bond Settlement Module		
Investment Administration Qualification – Derivatives Operations Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Exchange-Traded Derivative Administration Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Global Custody Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Global Settlement Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – ISA Administration Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – OEIC Administration Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification –Operational Risk Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification - PEP Administration Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Private Client Administration Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Unit Trust Administration Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	6
FSSC Advanced Apprenticeship in Retail Financial Services (Investment Administration Pathway including either Asset		6

Servicing / CREST Settlement / Global Securities or ISA and CTF Administration)		
Certificate in Company Secretarial Practice and Share Registration (including the Regulatory module within the examination)	Institute of Chartered Secretaries and Administrators	6
Investment Administration Management Award	Investment Management Association	6
In house module (only where the firm can demonstrate that none of the listed examinations is appropriate)		6

Qualification table for : Carrying out on a day to day basis administrative functions in relation to effecting or carrying out *contracts of insurance which are life policies*:

- (i) new business administration;
- (ii) policy alterations including surrenders and policy loans;
- (iii) preparing projections;
- (iv) processing claims, including pension payments;
- (v) fund switching

Activity number 18 in TC Appendix 1.1.1R

Qualification	Qualification Provider	Key
Member	Association of Accounting Technicians	4
Fellow or Associate	Association of Chartered Certified Accountants	4
Fellow or Associate	Association of Corporate Treasurers	4
Fellow or Associate by examination	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	4
Investment Management Certificate	CFA Society UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	4
Fellow or Associate	Chartered Institute of Bankers in Ireland	4
Certificate in Investment	Chartered Institute of Bankers in Scotland	4

Planning – Paper 1		
Member or Associate	Chartered Institute of Bankers in Scotland	4
Fellow or Associate	Chartered Institute of Management Accountants	4
Fellow or Associate	Chartered Institute of Public Finance and Accountancy	4
Certificate in Corporate Finance	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Certificate in Derivatives – Paper 2	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Certificate in Securities – Paper 2	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Certificate in Securities and Financial Derivatives – Paper 2	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Client Services Qualification	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Diploma	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Diploma – Global Operations Management Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Diploma – International Operations Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Diploma – Operations Management Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Investment Administration Qualification – Introduction to Securities and Investment Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Investment Advice Certificate – Paper 1	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Membership of the Securities Institute by examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Securities Institute Level 3 Certificate in Investments (Derivatives) – Unit 3	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Securities Institute Level 3 Certificate in Investments (Investment Management)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Securities Institute Level 3 Certificate in Investments (Securities) – Unit 2	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Securities Institute Level 3	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4

Certificate in Investments (Securities & Financial Derivatives) – Unit 4		
SFA Corporate Finance Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
SFA Futures and Options Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
SFA Securities Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
SFA Securities and Financial Derivatives Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Stock Exchange Registered Representative Examination	London Stock Exchange (records are now kept by the Chartered Institute for Securities & Investment; formerly the Securities and Investment Institute)	4
CF1 – UK financial services, regulation and ethics	Chartered Insurance Institute	4
Certificate of Insurance Practice	Chartered Insurance Institute	4
Fellow or Associate	Chartered Insurance Institute	4
Financial Planning Certificate – Paper 1	Chartered Insurance Institute	4
Fellow or Associate	Faculty or Institute of Actuaries	4
FSSC Advanced Apprenticeship in Retail Financial Services (Long Term Insurance Pathway including CF1)		4
Certificate for Financial Advisers – Paper 1 (Post 1/11/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	4
Certificate for Financial Advisers – Paper 1 (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	4
Fellow or Associate	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	4
Fellow or Associate	Institute of Chartered Accountants in England and Wales	4
Fellow or Associate	Institute of Chartered Accountants in Ireland	4
Member	Institute of Chartered Accountants in Scotland	4
Certificate in Collective Investment Scheme	Institute of Chartered Secretaries and Administrators	4

Administration		
Fellow or Associate	Institute of Chartered Secretaries and Administrators	4
Solicitor	Law Society of England and Wales / Law Society of Scotland/ Law Society of Northern Ireland	4
Fellow or Associate	Pensions Management Institute	4
TSA Registered Representative Examinations	The Securities Association	4
Certificate in Investment Planning – Paper 1	Chartered Institute of Bankers in Scotland	5
Diploma – Regulation and Compliance Paper	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
Investment Administration Qualification – IMRO Regulatory Environment Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
Investment Administration Qualification – FSA Regulatory Environment Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
Investment Administration Qualification – Unit 2 FSA Regulatory Environment – (Formerly the Investment Administration Qualification – Regulatory Environment Module)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
Investment Advice Certificate – Paper 1	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
Principles of Financial Regulation	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
Securities & Investment Institute – Unit 1 Financial Regulation – (Formerly the Securities Institute Regulatory Paper)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
SFA Registered Persons Examination – Section 1 (Regulation)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
CF1 – UK financial services,	Chartered Insurance Institute	5

regulation and ethics		
Financial Planning Certificate – Paper 1	Chartered Insurance Institute	5
FSSC Advanced Apprenticeship in Retail Financial Services (Long Term Insurance Pathway including CF1)		5
Certificate for Financial Advisers – Paper 1 (Post 1/11/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	5
Certificate for Financial Advisers – Paper 1 (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	5
Certificate in Collective Investment Scheme Administration	Institute of Chartered Secretaries and Administrators	5
UK Regulation and Markets version of Investment Management Certificate	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	6
Investment Administration Qualification – Life Policy Administration Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	6
Investment Advice Certificate – Paper 2	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	6
Certificate of Insurance Practice (life or pensions route)	Chartered Insurance Institute	6
Fellow or Associate (life and pensions route only)	Chartered Insurance Institute	6
Financial Planning Certificate – Paper 2	Chartered Insurance Institute	6
Life assurance paper (735) from the Associateship	Chartered Insurance Institute	6
Pensions law, taxation and administration paper (740) from the Associateship	Chartered Insurance Institute	6
FA1 – Life office administration	Chartered Insurance Institute	6

FA2 – Pensions administration paper	Chartered Insurance Institute	6
Fellow or Associate	Faculty or Institute of Actuaries	6
FSSC Advanced Apprenticeship in Retail Financial Services (Long Term Insurance Pathway including CF1 and either FA1 or FA2)		6
Certificate for Financial Advisers – Paper 2 (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	6
Initial Test of Competence	Institute of Chartered Accountants in England and Wales	6
Module B(i), Retail Branded/ Packaged Products	Law Society of England and Wales	6
Diploma in Member-Directed Pension Scheme Administration	Pensions Management Institute	6
Fellow or Associate (by examination)	Pensions Management Institute	6
In-house module (only where the firm can demonstrate that none of the listed examinations are appropriate)		6

Qualification table for : Overseeing on a day to day basis administrative functions in relation to the operation of *stakeholder pension schemes*:

- (i) new business administration;
- (ii) receipt of or alteration to contributions;
- (iii) preparing projections and annual statements;
- (iv) administration of transfers;
- (v) handling claims, including pension payments;
- (vi) fund allocation and switching.

Activity number 19 in TC Appendix 1.1.1R

Qualification	Qualification Provider	Key
FSSC Advanced Apprenticeship		1

in Retail Financial Services (Long Term Insurance Pathway including CF1 & FA2)		
Member	Association of Accounting Technicians	4
Fellow or Associate	Association of Chartered Certified Accountants	4
Fellow or Associate	Association of Corporate Treasurers	4
Fellow or Associate by examination	CFA Society of UK (Formerly the United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	4
Investment Management Certificate	CFA Society of UK (Formerly the United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	4
Fellow or Associate	Chartered Institute of Bankers in Ireland	4
Certificate in Investment Planning – Paper 1	Chartered Institute of Bankers in Scotland	4
Member or Associate	Chartered Institute of Bankers in Scotland	4
Fellow or Associate	Chartered Institute of Management Accountants	4
Fellow or Associate	Chartered Institute of Public Finance and Accountancy	4
Certificate in Corporate Finance	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Certificate in Derivatives – Paper 2	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Certificate in Investment Management	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Certificate in Securities – Paper 2	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Certificate in Securities and Derivatives – Paper 2	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Client Services Qualification	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Diploma	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Diploma – Global Operations Management Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Diploma – International Operations Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Diploma – Operations Management Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Investment Administration Qualification – Introduction to Securities and Investment Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4

Investment Advice Certificate – Paper 1	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Member of the Securities Institute by examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Securities Institute Level 3 Certificate in Investments (Derivatives) – Unit 3	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Securities Institute Level 3 Certificate in Investments (Investment Management)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Securities Institute Level 3 Certificate in Investments (Securities) – Unit 2	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
Securities Institute Level 3 Certificate in Investments (Securities & Financial Derivatives) – Unit 4	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
SFA Corporate Finance Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
SFA Futures and Options Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
SFA Securities and Financial Derivatives Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
SFA Securities Representative Examination	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	4
CF1 – UK financial services, regulation and ethics	Chartered Insurance Institute	4
Stock Exchange Registered Representative Examination	London Stock Exchange (records are now kept by the Chartered Institute for Securities & Investment; formerly the Securities and Investment Institute)	4
Fellow or Associate	Chartered Insurance Institute	4
Financial Planning Certificate – Paper 1	Chartered Insurance Institute	4
Fellow or Associate	Faculty or Institute of Actuaries	4
Certificate for Financial Advisers – Paper 1 (Post 1/11/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	4

Certificate for Financial Advisers – Paper 1 (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	4
Fellow or Associate	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	4
Fellow or Associate	Institute of Chartered Accountants in England and Wales	4
Fellow or Associate	Institute of Chartered Accountants in Ireland	4
Member	Institute of Chartered Accountants in Scotland	4
Certificate in Collective Investment Scheme Administration	Institute of Chartered Secretaries and Administrators	4
Fellow or Associate	Institute of Chartered Secretaries and Administrators	4
Solicitor	Law Society of England and Wales/ Law Society of Scotland/ Law Society of Northern Ireland	4
Fellow or Associate	Pensions Management Institute	4
TSA Registered Representative Examinations	The Securities Association	4
UK Regulation and Markets version of the Investment Management Certificate	CFA Society of UK (Formerly United Kingdom Society of Investment Professionals/ Institute of Investment Management and Research)	5
Certificate in Investment Planning – Paper 1	Chartered Institute of Bankers in Scotland	5
Diploma – Regulation and Compliance module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
Investment Administration Qualification – IMRO Regulatory Environment Module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
Investment Administration Qualification – Unit 2 FSA Regulatory Environment – (Formerly the Investment Administration Qualification – Regulatory Environment module)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
Investment Advice Certificate Paper 1	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
Principles of Financial Regulation	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5

Securities & Investment Institute – Unit 1 Financial Regulation – (Formerly the Securities Institute Regulatory Paper)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
SFA Registered Persons Examination – Section 1 (Regulation)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	5
CF1 – UK financial services, regulation and ethics	Chartered Insurance Institute	5
Financial Planning Certificate – Paper 1	Chartered Insurance Institute	5
Certificate for Financial Advisers Paper 1 (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	5
Certificate for Financial Advisers – Paper 1 (Post 01/11/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	5
Investment Advice Certificate – Paper 2	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	6
Investment Administration Qualification – Pensions Administration module	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	6
FA2 – Pensions administration paper	Chartered Insurance Institute	6
Certificate of Insurance Practice (Pensions route)	Chartered Insurance Institute	6
Fellow or Associate (Pensions route)	Chartered Insurance Institute	6
Financial Planning Certificate Paper 2	Chartered Insurance Institute	6
Pensions law, taxation and administration paper (740) from the Associateship	Chartered Insurance Institute	6
Associate or Fellow	Faculty or Institute of Actuaries	6
Certificate for Financial Advisers Paper 2 (Pre	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	6

31/10/2004)		
Initial Test of Competence	Institute of Chartered Accountants in England and Wales	6
Initial Test of Competence	Institute of Chartered Accountants in Ireland	6
Initial Test of Competence	Institute of Chartered Accountants in Scotland	6
Module B(i) Retail Branded/ Packaged Products	Law Society of England and Wales	6
Fellow or Associate (by examination)	Pensions Management Institute	6
In house module (only where the firm can demonstrate that none of the listed examinations is appropriate)		6

Qualification table for : Advising a customer on a *regulated mortgage contract* (for a non-business purpose) – Activity number 20 in TC Appendix 1.1.1R

Qualification	Qualification Provider	Key
Mortgage Advice and Practice Certificate	Chartered Institute of Bankers in Scotland	1
Certificate in Mortgage Advice and Practice (MAPC) (Pre 16/09/2004)	Chartered Institute of Bankers in Scotland	1
MAPC bridge paper plus entry requirements (Pre 31/10/2004)	Chartered Institute of Bankers in Scotland	1
Certificate in Mortgage Advice	Chartered Insurance Institute	1
Mortgage Advice Qualification (MAQ) plus entry requirements	Chartered Insurance Institute	1
FSSC Advanced Apprenticeship in Advising on Financial Products (Mortgage Advice Pathway)		1
Certificate in Mortgage Advice and Practice (Post 1/11/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	1
Diploma for Mortgage Advice and Practice DipMAP (plus	<i>ifs</i> School of Finance	1

entry requirements)		
Certificate in Mortgage Advice and Practice (CeMAP) (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	1
CeMAP Bridge paper plus entry requirements	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	1
Certificate in Investment Planning – Paper 1 (Pre 16/09/2004)	Chartered Institute of Bankers in Scotland	3
MAPC – Paper 1 (Pre 16/09/2004)	Chartered Institute of Bankers in Scotland	3
Mortgage Advice and Practice Certificate – Paper 1 (Post 17/09/2004)	Chartered Institute of Bankers in Scotland	3
Investment Advice Certificate – Paper 1 (No new registrations)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Certificate in Mortgage Advice – Paper 1	Chartered Insurance Institute	3
Financial Planning Certificate – Paper 1 (No registrations after 17/12/2004)	Chartered Insurance Institute	3
Certificate in Mortgage Advice and Practice – Paper 1 (Post 1/11/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	3
Certificate for Financial Advisers – Paper 1 (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	3
Certificate in Mortgage Advice and Practice (CeMAP) – Paper 1 (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	3

Qualification table for : Advising a customer on *Equity release transactions* – Activity number 21 in TC Appendix 1.1.1R

Qualification	Qualification Provider	Key
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Certificate in Equity Release (Formerly known as Certificate in Financial Planning and Lifetime Mortgages)	Chartered Insurance Institute	1
Certificate in Regulated Equity Release (Formerly known as Certificate in Lifetime Mortgages)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	1
Equity Release Mortgage Advice & Practice Certificate (ERMAPC)	Chartered Institute of Bankers in Scotland	1
Certificate in Mortgage Advice and Practice (MAPC) (Pre 16/09/2004)	Chartered Institute of Bankers in Scotland	1
Lifetime Mortgage Advice and Practice Certificate	Chartered Institute of Bankers in Scotland	1
MAPC Bridge paper plus entry requirements (Pre 16/09/2004)	Chartered Institute of Bankers in Scotland	1
Mortgage Advice Qualification (MAQ) plus entry requirements	Chartered Insurance Institute	1
CeMAP bridge paper plus entry requirements (Pre 31/19/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	1
Certificate in Mortgage Advice and Practice (CeMAP) (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	1
Certificate in Investment Planning – Paper 1 (Pre 16/09/2004)	Chartered Institute of Bankers in Scotland	3
Certificate in Mortgage Advice and Practice (MAPC) – Paper 1 (Pre 16/09/2004)	Chartered Institute of Bankers in Scotland	3
Mortgage Advice and Practice Certificate – Paper 1 (Post 17/09/2004)	Chartered Institute of Bankers in Scotland	3
Certificate in Investment and Financial Advice – Paper 1	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Investment Advice Certificate –	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3

Paper 1 (No new registrations)		
Certificate in Mortgage Advice – Paper 1	Chartered Insurance Institute	3
Certificate in Mortgage Advice – Paper 1	Chartered Insurance Institute	3
Financial Planning Certificate – Paper 1 (No new registrations after 17/12/2004)	Chartered Insurance Institute	3
Certificate in Mortgage Advice and Practice (Post 1/11/2004) – Paper 1	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	3
Certificate for Financial Advisers – Paper 1 (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	3
Certificate in Mortgage Advice and Practice (CeMAP) – Paper 1 (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	3

Qualification table for : Designing scripted questions for use in sales to customers of *regulated lifetime mortgage contracts* which do not involve *personal recommendations* – Activity number 22 in TC Appendix 1.1.1R

Qualification	Qualification Provider	Key
Equity Release Mortgage Advice & Practice Certificate (ERMAPC)	Chartered Institute of Bankers in Scotland	1
Certificate in Mortgage Advice and Practice (MAPC) (Pre 16/09/2004)	Chartered Institute of Bankers in Scotland	1
Lifetime Mortgage Advice and Practice Certificate	Chartered Institute of Bankers in Scotland	1
MAPC bridge paper plus entry requirements (Pre 16/09/2004)	Chartered Institute of Bankers in Scotland	1
Certificate in Equity Release	Chartered Insurance Institute	1
Mortgage Advice Qualification	Chartered Insurance Institute	1

(MAQ) plus entry requirements		
Certificate in Regulated Equity release	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	1
Certificate in Mortgage Advice and Practice (CeMAP) (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	1
CeMAP bridge paper plus entry requirements (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	1
Certificate in Investment Planning – Paper 1 (Pre 16/09/2004)	Chartered Institute of Bankers in Scotland	3
Certificate in Mortgage Advice and Practice (MAPC) – Paper 1 (Pre 16/09/2004)	Chartered Institute of Bankers in Scotland	3
Certificate in Investment and Financial Advice – Paper 1	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Investment Advice Certificate – Paper 1 (No new registrations)	The Chartered Institute for Securities & Investment (Formerly the Securities & Investment Institute)	3
Financial Planning Certificate – Paper 1 (No new registrations after 17/12/2004)	Chartered Insurance Institute	3
Certificate for Financial Advisers – Paper 1 (Pre 31/10/2004)	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	3

Qualification table for : Overseeing non-advised sales on a day-to-day basis on *Equity release transactions* – Activity number 23 in TC Appendix 1.1.1R

Qualification	Qualification Provider	Key
Certificate in Equity Release	Chartered Insurance Institute	4
Certificate in Regulated Equity Release	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	4
Equity Release Mortgage Advice & Practice Certificate (ERMAPC)	Chartered Institute of Bankers in Scotland	4
Certificate in Equity Release	Chartered Insurance Institute	5
Certificate in Regulated Equity Release	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	5

Equity Release Mortgage Advice & Practice Certificate (ERMAPC)	Chartered Institute of Bankers in Scotland	5
Certificate in Equity Release	Chartered Insurance Institute	6
Certificate in Regulated Equity Release	<i>ifs</i> School of Finance (Formerly the Chartered Institute of Bankers)	6
Equity Release Mortgage Advice & Practice Certificate (ERMAPC)	Chartered Institute of Bankers in Scotland	6

Appendix 5G Appropriate qualification criteria

Introduction

1. *TC* Appendix 4E contains a list of appropriate qualifications for the purposes of *TC* 2.1.10E.
2. This Appendix sets out:
 - (1) the criteria which the *FSA* may take into account when assessing a qualification provider; and
 - (2) the information the *FSA* will expect the qualification provider to provide if it asks the *FSA* to add a qualification to the list of appropriate qualifications in *TC* Appendix 4E.

Criteria for assessing a qualification provider

3. The *FSA* will expect the qualification provider of an appropriate qualification to have, in the *FSA*'s opinion:
 - (1) assessors and qualification developers who are trained and qualified;
 - (2) valid, reliable and robust assessment methods;
 - (3) robust governance and a clear separation of function between its qualification services and any other services it performs, including effective procedures for managing any conflicts of interest;
 - (4) procedures for reviewing and refreshing its syllabus and question banks to ensure that they are relevant and up to date;
 - (5) robust and credible procedures for assessing a candidate's demonstration of the learning outcomes specified in the relevant examination standards;
 - (6) robust arrangements for contingency and business continuity planning in relation to its qualification services;
 - (7) appropriate records management procedures in relation to its qualification services;
 - (8) procedures for dealing with inappropriate conduct by candidates, for example, attempting to obtain or obtaining qualifications dishonestly;
 - (9) robust procedures for the setting of assessments and marking of results; and
 - (10) adequate resources in order to be financially viable.

Information about the qualification to be provided to the FSA

4. If a qualification provider asks the *FSA* to add a qualification to the list of

appropriate qualifications in *TC* Appendix 4E, the *FSA* will expect the qualification provider to:

- (1) where relevant, specify the qualifications framework within which the qualification is placed;
- (2) specify the activity in *TC* Appendix 1 to which the qualification relates;
- (3) set out the recommended prior knowledge, attainment or experience for candidates;
- (4) where relevant, set out the exemption policy for a candidate's prior learning or achievement;
- (5) provide the relevant learning materials to the *FSA* together with an explanation of how those learning materials correspond to the content of the most recent examination standards. Any content of the examination standards which has been excluded from the learning materials must be justified;
- (6) where applicable, explain how grading is applied;
- (7) where applicable, explain the provider's rules of combination;
- (8) provide details of expected learning hours or any other similar arrangements;
- (9) where applicable, specify the level of the overall qualification with reference to the relevant qualification framework or, if there is no relevant qualification framework, the European Qualifications Framework and the percentage of the qualification at that level, as well as the percentages and the levels for the remainder of the qualification;
- (10) provide details of any credit for prior learning included in the qualification together with an explanation of how it meets the most recent examination standards; and
- (11) provide an explanation of how the qualification compares in quality and standard to other similar qualifications.

Information about the qualification provider to be provided to the *FSA*

5. When considering whether to include or retain a qualification in the list of appropriate qualifications, the *FSA* may consider, where relevant:
 - (1) whether the qualification provider has in place suitable arrangements for:
 - (a) meeting its statutory duties in relation to equality and diversity; and
 - (b) reducing barriers to learning, for example, for candidates with learning difficulties;

- (2) any concerns, issues or investigations which have been raised by the qualification provider’s qualifications regulator;
- (3) the annual pass rates of each of the relevant qualifications;
- (4) the quality of the service the qualification provider provides to candidates in relation to qualifications and its complaints procedures;
- (5) how the qualification provider maintains its qualifications to ensure they remain comparable to other qualifications in the same sector; and
- (6) whether the qualification provider gives candidates reasonable notice of any syllabus change, change in method of assessment or pass standards;
- (7) information supporting the criteria in *TC* Appendix 5G paragraph 3.

Amend the following as shown.

TP 1 Designated Investment Business: Assessments of competence before commencement

TP 1.1

1.1	R	(1)	This <i>rule</i> applies in respect of an <i>employee</i> of a firm <i>firm</i> employed at <i>commencement</i> who had, before commencement <i>commencement</i> , been assessed as competent by a <i>firm</i> in accordance with the applicable <i>rules</i> of its <i>previous regulator</i> .
		(2)	An <i>employee</i> described in (1) is exempt from the requirements in this sourcebook to pass <i>attain</i> an appropriate examination <i>qualification</i> if the activity (or role of a supervisor) carried on by that <i>employee</i> after <i>commencement</i> is the same or substantially the same as that for which the <i>employee</i> had been assessed as competent before <i>commencement</i> .

TP 1.2

1.2	R	If an employee <i>employee</i> of a <i>firm</i> is exempted from an examination <i>a qualification</i> requirement under <i>TC</i> TP 1.1R and any other <i>firm</i> subsequently employs the individual, that exemption continues to apply in respect of that subsequent employment on the same basis provided that:	
		(1)	the activity which the <i>employee</i> carries on (or the role of the supervisor) continues to be the same, or substantially the same, as that in respect of which the <i>employee</i> had previously enjoyed the benefit of the exemption; and

		(2)	the individual had not experienced any significant break in employment since the last employment in respect of which the individual had the benefit of an exemption under <i>TC TP 1</i> .
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TP 2 Designated Investment Business: Assessments of competence in 12 month period after commencement

TP 2.1

2.1	R	(1)	This <i>rule</i> applies in respect of an <i>employee</i> who had, on 31 October 2007, the benefit of an exemption under transitional rule 2 in <i>TC TP 1.1R</i> in the form it was in on 31 October 2007.
		(2)	An <i>employee</i> described in (1) is exempt from the requirements in this sourcebook to pass <u>attain</u> an appropriate examination <u>qualification</u> but only in respect of the activities in respect of which the <i>employee</i> had the benefit of that exemption as at 31 October 2007.
2.2	R		If an <i>employee</i> of a <i>firm</i> is exempted from an examination <u>a qualification</u> requirement under <i>TC TP 2.1R</i> and any other firm subsequently employs the individual, that exemption continues to apply in respect of that subsequent employment on the same basis provided that:
		(1)	the activity which the <i>employee</i> carries on continues to be the same, or substantially the same, as that in respect of which the <i>employee</i> had previously enjoyed the benefit of the exemption; and
		(2)	the individual had not experienced any significant break in employment since the last employment in respect of which the individual had the benefit of an exemption under <i>TC TP 2</i> .
2.3	G		At 31 October 2007 transitional rule 2 in <i>TC TP 1.1R</i> applied to a <i>firm</i> whose <i>employees</i> at <i>commencement</i> had not been subject to any specific training and competence requirements of a <i>previous regulator</i> . This rule allowed the <i>firm</i> to assess such individuals as competent in the first twelve months after <i>commencement</i> without their having to pass an exam. The exemption applied only in respect of the activities which the individual was able to carry on before <i>commencement</i> where they were the same or substantially the same.

TP 3 Regulated Mortgage Contracts: Assessments of competence under the Mortgage Code Compliance Board Rules

3.1	R	...	
		(2)	If the individual described in (1) was assessed as competent by the <i>firm</i> before 31 October 2004 in accordance with the rules of the

			Mortgage Code Compliance Board applying immediately before 31 October 2004, the individual is exempt from the requirements in this sourcebook to pass <u>attain</u> an appropriate examination <u>qualification</u> provided that:
...			
3.2	R		If an <i>employee</i> of a <i>firm</i> is exempted from an examination <u>a qualification</u> requirement under <i>TC TP 3.1R</i> and any other <i>firm</i> subsequently employs the individual, that exemption continues to apply in respect of that subsequent employment on the same basis provided that:
		...	

TC TP 4 Home Reversion Plans: Assessments of competence before 6 April 2007 in relation to lifetime mortgages

4.1	R	...	
		(2)	An individual in (1) is exempt from the examination <u>qualification</u> requirements in this sourcebook in relation to activities carried on concerning <i>home reversion plans</i> that correspond to those in (1) provided that:
		...	
4.2	R		If an <i>employee</i> of a <i>firm</i> is exempted from an examination <u>a qualification</u> requirement under <i>TC TP 4.1R</i> and any other <i>firm</i> subsequently employs the individual, that exemption continues to apply in respect of that subsequent employment on the same basis provided that:
		...	
...			

After TC TP 7 insert the following new text. The text is not underlined.

TP 8 Transitional provisions relating to time limits for attaining qualifications

8.1	R		An <i>employee</i> who is carrying on an activity specified in <i>TC Appendix 1</i> on 1 January 2011 will, for the purposes of <i>TC 2.2A.1R</i> , be regarded as starting to carry on that activity on that date.
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Annex D**Amendments to the Supervision manual (SUP)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

...

10.10.7C G The *FSA* would expect an individual from overseas to be accompanied on a visit to a *customer*. *TC 2.1.9R(2)* provides that the *firm* will have to be satisfied that the individual has at least three years' up-to-date relevant experience obtained outside the *United Kingdom*. However, the remaining provisions of *TC 2.1.9R(2)* are disapplied in these circumstances (except for an individual who gives advice to *retail clients* on *packaged products* or is a *broker fund adviser*). The effect of this is that such individuals need not ~~pass~~ attain the relevant regulatory module of an appropriate ~~examination~~ qualification (see *TC 2.1.9R(2)*).

...

**CAPITAL REQUIREMENTS DIRECTIVE (HANDBOOK AMENDMENTS NO 2)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 150(2) (Actions for damages);
 - (3) section 156 (General supplementary powers); and
 - (4) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force as follows:
- (1) the amendments in Annex A, Annex B and Part 1 of Annex C come into force on 31 December 2010; and
 - (2) the remainder of the instrument comes into force on 1 January 2011.

Amendments to the Handbook

- D. The General Prudential sourcebook (GENPRU) is amended in accordance with Annexes A and B to this instrument.
- E. The Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU) is amended in accordance with Annex C to this instrument.

Citation

- F. This instrument may be cited as the Capital Requirements Directive (Handbook Amendments No 2) Instrument 2010.

By order of the Board
16 December 2010

Annex A

Amendments to the General Prudential sourcebook (GENPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text.

2.2 Capital resources

...

Core tier one capital: permanent share capital

2.2.83 R *Permanent share capital* means an item of capital which (in addition to satisfying GENPRU 2.2.64R) meets the following conditions:

- (1) ...
- (2) any *coupon* on it is not cumulative, the *firm* is under no obligation to pay a *coupon* in any circumstances and the *firm* has the right to choose the amount of any *coupon* that it pays; ~~and~~
- (3) the terms upon which it is issued do not permit redemption and it is otherwise incapable of being redeemed to at least the same degree as an ordinary *share* issued by a company incorporated under the Companies Act 2006 (whether or not it is such a *share*); ~~and~~
- (4) (in the case of a BIPRU firm) it meets the conditions set out in GENPRU 2.2.83AR (General conditions for eligibility of capital instruments as core tier one capital (BIPRU firm only)).

General conditions for eligibility of capital instruments as core tier one capital (BIPRU firm only)

2.2.83A R The conditions that a BIPRU firm's permanent share capital must comply with under GENPRU 2.2.83R(4) or that a BIPRU firm's eligible partnership capital or eligible LLP members' capital must comply with under GENPRU 2.2.95R are as follows:

- (1) it is undated;
- (2) the terms upon which it is issued do not give the holder a preferential right to the payment of a coupon;
- (3) the terms upon which it is issued do not indicate the amount of any coupon that may be payable nor impose an upper limit on the amount of any coupon that may be payable;
- (4) the firm's obligations under the instrument do not constitute a liability (actual, contingent or prospective) under section 123(2) of the Insolvency Act 1986 and the holder has no right to petition for the

- winding up or administration of the *firm* or for any similar procedure in relation to the *firm* arising from the non-payment of a *coupon* or any other sums payable under the instrument;
- (5) there is no contractual or other obligation arising out of the terms upon which it is issued that requires the *firm* to repay capital to the holders other than on a liquidation of the *firm*;
- (6) the terms upon which it is issued do not include a dividend pusher or a dividend stopper;
- (7) the *firm* is under no obligation to issue *core tier one capital* or to make a payment in kind in lieu of making a *coupon* payment and non-payment of a *coupon* is not an event of default on the part of the *firm*;
- (8) it is simple and the terms upon which it is issued are clearly defined;
- (9) it is able to fully and unconditionally absorb losses on a non-discretionary basis as soon as they arise to allow the *firm* to continue trading, and it absorbs losses before all *capital instruments* that are not eligible for inclusion in stage A of the *capital resources table* and equally and proportionately with all *capital instruments* that are eligible for inclusion in stage A of the *capital resources table*;
- (10) it ranks for repayment on winding up, administration or any other similar process lower than all other items of capital, and on a liquidation of the *firm* the holders have a claim on the residual assets remaining after satisfaction of all prior claims that is proportional to their holding and do not have a priority claim or a fixed claim for the nominal amount of their holding;
- (11) the *firm* has not provided the holder with a direct or indirect financial contribution specifically to pay for the whole or a part of its subscription or purchase;
- (12) a reasonable person would not think that the *firm* is likely to redeem or purchase it because of the description of its characteristics used in its marketing and in its contractual terms of issue; and
- (13) its issue is not connected with one or more other transactions which, when taken together with its issue, could result in it no longer displaying all of the characteristics set out in *GENPRU 2.2.83R(2)*, *GENPRU 2.2.83AR(1)* to (12) and (in the case of *permanent share capital*) *GENPRU 2.2.83R(3)*.

2.2.83B R A *BIPRU firm* must not include in stage A of the *capital resources table* different classes of the same *share* type (for example “A ordinary shares” and “B ordinary shares”) that meet the conditions in *GENPRU 2.2.83R* and *GENPRU 2.2.83AR* but have differences in voting rights, unless it has notified the *FSA* of its intention at least one month before the *shares* are

issued or (in the case of existing issued *shares*) the differences in voting rights take effect.

2.2.83C R A BIPRU firm must not pay a coupon on a tier one instrument included in stage A of the capital resources table if it has no distributable reserves.

2.2.83D G A BIPRU firm may disclose its dividend policy, provided that the policy only reflects the current intention of the firm and does not undermine the firm's right to choose the amount of any coupon that it pays.

Core tier one capital: exception to eligibility criteria (building societies only)

2.2.83E R A building society may include in stage A of the capital resources table a capital instrument that includes in its terms of issue an upper limit on the amount of any coupon that may be payable and the prohibition on a coupon limit under GENPRU 2.2.83AR(3) does not apply to that capital instrument, provided that:

- (1) the capital instrument satisfies all other conditions for eligibility as core tier one capital set out in GENPRU 2.2.83R to GENPRU 2.2.83AR;
- (2) the coupon limit has been imposed by law or the constitutional documents of the firm;
- (3) the objective of the limit is to protect the capital reserves of the firm;
- (4) the firm continues to have the effective right to choose the amount of any coupon that it pays;
- (5) all other capital instruments issued by the firm and included in stage A of the capital resources table:
 - (a) meet the conditions set out in GENPRU 2.2.83R(2), GENPRU 2.2.83R(3) and GENPRU 2.2.83AR (General conditions for eligibility of capital instruments as core tier one capital (BIPRU firm only)); and
 - (b) if subject to a coupon limit, are subject to the same coupon limit; and
- (6) any preferential coupon on a capital instrument included in stage A of the capital resources table, arising as a result of the inclusion of a coupon limit on another capital instrument, must be restricted to a fixed multiple of the coupon payment on the capital instrument that is subject to the coupon limit. GENPRU 2.2.83AR(2) to (3) do not prevent a capital instrument from being included in stage A of the capital resources table if the only reason for those prohibitions not being met is that a preferential coupon arises, and is restricted, in the manner referred to in this paragraph (6).

- 2.2.83F R *A building society must not issue a capital instrument that includes a coupon limit in its terms of issue in accordance with GENPRU 2.2.83ER unless it has notified the FSA of its intention to do so at least one month before the intended date of issue.*
- 2.2.83G G *Under GENPRU 2.2.83ER(4), an effective right means that in practice the firm has, and exercises, full discretion to choose the amount of coupon that it pays (for example, it has not fettered that discretion by indicating to instrument holders that the coupon limit is the standard level of coupon they will receive).*
- 2.2.83H G *The purpose of GENPRU 2.2.83ER(6) is to limit the potential preferential rights that may arise on capital instruments that are not subject to a coupon limit. The FSA considers that “preferential” refers to both priority of coupon payment and level of coupon payment. Therefore the FSA considers that:*
- (1) *a coupon arising on a capital instrument which is not subject to an explicit coupon limit within its terms of issue is likely to be preferential to a coupon on a capital instrument included in the same stage of capital which is subject to a coupon limit; and*
 - (2) *the preference so arising should be restricted so that it is not an unlimited preference.*

Core tier one capital: additional information

- 2.2.84 G *In the case of an insurer, GENPRU ~~2.2.83R~~ 2.2.83R(2) and GENPRU 2.2.83R(3) have* has the effect that the firm should be under no obligation to make any payment in respect of a tier one instrument if it is to form part of its permanent share capital unless and until the firm is wound up. A tier one instrument that forms part of permanent share capital should not therefore count as a liability before the firm is wound up. The fact that relevant company law permits the firm to make earlier repayment does not mean that the tier one instruments are not eligible. However, the firm should not be required by any contractual or other obligation arising out of the terms of that capital to repay permanent share capital. Similarly, a tier one instrument may still qualify if company law allows dividends to be paid on this capital, provided the firm is not contractually or otherwise obliged to pay them. There should therefore be no fixed costs. GENPRU 2.2.83AR to GENPRU 2.2.83FR impose more specific conditions on coupon payment and winding up which are applicable to BIPRU firms.
- 2.2.84A G *Under GENPRU 2.2.83AR(13) a tier one instrument does not meet the conditions for inclusion as core tier one capital if in isolation it does meet those requirements but fails to meet those requirements when other transactions are taken into account. Examples of those transactions include guarantees, pledges of assets or other side agreements provided by the firm to the holder of a tier one instrument designed to enhance the legal or economic seniority of the tier one instrument.*

...

2.2.95 R A *BIPRU firm* that is a partnership or a *limited liability partnership* may not include *eligible partnership capital* or *eligible LLP members' capital* in its *tier one capital resources* unless (in addition to *GENPRU 2.2.62R* (General conditions relating to *tier one capital*) it complies with *GENPRU 2.2.83R(2)* (~~*Coupons*~~ Coupons should not be cumulative or mandatory) and *GENPRU 2.2.83AR* to *GENPRU 2.2.83CR* (General conditions for eligibility of capital instruments as core tier one capital (BIPRU firm only)). However, *GENPRU 2.2.64R(3)* (Redemption), *GENPRU 2.2.83AR(5)* (Capital repayment) and *GENPRU 2.2.83AR(12)* (Characteristics in contract) are ~~is~~ replaced by *GENPRU 2.2.93R* or *GENPRU 2.2.94R*.

...

Schedule 2 Notification and reporting requirements

...

3 Table

Handbook reference	Matter to be notified	Contents of notification	Trigger events	Time allowed
...
<i>GENPRU 2.2.79GR</i>	...	...	...	...
<u><i>GENPRU 2.2.83BR</i></u>	<u>Intention to include in stage A of the <i>capital resources table</i> different classes of the same <i>share</i> type that meet the conditions in <i>GENPRU 2.2.83R</i> and <i>GENPRU 2.2.83AR</i> but have differences in voting rights.</u>	<u>Fact of intention.</u>	<u>Intention to include in stage A of the <i>capital resources table</i> classes of the same <i>share</i> type that have different voting rights.</u>	<u>At least one month before the <i>shares</i> are issued or (in the case of existing issued <i>shares</i>) the differences in voting rights take effect.</u>
<u><i>GENPRU 2.2.83FR</i></u>	<u>Intention by a <i>building society</i> to issue a <i>capital instrument</i> that includes a <i>coupon limit</i> in</u>	<u>Fact of intention.</u>	<u>Intention to issue a <i>capital instrument</i> that includes a <i>coupon limit</i>.</u>	<u>At least one month before the intended date of issue.</u>

	<u>its terms of issuance in accordance with GENPRU 2.2.83ER.</u>			
...

Annex B

Further amendments to the General Prudential sourcebook (GENPRU)

The amendments shown in this Annex are to the version of the General Prudential sourcebook (GENPRU) as amended by Annex B to the Capital Requirements Directive (Handbook Amendments) Instrument 2010 (FSA 2010/29) which comes into force, together with this Annex, on 31 December 2010.

Although the amendments in Annex B to the Capital Requirements Directive (Handbook Amendments) Instrument 2010 (FSA 2010/29) have not come into force as at the date of this instrument, they are not shown as underlined for the purpose of this Annex.

In this Annex, underlining indicates new text inserted into the version of the General Prudential Sourcebook amended in Annex B to the Capital Requirements Directive (Handbook Amendments) Instrument 2010 (FSA 2010/29) and striking through indicates text deleted from that version, unless otherwise stated.

2.2 Capital resources

...

Table: Arrangement for GENPRU 2.2

2.2.6 G This table belongs to *GENPRU 2.2.5G*

Topic	Location of text
...	...
<i>Core tier one capital: permanent share capital</i>	<i>GENPRU 2.2.83R to GENPRU 2.2.84G <u>2.2.84AG</u></i>
<u>General conditions for eligibility of capital instruments as core tier one capital (BIPRU firm only)</u>	<u>GENPRU 2.2.83AR to GENPRU 2.2.83DG; GENPRU 2.2.84AG</u>
<u>Core tier one capital: exception to eligibility criteria (building societies only)</u>	<u>GENPRU 2.2.83ER to GENPRU 2.2.83HG</u>
...	...
Purchases of <i>tier one instruments: BIPRU firm only</i>	<i>GENPRU 2.2.79AR to GENPRU 2.2.79HG; GENPRU 2.2.79LG</i>
...	...

...

General conditions for eligibility as tier one capital

2.2.64 R The conditions that an item of capital of a *firm* must comply with under *GENPRU 2.2.62R(2)* are as follows:

...

(6) it is able to absorb losses to allow the *firm* to continue trading and:

...

(b) in the case of a *BIPRU firm*, it does not, through appropriate mechanisms, hinder the recapitalisation of the *firm*, and in particular it complies with:

(i) *GENPRU 2.2.80R to GENPRU 2.2.81R* (Loss absorption); ~~and~~

(ii) ~~in the case of hybrid capital, GENPRU 2.2.116R to GENPRU 2.2.118R (Other tier one capital: loss absorption);~~ in the case of core tier one capital, GENPRU 2.2.83AR(9) to (10) (General conditions for eligibility of capital instruments as core tier one capital (BIPRU firm only)); and

(iii) in the case of hybrid capital, GENPRU 2.2.116R to GENPRU 2.2.118R (Other tier one capital: loss absorption);

...

...

Purchases of tier one instruments: BIPRU firm only

2.2.79A R A *BIPRU firm* must not purchase a *tier one instrument* that it has included in its *tier one capital resources* unless:

(1) the *firm* initiates the purchase;

(2) ~~it is on or after the fifth anniversary of the date of issue of the instrument; and~~ [deleted]

(3) the *firm* has given notice to the *FSA* in accordance with *GENPRU 2.2.79GR*; and

(4) (in the case of hybrid capital) it is on or after the fifth anniversary of the date of issue of the instrument.

2.2.79B G In exceptional circumstances a *BIPRU firm* may apply for a *waiver* of

~~GENPRU 2.2.79AR(2)~~ ~~GENPRU 2.2.79AR(4)~~ under section 148 (Modification or waiver of rules) of the Act.

- 2.2.79C R ~~GENPRU 2.2.79AR(2)~~ ~~GENPRU 2.2.79AR(4)~~ does not apply if:
- (1) the *firm* replaces the *capital instrument* it intends to purchase with a *capital instrument* that is included in a *higher stage of capital* or the *same stage of capital*; and
 - (2) the replacement *capital instrument* has already been issued.

- 2.2.79D R ~~GENPRU 2.2.79AR(2)~~ ~~GENPRU 2.2.79AR(4)~~ does not apply if:
- (1) the *firm* intends to hold the purchased instrument for a temporary period as *market maker*; and
 - (2) the purchased instruments held by the *firm* do not exceed the lower of:
 - (a) 10% of the relevant issuance; and
 - (b) 3% of the *firm's* total issued *hybrid capital*.

...

2.2.79I R A BIPRU firm must not announce to the holders of a tier one instrument its intention to purchase that instrument unless it has notified that intention to the FSA in accordance with GENPRU 2.2.79GR and it has not, during the period of one month from the date of giving notice, received an objection from the FSA.

2.2.79J R If a BIPRU firm announces the purchase of any tier one instrument, the firm must no longer include that instrument in its tier one capital resources.

2.2.79K R If a BIPRU firm does not comply with its capital resources requirement, or if the purchase of any tier one instrument would cause it to breach its capital resources requirement, it must suspend the purchase of tier one instruments.

2.2.79L G A firm should continue to exclude from its tier one capital resources all tier one instruments that are the subject of a purchase notification under GENPRU 2.2.79GR and for which the offer to purchase has been declined by the instrument holders unless the purchase offer period has expired.

...

2.2.82 G There are additional loss absorption requirements for (in the case of an insurer) innovative tier one capital, and (in the case of a BIPRU firm) hybrid capital in GENPRU 2.2.116R to GENPRU 2.2.118R (Other tier one capital: loss absorption) and (in the case of a BIPRU firm) for core tier one capital in GENPRU 2.2.83AR(9) to (10) (General conditions for eligibility of capital instruments as core tier one capital (BIPRU firm only)).

...

After GENPRU TP 8A, insert the following new transitional provisions. The text is not underlined.

TP 8B Miscellaneous capital resources definitions for BIPRU firms: Core tier one capital

Application

8B.1 R This section applies to a *BIPRU firm*.

Core tier one capital

8B.2 R A provision in this section applies on a consolidated basis for the purposes of *BIPRU 8* (Group risk – consolidation) to a *UK consolidation group* to the extent that, and in the same manner that, the provision in *GENPRU* to which it relates applies on a consolidated basis.

8B.3 R The Royal Bank of Scotland plc may treat a *share* falling within *GENPRU* TP 8B.4R as eligible for inclusion within stage A of the *capital resources table* (Core tier one capital) if it would not otherwise be eligible provided that:

- (1) the *share*:
 - (a) had been issued on or before 30 December 2010; or
 - (b) if issued after that date, is issued pursuant to a contractual obligation requiring its issue entered into on or before 30 December 2010;
- (2) as at 30 December 2010 The Royal Bank of Scotland plc was entitled (or would have been entitled, had the *share* then been issued) to include it in the calculation of its *capital resources* under *GENPRU* as *permanent share capital* and, in the case of a *share* which had been issued as at that date, did so include it; and
- (3) the *share* is held by or on behalf of the Government of the *United Kingdom*.

8B.4 R The *shares* referred to in *GENPRU* TP 8B.3R are as follows:

- (1) The Royal Bank of Scotland Group plc Series 1 Class B Shares of 1p each; and
- (2) The Royal Bank of Scotland Group plc Series 1 Dividend Access Share of 1p;

either as separate instruments or considered together as connected

instruments

Voting rights

8B.5 R A *BIPRU firm* may treat an ordinary *share* that has different voting rights to other ordinary *shares* issued by the *firm* as eligible for inclusion within stage A of the *capital resources table* (Core tier one capital) without making a notification of issue or change in voting rights to the *FSA* under *GENPRU* 2.2.83BR if:

- (1) on 30 December 2010 the *firm* was subject to *GENPRU*;
- (2) the *firm* issued the ordinary *share* on or before 30 December 2010 and the shareholders were bound by the differences in voting rights on or before 30 December 2010; and
- (3) as at 30 December 2010 the *firm* included the ordinary *share*, and was entitled to include it, in the calculation of *capital resources* under *GENPRU* as *permanent share capital*;

provided that by 30 June 2011 the *firm* provides the *FSA* with full details of the ordinary *shares*, their terms of issue and the differences in voting rights applicable to those ordinary *shares*.

Annex C

Amendments to the Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text.

Part 1: Comes into force on 31 December 2010

6.5 Operational risk: Advanced measurement approaches

...

6.5.30A G A firm that recognises the impact of insurance and operational risk mitigation techniques for the purposes of its *operational risk* measurement system should be able to show that it has considered the Commission of European Banking Supervisors' guidelines on operational risk mitigation techniques published in December 2009. This can be found at <http://www.c-ebs.org/documents/Publications/Standards---Guidelines/2009/Operational-risk-mitigation-techniques/Guidelines.aspx>.

...

10.2 Identification of exposures and recognition of credit risk mitigation

...

10.2.2A G The Committee of European Banking Supervisors (CEBS) has issued guidelines on the conditions applicable to the short-term *exposures* referred to in *BIPRU* 10.2.2R(4) and (5) in order to be exempted from the *large exposures* limits in *BIPRU* 10.5 (Limits on exposures). These guidelines can be found at: [http://www.c-ebs.org/Publications/Standards-Guidelines/CEBS-Guidelines-on-Article-106\(2\)-\(c\)-and-\(d\)-of-D.aspx](http://www.c-ebs.org/Publications/Standards-Guidelines/CEBS-Guidelines-on-Article-106(2)-(c)-and-(d)-of-D.aspx).

...

10.3 Identification of counterparties

...

Connected counterparties

10.3.8 R ...

10.3.8A G The Committee of European Banking Supervisors (CEBS) has issued guidelines in relation to the definition of a *group of connected clients*, in particular with reference to the concepts of “control” and “economic interconnection”. These guidelines can be found at: <http://www.c-ebs.org/Publications/Standards-Guidelines/CEBS-Guidelines-on-the-revised-large-exposures-reg.aspx> - Part I.

...

Exposures to underlying assets

10.3.15 R ...

10.3.16 G The Committee of European Banking Supervisors (CEBS) has issued guidelines in relation to the treatment for *large exposures* purposes of schemes with *exposures* to underlying assets. These guidelines can be found at: <http://www.c-ebs.org/Publications/Standards-Guidelines/CEBS-Guidelines-on-the-revised-large-exposures-reg.aspx> - Part II.

...

Part 2: Comes into force on 1 January 2011

3.4 Risk weights under the standardised approach to credit risk

...

Exposures in the form of covered bonds

...

3.4.107 R (1) *Covered bonds* means covered bonds as defined in paragraph (1) of the definition in the *glossary* (Definition based on Article 22(4) of the *UCITS Directive*) and collateralised by any of the following eligible assets:

...

(d) loans secured:

- (i) by residential real estate or shares in Finnish residential housing companies as referred to in *BIPRU* 3.4.57R up to the lesser of the principal amount of the liens that are combined with any prior liens and 80% of the value of the pledged properties; or
- (ii) by senior units issued by French Fonds Communs de Créances or by equivalent *securitisation* entities governed by the laws of an *EEA State securitising* residential real estate *exposures* provided that ~~at least 90% of the assets of such Fonds Communs de Créances or of equivalent *securitisation* entities governed by the laws of an *EEA State* are composed of mortgages that are combined with any prior liens up to the lesser of the principal amounts due under the units,~~

~~the principal amounts of the liens, and 80% of the value of the pledged properties and the units qualify for *credit quality step 1* where such units do not exceed 20% of the nominal amount of the outstanding issue~~ the special public supervision to protect bond holders as provided for in Article 52(4) of Directive 2009/65/EC of the European Parliament and of the Council ensures that the assets underlying such units must, at any time while they are included in the cover pool, be at least 90% composed of residential mortgages that are combined with any prior liens up to the lesser of the principal amounts due under the units, the principal amounts of the liens, and 80% of the value of the pledged properties, that the units qualify for *credit quality step 1* and that such units do not exceed 10% of the nominal amount of the outstanding issue; or

- (e) (i) loans secured by commercial real estate or shares in Finnish housing companies as referred to in *BIPRU* 3.4.57R up to the lesser of the principal amount of the liens that are combined with any prior liens and 60% of the value of the pledged properties; or
- (ii) ~~loans secured by senior units issued by French Fonds Communs de Créances or by equivalent *securitisation* entities governed by the laws of an *EEA State* securitising commercial real estate *exposures* provided that, at least, 90% of the assets of such Fonds Communs de Créances or of equivalent *securitisation* entities governed by the laws of an *EEA State* are composed of mortgages that are combined with any prior liens up to the lesser of the principal amounts due under the units, the principal amounts of the liens, and 60% of the value of the pledged properties and the units qualify for *credit quality step 1* where such units do not exceed 20% of the nominal amount of the outstanding issue~~ the special public supervision to protect bond holders as provided for in Article 52(4) of Directive 2009/65/EC of the European Parliament and of the Council ensures that the assets underlying such units must, at any time while they are included in the cover pool, be at least 90% composed of commercial mortgages that are combined with any prior liens up to the lesser of the principal amounts due under the units, the principal amounts of the liens, and 60% of the value of the pledged properties, that the units qualify for *credit quality step 1* and that such units do not exceed 10% of the nominal amount of the outstanding issue; or

(iii) ...

...

...

(4) ~~Until 31 December 2010 the 20% limit for senior units issued by French Fonds Communs de Créances or by equivalent *securitisation* entities specified in subpoints (d) and (e) does not apply, provided that those senior units have a credit assessment by a *nominated ECAI* which is the most favourable category of credit assessment made by the *ECAI* in respect of *covered bonds*. [deleted]~~

(4A) Until 31 December 2013, the 10% limit for senior units issued by French Fonds Communs de Créances or by equivalent *securitisation* entities as specified in (1)(d)(ii) and (1)(e)(ii) does not apply, provided that:

(a) the *securitised residential or commercial real estate exposures* were originated by a member of the same consolidated group of which the *issuer* of the *covered bonds* is also a member or by an entity affiliated to the same central body to which the *issuer* of the *covered bonds* is also affiliated (that common group membership or affiliation to be determined at the time the senior units are made collateral for *covered bonds*); and

(b) a member of the same consolidated group of which the *issuer* of the *covered bonds* is also a member or an entity affiliated to the same central body to which the *issuer* of the *covered bonds* is also affiliated retains the whole first loss tranche supporting those senior units.

...

...

4.4 The IRB approach: Exposures to corporates, institutions and sovereigns

...

IRB foundation approach: LGDs

4.4.34 R A *firm* must use the following *LGD* values:

...

(4) *covered bonds* may be assigned an *LGD* value of ~~12.5%~~ 11.25%; and

...

4.4.35 R ~~Until 31 December 2010, *covered bonds* as set out in BIPRU 3.4.107R to~~

~~*BIPRU 3.4.110R* may be assigned an *LGD* value of 11.25% if:~~

- ~~(1) assets set out in *BIPRU 3.4.107R(1)(a)* to *(c)* collateralising the *covered bonds* all qualify for *credit quality assessment step one* as set out in *BIPRU 3*;~~
- ~~(2) where assets set out in *BIPRU 3.4.107R(1)(d)* and *BIPRU 3.4.107R(1)(e)* are used as collateral, the respective upper limits laid down in each of those points is 10% of the nominal amount of the outstanding issue;~~
- ~~(3) assets as set out in *BIPRU 3.4.107R(1)(f)* are not used as collateral; or~~
- ~~(4) the *covered bonds* are the subject of a credit assessment by a *nominated ECAI*, and the *ECAI* places them in the most favourable category of credit assessment that the *ECAI* could make in respect of *covered bonds*. [deleted]~~

~~[Note: *BCD Annex VII Part 2 point 8 (part)*]~~

...

Transitional Provisions

...

TP 2 Capital floors for a firm using the IRB or AMA approaches

...

Waiver from IPRU capital resources requirement

2.11A G Article 152(5d) and (5e) of the *Banking Consolidation Directive* allows the FSA to waive the capital floor calculation based on the IPRU capital resources requirement in *BIPRU TP 2.8R(3)*, or *BIPRU TP 2.8R(3)* as applied in *BIPRU TP 2.9R*, on a case-by-case basis only if a firm started to use the *IRB approach* or the *advanced measurement approach* on or after 1 January 2010. The FSA will consider an application for such a waiver in the light of the criteria in section 148 of the *Act (Modification or waiver of rules)*.

2.11B R If a firm has a waiver referred to in *BIPRU TP 2.11AG*, it must provide capital resources that equal or exceed 80% of the capital resources requirement that the firm would be required to provide under the relevant sections of *BIPRU* applicable to it immediately before it started to use the *IRB approach* or the *advanced measurement approach* as those sections were in force on 31 December 2010.

...

TP 11 IRB transitionals

...

Residential properties

- 11.6 R In accordance with Article 154(5) of the *Banking Consolidation Directive*, until ~~31 December 2010~~ 31 December 2012, the *exposure*-weighted average *LGD* for all *retail exposures* secured by residential properties and not benefiting from guarantees from central governments must not be lower than 10%.

...

**INTEGRATED REGULATORY REPORTING (AMENDMENT NO 9)
INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 156 (General supplementary powers); and
 - (3) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 31 December 2010.

Amendments to the Handbook

- D. The Supervision manual (SUP) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Integrated Regulatory Reporting (Amendment No 9) Instrument 2010.

By order of the Board
16 December 2010

Annex

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

16 Annex 24R Data items for SUP 16.12

FSA003

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...

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81	Under foundation IRB approach	
82	Retail IRB	
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85	Total operational risk capital requirement	
86	Operational risk for UK consolidation group reporting calculated under non-EEA rules by aggregation for UK consolidation group reporting <u>for UK consolidation group reporting</u>	
87	Operational risk basic indicator approach	
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...

16 Annex 25G**Guidance notes for data items in SUP 16 Annex 24R**

...

FSA003 – Capital adequacy

...

77A Total credit risk capital component

See *BIPRU* 3.1.5R, as modified if a firm has an IRB permission.

A further breakdown of this figure is provided quarterly in FSA004 for those firms that are required to report that data item.

For UK consolidation group reporting, this is the part of the consolidated credit risk requirement corresponding to the credit risk capital component (i.e. the capital requirements for credit risk excluding concentration risk and counterparty risk). This will be the sum of data elements 78A, 79A and 80A.

[CEBS' CA 2.1]

78A Credit risk for UK consolidation group reporting calculated by aggregation for ~~UK consolidation group reporting under non-EEA rules~~

This is only relevant for UK consolidation groups, and then only if they calculate their credit risk capital component under BIPRU 8.7.13R(2). The only amount to be included here is the part (if any) of data element 77A calculated (when this is allowed under BIPRU 8) using the rules of a non-EEA regulator.

If the UK consolidation group is comprised wholly of firms authorised and incorporated in the EEA, this data element will not be applicable.

79A Credit risk capital requirements under the standardised approach

The *credit risk capital component* calculated under BIPRU 3, using the exposure classes set out in BIPRU 3.2.9R.

For UK consolidation group reporting, this will be that part of their consolidated credit risk requirement included in data element 77A calculated under:

- (a) BIPRU 3; or
- (b) the corresponding rules of another EEA regulator (when this is allowed under BIPRU 8).

It should not include any amount calculated using the rules of a non-EEA regulator. It will be after any consolidation adjustments for inter-group transactions.

This will agree with data element 1A on FSA004.

[CEBS' CA 2.1.1]

80A Credit risk capital requirements under the IRB approach

The *credit risk capital component* under BIPRU 3 ~~4~~ calculated in accordance with a firm's IRB permission to use the IRB approach ~~and BIPRU 4~~.

For UK consolidation group reporting, this will be that part of their consolidated credit risk requirement included in data element 77A calculated under:

- (a) BIPRU 4; or
- (b) the corresponding rules of another EEA regulator (when this is allowed under BIPRU 8).

It should not include any amount calculated using the rules of a non-EEA regulator. It will be after any consolidation adjustments for inter-group transactions.

[CEBS' CA 2.1.2]

81A Under foundation IRB approach

The part of the credit risk capital component under *BIPRU 3 4* calculated in accordance with a firm's IRB permission to use the foundation IRB approach ~~and *BIPRU 4*~~. This figure covers the following exposures classes:

- central government and central banks (*BIPRU 4.3.2R(1)*);
- institutions (*BIPRU 4.3.2R(2)*); and
- corporates (*BIPRU 4.3.2R(3)*).

For UK consolidation group reporting, this will be that part of their consolidated credit risk requirement included in data element 77A calculated under:

- (a) the relevant parts of *BIPRU 4*; or
- (b) the corresponding rules of another EEA regulator (when this is allowed under *BIPRU 8*).

It should not include any amount calculated using the rules of a non-EEA regulator. It will be after any consolidation adjustments for inter-group transactions.

This will agree to data element 18A on FSA004.

[CEBS' CA 2.1.2.1]

82A Retail IRB

This covers the part of the credit risk capital component under *BIPRU 3 4* calculated in accordance with a firm's IRB permission to use the advanced IRB approach ~~and *BIPRU 4*~~, and covers the retail exposure class (*BIPRU 4.3.2R(4)*).

For UK consolidation group reporting, this will be that part of their consolidated credit risk requirement included in data element 77A calculated under:

- (a) the relevant parts of *BIPRU 4*; or
- (b) the corresponding rules of another EEA regulator (when this is allowed under *BIPRU 8*).

It should not include any amount calculated using the rules of a non-EEA regulator. It will be after any consolidation adjustments for inter-group transactions.

This will agree to data element 23A on FSA004.

83A Under advanced IRB approach

The part of the credit risk capital component under *BIPRU 3 4* calculated in accordance with a firm's IRB permission to use the advanced IRB approach ~~and *BIPRU 4*~~. This figure covers the following exposure classes:

- central governments and central banks (*BIPRU* 4.3.2R(1));
- institutions (*BIPRU* 4.3.2R(2)); and
- corporates (*BIPRU* 4.3.2R(3)).

For UK consolidation group reporting, this will be that part of their consolidated credit risk requirement included in data element 77A calculated under:

- (a) the relevant parts of *BIPRU* 4; or
- (b) the corresponding rules of another EEA regulator (when this is allowed under *BIPRU* 8).

It should not include any amount calculated using the rules of a non-EEA regulator. It will be after any consolidation adjustments for inter-group transactions.

This will agree to data element 28A on FSA004.

[CEBS' CA 2.1.2.2 minus retail]

84A Other IRB exposure classes

The part of the credit risk capital component under *BIPRU* 3 4 calculated in accordance with a firm's IRB permission to use the IRB approach ~~and *BIPRU* 4~~. This figure covers the following exposure classes:

- equity claims (*BIPRU* 4.3.2R (5));
- securitisation positions (*BIPRU* 4.3.2R (6)); and
- non credit-obligation assets (*BIPRU* 4.3.2R (7)).

For UK consolidation group reporting, this will be that part of their consolidated credit risk requirement included in data element 77A calculated under:

- (a) the relevant parts of *BIPRU* 4; or
- (b) the corresponding rules of another EEA regulator (when this is allowed under *BIPRU* 8).

It should not include any amount calculated using the rules of a non-EEA regulator. It will be after any consolidation adjustments for inter-group transactions.

This will agree to data element 33A on FSA004.

[CEBS' CA 2.1.2.3 plus 2.1.2.4 plus 2.1.2.5]

85A Total operational risk capital requirement

This is only relevant for *UK banks, building societies and full scope BIPRU investment firms*. It is also relevant for any *BIPRU limited activity firm* or *BIPRU limited licence firm* that has a waiver under *BIPRU* 6.1.2G (to apply an *ORCR* rather than a fixed overheads requirement).

See *BIPRU* 6.

A *full scope BIPRU investment firm* that meets the conditions set out in *BIPRU TP 5.1R* should enter here the full *ORCR* that would have applied but for *BIPRU TP 5.7R*. The reduction as a result of that rule should be reported in data element 90A.

A further breakdown of this figure is provided in FSA007 for firms on the standardised approach, alternative standardised approach or the advanced ~~models~~ measurement approach.

For UK consolidation group reporting, this is the consolidated operational risk requirement. This will be the sum of data elements 86A, 87A, 88A and 89A, but is subject to the restrictions in BIPRU 8 on combining certain methods of calculating operational risk capital requirements.

[CEBS' CA 2.4]

86A Operational risk ~~calculated by aggregation~~ for UK consolidation group reporting calculated under non-EEA rules

This is only relevant for *UK consolidation groups* ~~completing data element 89A, and then only if they calculate their operational risk capital requirement under BIPRU 8.7.13R(2).~~

The only amount to be included here is the part (if any) of their consolidated operational risk requirement calculated (when this is allowed under BIPRU 8) using the rules of a non-EEA regulator.

If the UK consolidation group consists wholly of firms authorised and incorporated in the EEA, this data element will not be applicable.

87A Operational risk basic indicator approach

This is only relevant for those firms completing data element 85A.

See *BIPRU 6.3*.

For UK consolidation group reporting, this will be that part of their consolidated operational risk requirement calculated under:

- (a) the relevant parts of BIPRU 6; or
- (b) the corresponding rules of another EEA regulator (when this is allowed under BIPRU 8).

It should not include any amount calculated using the rules of a non-EEA regulator. It will be after any consolidation adjustments for inter-group transactions.

[CEBS' CA 2.4.1]

88A Operational risk standardised/alternative standardised approach

This is only relevant for those firms completing data element 85A.

See *BIPRU 6.4*.

For UK consolidation group reporting, this will be that part of their consolidated operational risk requirement calculated under:

- (a) the relevant parts of *BIPRU 6*; or
- (b) the corresponding rules of another *EEA* regulator (when this is allowed under *BIPRU 8*).

It should not include any amount calculated using the rules of a non-*EEA* regulator. It will be after any consolidation adjustments for inter-group transactions.

This will agree to data element 15A on FSA007.

[*CEBS' CA 2.4.2*]

89A Operational risk advanced measurement approaches

This is only relevant for those firms completing data element 85A.

See *BIPRU 6.5*.

For UK consolidation group reporting, this will be that part of their consolidated operational risk requirement calculated under:

- (a) the relevant parts of *BIPRU 6*; or
- (b) the corresponding rules of another *EEA* regulator (when this is allowed under *BIPRU 8*).

It should not include any amount calculated using the rules of a non-*EEA* regulator. It will be after any consolidation adjustments for inter-group transactions.

This will agree to data element 15B on FSA007.

[*CEBS' CA 2.4.3*]

...

93A Total market risk capital requirement

See *BIPRU 7* and also *GENPRU 2.2.46R*.

A further breakdown of this figure (less 94A in the case of *UK consolidation group* reports) is provided in FSA005 for firms that meet the reporting thresholds defined in *SUP 16.12.5R* (note 4), *SUP 16.12.11R* (note 4), *SUP 16.12.15R* (note 4), *SUP ~~16.12.22R~~ 16.12.22AR* (note 4) and *SUP ~~16.12.25R~~ 16.12.25AR* (note 4).

For UK consolidation group reporting, this is the consolidated market risk requirement. This will be the sum of data elements 94A, 95A and 102A.

[*CEBS' CA 2.3*]

94A Market risk capital requirement ~~calculated by aggregation~~ for UK consolidation group reporting calculated under non-*EEA* rules

This is only relevant for *UK consolidation groups*, ~~and then only if they calculate their market risk capital component under BIPRU 8.7.13R(2).~~

The only amount to be included here is the part (if any) of their consolidated market risk requirement calculated (when this is allowed under BIPRU 8) using the rules of a non-EEA regulator.

If the UK consolidation group consists wholly of firms authorised and incorporated in the EEA, this data element will not be applicable.

95A Position, foreign exchange and commodity risks under TSA

See BIPRU 7.

For UK consolidation group reporting, this will be that part of their consolidated market risk requirement calculated under the standardised approaches under:

- (a) the relevant parts of BIPRU 7; or
- (b) the corresponding rules of another EEA regulator (when this is allowed under BIPRU 8).

It should not include any amount calculated using the rules of a non-EEA regulator. It will be after any consolidation adjustments for inter-group transactions.

[CEBS' CA 2.3.1]

96A Interest rate PRR

See ~~BIPRU 7.1.7R~~ 7.1.9R to ~~BIPRU 7.1.13E~~ 7.1.16E, BIPRU 7.2, BIPRU 7.3, BIPRU 7.6, BIPRU 7.9, BIPRU 7.11.12R and BIPRU 7.11.35R.

For UK consolidation group reporting, this will be that part of their consolidated market risk requirement calculated under the standardised approaches under:

- (a) the relevant parts of BIPRU 7; or
- (b) the corresponding rules of another EEA regulator (when this is allowed under BIPRU 8).

It should not include any amount calculated using the rules of a non-EEA regulator. It will be after any consolidation adjustments for inter-group transactions.

This will agree with data element 18G on FSA005.

97A Equity PRR

See ~~BIPRU 7.1.7R~~ 7.1.9R to ~~BIPRU 7.1.13E~~ 7.1.16E, BIPRU 7.3.48R and ~~BIPRU 7.3.49G~~, BIPRU 7.6, BIPRU 7.9, BIPRU 7.11.12R and BIPRU 7.11.35R.

For UK consolidation group reporting, this will be that part of their consolidated market risk requirement calculated under the standardised approaches under:

- (a) the relevant parts of BIPRU 7; or
(b) the corresponding rules of another EEA regulator (when this is allowed under BIPRU 8).

It should not include any amount calculated using the rules of a non-EEA regulator. It will be after any consolidation adjustments for inter-group transactions.

This will agree with data element 29G on FSA005.

[CEBS' CA 2.3.1.2]

98A Commodity PRR

See ~~BIPRU 7.1.7R~~ 7.1.9R to ~~BIPRU 7.1.13E~~ 7.1.16E, BIPRU 7.4 and BIPRU 7.9.

For UK consolidation group reporting, this will be that part of their consolidated market risk requirement calculated under the standardised approaches under:

- (a) the relevant parts of BIPRU 7; or
(b) the corresponding rules of another EEA regulator (when this is allowed under BIPRU 8).

It should not include any amount calculated using the rules of a non-EEA regulator. It will be after any consolidation adjustments for inter-group transactions.

This will agree with data element 40G on FSA005.

[CEBS' CA 2.3.1.4]

99A Foreign currency PRR

See ~~BIPRU 7.1.7R~~ 7.1.9R to ~~BIPRU 7.1.13E~~ 7.1.16E, BIPRU 7.5, BIPRU 7.6 and BIPRU 7.9.

For UK consolidation group reporting, this will be that part of their consolidated market risk requirement calculated under the standardised approaches under:

- (a) the relevant parts of BIPRU 7; or
(b) the corresponding rules of another EEA regulator (when this is allowed under BIPRU 8).

It should not include any amount calculated using the rules of a non-EEA regulator. It will be after any consolidation adjustments for inter-group transactions.

This will agree with data element 48G on FSA005.

[CEBS' CA 2.3.1.3]

100A CIU PRR

See ~~BIPRU 7.1.7R~~ 7.1.9R to ~~BIPRU 7.1.13E~~ 7.1.16E, BIPRU 7.6, BIPRU 7.7 and BIPRU 7.9.

For UK consolidation group reporting, this will be that part of their consolidated market risk requirement calculated under the standardised approaches under:

- (a) the relevant parts of BIPRU 7; or
- (b) the corresponding rules of another EEA regulator (when this is allowed under BIPRU 8).

It should not include any amount calculated using the rules of a non-EEA regulator. It will be after any consolidation adjustments for inter-group transactions.

This will agree with data element 55G on FSA005.

101A Other PRR

See ~~BIPRU 7.1.7R~~ 7.1.9R to ~~BIPRU 7.1.13E~~ 7.1.16E.

For UK consolidation group reporting, this will be that part of their consolidated market risk requirement calculated under the standardised approaches under:

- (a) the relevant parts of BIPRU 7; or
- (b) the corresponding rules of another EEA regulator (when this is allowed under BIPRU 8).

It should not include any amount calculated using the rules of a non-EEA regulator. It will be after any consolidation adjustments for inter-group transactions.

This will agree with data element 56G on FSA005.

102A Position, foreign exchange and commodity risks under internal models

See BIPRU 7.10.

For UK consolidation group reporting, this will be that part of their consolidated market risk requirement calculated under the advanced approaches under:

- (a) the relevant parts of BIPRU 7; or
- (b) the rules of another EEA regulator (when this is allowed under BIPRU 8).

It should not include any amount calculated using the rules of a non-EEA regulator. It will be after any consolidation adjustments for inter-group transactions.

This will agree with data element 61G on FSA005.

[CEBS' CA 2.3.2]

...

106A Surplus/deficit of own funds

This is 15A less 70A or, where 69A is greater than 70A, 57A less 69A.

This should be a positive figure, showing the amount of excess capital over that required for the variable capital requirement measured at the reporting date or the amount of excess capital over that required for the *base capital resources requirement* where it is greater than the variable capital requirement, as well as any requirements.

{CEBS' CA 3.2}

...

107A Overall solvency ratio

This is 15A divided by 70A, multiplied by 100 (or 57A divided by 69A where 69A is greater than 70A) and represents the firm's overall solvency.

{CEBS' CA 3.2.a}

...

142A Capital Planning Buffer

Enter the amount of the *capital planning buffer* that the FSA considers the firm should hold. This amount can be determined from information provided in the most recent letter the firm has received from the FSA setting out the amount and quality of the *capital planning buffer* the firm should hold over and above the level of capital recommended as its ICG (as described in BIPRU 2.2.12BG).

If no *capital planning buffer* has been set, firms should enter 0 here.

143A Draw Down of Capital Planning Buffer

Enter the cumulative amount of *capital planning buffer* which the firm has used up to and including the current regulatory reporting period.

An entry into this cell does not constitute notice as set out in BIPRU 2.2.23G. As set out in BIPRU 2.2.23AG, the FSA may separately ask a firm to continue reporting on the use of its *capital planning buffer* over and above the reporting requirements set out in SUP 16 Annex 24R.

If no amount of the *capital planning buffer* has been used, firms should enter 0 here.

144A Surplus/(deficit) total capital over ICG and capital planning buffer

This is the amount in data element 15A (total capital resources) less the amount in data element 108A (individual capital guidance – total capital resources) and less the amount in data element 142A (capital planning buffer). However, if no ICG has been set and data element 108A is 0, this should also be 0.

145A Surplus/(deficit) general purpose capital over ICG and capital planning buffer

This is the amount in data element 57A (total tier one capital plus tier two capital after deductions) less the amount in data element 109A (individual capital guidance – general purpose capital) and less the amount in data element 142A (capital planning buffer). However, if no ICG has been set and data element 109A is 0, this should also be 0.

...

FSA004 – Credit risk

This data item provides details of the credit risk capital requirements of firms reported in FSA003.

For *UK consolidation groups*, the figures reported should exclude any ~~credit risk capital requirement~~ part of the consolidated credit risk requirement that has been calculated using aggregation under BIPRU 8.7.13R(2) the rules of a non-EEA regulator.

It will be after any consolidation adjustments for inter-group transactions.

...

FSA005 – Market risk

This data item provides the FSA with information on the market risk capital requirement under *GENPRU 2.1.40R*. The data item is intended to reflect the underlying prudential requirements contained in *GENPRU* and *BIPRU* and allows monitoring against the requirements set out there and also those individual requirements placed on firms. We have provided references to the underlying rules to assist in its completion.

For *UK consolidation groups*, the figures reported should exclude any ~~market risk capital requirement~~ part of the consolidated market risk requirement that has been calculated using aggregation under BIPRU 8.7.13R(2) the rules of a non-EEA regulator.

It will be after any consolidation adjustments for inter-group transactions.

...

FSA007 – Operational risk

This data item provides the FSA with information on the operational risk facing a firm. It is intended to reflect the underlying prudential requirements contained in *BIPRU* and allows monitoring against the requirements set out there. We have provided references to the underlying rules to assist in its completion.

This data item is based on CEBS' COREP Table OPR, OPR Details, and OPR LOSS Details¹, but reflects the ~~Rules~~ rules and wording in the Handbook, and omits items which are not in our view relevant in the UK. The numbers in parenthesis and italics show the

¹ www.c-ebs.org/documents/GL04_OR.xls

corresponding item(s) in CEBS' Table OPR, OPR Details or OPR LOSS Details and are only provided for information purposes to identify the linkage to the CEBS' data.

For UK consolidation groups, the figures reported should exclude any part of the consolidated operational risk requirement that has been calculated using the rules of a non-EEA regulator.

It will be after any consolidation adjustments for inter-group transactions.

...

FSA015 – Sectoral information, including arrears and impairment

...

Definitions

Coverage

Only assets held in the banking book at amortised cost, including overdrafts, should be included in FSA015. Derivatives, trading book exposures and intragroup exposures should be excluded. In addition, as FSA015 relates mainly to loans and similar financial assets, other asset types likely to be excluded are those covered by FSA001, data elements 11-19, e.g. intangible assets, fixed assets and prepayments. Also, in general we would not expect trade debtors to be included unless the debts are treated as loans or advances in the statutory annual accounts.

All relevant assets should be included in columns A and H, even where the accounts have no associated arrears or impairments.

Column A: “All balances (customer) outstanding at period end”

This is the amount of total debt owed by the customer at the reporting date, and should comprise the total amount outstanding (after deducting any write-offs but without deduction for any provisions or impairments) in respect of:

- (i) the principal of the ~~advance~~ debt (including any further advances made);
- (ii) interest ~~accrued~~ due on the ~~advance~~ debt (but only up to the reporting date), including any interest suspended; do not include interest accrued but not yet payable unless it would not be reasonably practicable for the firm to separately identify and exclude such accrued interest;
and

...

In the case of (ii) above, where a firm at first includes accrued interest as it is not reasonably practicable not to do so but subsequently is able to do so, the FSA would expect to be notified of this change of approach under Principle 11 (Relation with regulators).

The information in respect of balances to be reported in this column should not be fair-valued but should report the contractual position (i.e. between the lender and borrower).

The treatment of loan assets that are being operated as part of a current account offset mortgage product (or similar products where *deposit* funding is offset against loan balances in arriving at a net interest cost on the account) will depend on the conditions pertaining to the mortgage product. The balance outstanding on such loans will need to be reported on the basis of the contractually defined balance according to the terms of the mortgage product. This might be the amount of loan excluding any offsetting funds, or it might be the net amount, depending upon the terms of the offset arrangement.

The appropriate rows of column A should be completed for all the categories to which the firm has an exposure even if there are no associated arrears.

It is not expected that these figures in this column will necessarily reconcile to any of the firm's published statutory data or on other data items, as the valuation basis is likely to differ.

Columns B–G, rows 1-11: “Balances of accounts in arrears/default by band”

...

The analysis is based on ~~working out~~ expressing the amount of arrears and/or the amount past due on each loan as a percentage of the balance outstanding on the loan (calculated in the same way as for column A) and then reporting the total balance of the account in the relevant arrears band, ~~providing details of cases moving up into more serious arrears bands in the quarter (or half year in the case of a UK consolidation group), and giving information on loan performance during the quarter or half year.~~ (In cases where there is more than one loan to a debtor (or debtors) secured on a single property, these should be amalgamated, where possible, in reporting details of arrears cases.) with balances allocated to the row representing the predominant part of the debt outstanding.

Arrears and amounts past due will arise through the borrower failing to service any element of his debt obligation to the *firm*, including capital, interest, or fees, fines, administrative charges, default interest or insurance premiums.

At the reporting date, for loan accounts the amount ~~of~~ in arrears or past due is the difference between:

(i) the accumulated total amounts of (monthly or other periodic) payments due to be received from the borrower; and

...

Only amounts which are contractually due at the reporting date should be included in the above. That is:

(i) ~~include accrued interest~~ and amounts due for payments only up to the reporting date but not beyond, do not include interest accrued but not yet payable (unless this would not be reasonably practicable, see under Column A, paragraph (ii) above);

...

~~Where a 'capitalisation' case that has at one time been correctly removed as fully performing but at some later time defaults, then this should be treated as a new default and the amount of arrears taken as that arising from this new default. That is, the previously capitalised arrears should not be reinstated as current arrears. The decision to 'capitalise' arrears (or treat as if capitalised) is a business decision between the *firm* and the borrower. By 'capitalisation' we mean a formal arrangement agreed with the borrower to add all or part of a borrower's arrears to the amount of outstanding principal (i.e. advance of principal including further advances less capital repayments received during the period of the loan) and then treating that amount of overall debt as the enlarged principal. This enlarged principal is then used as the basis for calculating future monthly payments over the remaining term of the loan. Where less than the full amount of arrears is capitalised (or indeed where none of the arrears is capitalised) then, providing there are arrangements made for the borrower to repay the non-capitalised arrears over a shorter period ranging for example from 3 to 18 months, this type of arrangement should also be regarded as an equivalent of 'capitalisation'.~~

~~The decision to 'capitalise' (or treat as if capitalised) is a business decision between the *firm* and the borrower. However for~~ For the purposes of consistency in reporting arrears cases the following reporting criteria should be used where a *firm* has capitalised the loan (or treated as if capitalised) and reset the monthly payment:

(i) such an arrears case should continue to be included as an arrears case until the loan has been 'fully performing' (see (ii) below) for a period of six consecutive months (any temporary increase in arrears during this qualifying period has the effect of requiring six consecutive months of ~~fully performing~~ full performance after such an event). Until that time ~~the balance of the loan~~ should be included in the table and be allocated to the arrears band applicable at each reporting date as if 'capitalisation' had not taken place;

(ii) ...

Where a 'capitalisation' case becomes fully performing but later the borrower defaults again, this subsequent default should be regarded as a new default and the amount of arrears should be the amount arising from this new default. That is, the previously capitalised arrears should not be reinstated as current arrears.

For **overdrafts**, the amount to be treated as in arrears or past due is:

(i) any amount borrowed and/or outstanding in excess of the overdraft limit for that account (whether explicitly agreed with the borrower or otherwise);

(ii) the whole amount of any balance outstanding (regardless of whether within the overdraft limit or not) where no credit has been received into the account in the previous 90 days; and

(iii) the whole amount of any balance outstanding (regardless of whether within the overdraft limit or not) where the *firm* has determined that a default has occurred and/or where an impairment or provision charge has been raised and/or where formal demand for repayment has been made.

All amounts to include interest and fees and/or other charges. Do not include interest accrued but not yet payable.

For **credit cards** (and equivalent revolving credit facilities) the amount to be treated as in

arrears or past due is:

(i) any amount outstanding above the agreed card limit (as advised to the customer);

(ii) any amount of the minimum monthly payments due which has not been met by credits to the account (on a cumulative basis, where the latest credit is applied to extinguish the earliest minimum payment due);

(iii) the whole amount of any balance outstanding (regardless of whether within limit or not) where no credit has been received to the account in the previous 90 days; and

(iv) the whole amount of any balance outstanding (regardless of whether within limit or not) where the *firm* has determined that a default has occurred and/or where an impairment or provision charge has been raised) and/or where formal demand for repayment has been made.

All amounts to include interest and fees and other charges. Do not include interest accrued but not yet payable.

...

Column B rows 12-26

Include here the ~~amount of any payments that~~ balance of all accounts where a counterparty has failed to make payments when they were contractually due.

...

For overdrafts and other revolving credit facilities, the amount to be treated as in arrears and/or past due is:

(i) any amount borrowed and/or outstanding in excess of the overdraft limit for that account (whether explicitly agreed with the borrower or otherwise);

(ii) the whole amount of any balance outstanding (regardless of whether within limit or not) where no credit has been received to the account in the previous 90 days; and

(iii) the whole amount of any balance outstanding (regardless of whether within limit or not) where the *firm* has determined that a default has occurred and/or where an impairment or provision charge has been raised) and/or where formal demand for repayment has been made.

All amounts to include interest and fees and other charges due but not paid (unless incorporated in a balance that is within the agreed limit). Do not include interest accrued but not yet payable.

Column C rows 12-26

Past due: 'o/w impaired' is shorthand for 'of which impaired'. The terms 'impaired' and 'impairment' here, and in other places in FSA015, should be consistent with that used in the *firm's* statutory Annual Accounts. Where the *firm's* accounts are compiled under UK GAAP the terms should be equated to 'general provisions' and 'specific provisions'.

Include here the ~~amount by which~~ balances of any exposures in column B which are also deemed to be impaired.

...

If impaired exposures are reported in column C, we would usually expect the balances to be reported in column N or, where applicable, column P.

Column D rows 12-26

'Other impaired' refers to impaired exposures which have no past due element.

...

Column E rows 12-26

For unsecured exposures and partially secured exposures (where the collateral held does not cover the entire exposure) enter ~~Enter~~ the total gross value, before deduction of impairment charges, ~~of exposures against which impairment charges have been made have been~~ classified as impaired (i.e. included in columns C and D) and for which either where no collateral is held or where collateral is held but is insufficient to cover the entire exposure. ~~against the exposure; i.e. report~~ Report here loans which are included in columns C and D because they are impaired, reporting the ~~amount of the loan which is unsecured. Report the unsecured amount of the loan, irrespective of the impaired amount~~ balance owed, less the realisable value of the security held, for each loan.

For fully secured lending (rows 13 and 17) we would usually expect a nil value in column E, unless it is known that the current realisable value of the security shows a shortfall. Where such a loan is subsequently restructured, it should be reclassified to the row appropriate for the security cover at that point.

Column B rows 27-31

Include here any *exposures* where payments have not been made on the date due and are now overdue and where there is little prospect for recovery of principal or interest.

Column C rows 27-31

Include here the amount ~~by which~~ of any other *exposures* which, whilst not in default, are deemed to be impaired.

Column D rows 27-31

Include here the Mark-to-market value of any impaired *exposures* included in columns B and C.

Column H: All balances (accounting) at period end

This is the total value of the on balance sheet *exposures* in each category, valued in line with the *firm's* accounting policies. However, there will not necessarily be a direct reconciliation between column H and the firm's statutory published Balance Sheet, nor between column H

and FSA001, as FSA015 does not include all asset classes (and excludes trading book assets).

...

Columns J-M

The reference to 'in periods' at columns J to M is a reference to the amount of write-offs or impairment charges since the last reported FSA015.

In completing column J there may be a difference to accounting convention as write-offs should be reported as a positive figure. On FSA015 a negative number will be taken to indicate a write-back. Similarly for columns K and L, where an impairment charge is being put though the income statement it should be reported as a positive amount. A negative number will indicate the release of an impairment charge (reduction in provision).

Column J: Write-offs net of recoveries

Enter the net amount written off during the period, after any recoveries of exposures previously written off.

The figure reported here should only relate to the amount of write-offs net of recoveries made since the last reporting period end date (i.e. in the latest quarter or half-year). Unlike the data reported on the Income Statement (FSA002) it is not a cumulative figure for the financial year to date.

Columns K and L: Charge/credit to the Income statement (P&L)

The figure reported in column K should only relate to the amount of new individual impairments or specific provisions charged to the income statement since the last reporting period end date (i.e. in the latest quarter or half-year). The figure reported in column L should only relate to the amount of new collective impairments or general provisions charged to the income statement since the last reporting period end date (i.e. in the latest quarter or half-year). Unlike the data reported on the FSA Income Statement (FSA002) it is not a cumulative figure for the financial year to date.

~~Enter the net charge or credit to the income statement (profit & loss account) in respect of impairment charges during the period. A net credit should be shown with a minus sign (not brackets). The gross charge for new impairment charges should be offset by other items including any charges made in earlier periods but now released. The charge or credit for individual impairment charges should include the charge or credit for provisions in respect of suspended interest where it is the practice of the reporting institution to show suspended interest as interest receivable in the income statement (profit and loss account).~~

Column M: Other Adjustments

....

This includes any adjustments made as a result of an acquisition or disposal of...sign (not brackets).

The figure reported here should only relate to the amount of other adjustments since the last

reporting period end date (i.e. in the latest quarter or half-year). Unlike the data reported on FSA Income Statement (FSA002) it is not a cumulative figure for the financial year to date.

Column N: individual impairment balance or specific provisions

Enter the total value of individual impairment balances.

Note that if all of the *firm's* provisions relate to accounts included in this *data item* this would be the total value of the individual impairment balance or provisions as detailed on the *firm's* financial balance sheet. If some of the impairments or provisions relate to accounts that are not included in this *data item* then this will not be the case.

In most cases we would expect that, for the current period, for each line item, the following would be true: (N+P for the previous period) – J + (K+L+M) (where J, K, L & M are for the current period) is approximately equal to (N+P for the current period).

Individual impairment balances or specific provisions are those generated following the impairment assessment of a loan on a standalone basis.

Column P: collective impairment balance or general provision

Enter the total value of collective impairment balances.

Note that if all of the *firm's* provisions relate to accounts included in this *data item* this would be the total value of the collective impairment balance as detailed on the *firm's* financial balance sheet. If some of the provisions relate to accounts that are not included in this *data item* then this will not be the case.

Collective impairment balances or general provisions are those generated following the impairment assessment of a group of loans.

Columns L and P: collective impairments

Collective impairment charges should be applied at portfolio or product level and should be allocated to the most appropriate category for that portfolio or product.

Column Q: balances of loans with individual impairment

Include the total balance of any *exposures* ~~against which there is an individual impairment charge~~ that are judged to be impaired. This should be gross of impairment provisions but net of write-offs as per the statutory annual accounts. Loans which have been tested for impairments, but which are not classed as impaired, should not be included.

...

Retail sector

This section comprises all *Retail exposures*, including exposures to *retail SME*. Note that loans should only be reclassified between “partially secured” and “fully secured” where there has been a formal revaluation exercise carried out by the *firm* of the specific security held, i.e. excluding revaluations conducted for the purposes of re-indexing for capital calculation purposes.

...

Corporate sector

This section comprises all *corporate exposures* that are not included in retail SME. This should include exposures to and/or balances with non consolidated group companies as well as third parties. It should exclude securities which are included in lines 27 – 30. Where a firm holds securities but cannot distinguish between quoted and unquoted securities these should also be reported as debt instruments (lines 27 – 30).

12 UK commercial real estate (secured and unsecured)

This will typically include any *exposures* defined by Basel as "Claims secured by commercial real estate" or "Income-producing real estate", or lending where the counterparty has been allocated to SIC code 70 68 or 41.1 and the lending is done in the UK. These SIC codes include exposures to social housing companies. Exposures included here are those that are linked to the commercial nature of the borrower rather than the type of real estate held as security.

...

16 Non-UK commercial real estate

This will typically include any *exposures* defined by Basel as "exposures secured by commercial real estate" or "Income-producing real estate", or lending where the counterparty has been allocated to SIC code 70 68 or 41.1 and the lending is done outside the UK.

Financial sector

This section comprises all *exposures* to the *financial sector*.

21 Exposures to UK financial institutions, credit institutions and insurance companies

Include exposures to all UK financial institutions, credit institutions (including banks) and insurance companies.

This line should include, for example, cash on deposit with UK financial institutions, money market deposits with UK banks and UK bank securities excluding securities which are included in lines 27 – 30 below.

22 Exposures to non-UK financial institutions, credit institutions and insurance companies

Include exposures to all non-UK financial institutions, credit institutions (including banks) and insurance companies.

This line should include, for example, cash on deposit with non-UK financial institutions, money market deposits with non-UK banks and non-UK bank securities excluding securities which are included in lines 27 – 30 below.

Non-financial institutions (including government)

~~All~~ Include all other *exposures* other than those defined above or debt instruments in the banking book.

Debt instruments (banking book)

Any debt instruments that are:

(i) quoted on any investment exchange; or

(ii) CDOs; or

(iii) government gilts or Treasury Bills;

and held in the banking book, regardless of the issuer type, should be reported in lines 27 – 30 and not elsewhere.

27 UK collateralised debt obligations

Include here all CDOs issued by UK companies. CDOs are a type of asset-backed security whose value and payments are derived from a portfolio of fixed-income underlying assets.

28 Other UK asset backed securities

~~Comprises holding~~ Include holdings of all other *asset backed securities*, except CDOs, issued by UK entities.

29 Other UK securities

~~Comprises holding~~ Include holdings of all other securities, except those listed above, issued by UK entities. Include here also gilts and Treasury bills issued by the UK government.

Exposures to equities are not included in FSA015 and need not be reported.

30 Other non-UK securities

~~Comprise~~ Include holdings of any securities issued by non-UK companies including non-UK CDOs and non-UK asset backed securities. Also include here non-UK government securities.

Debt instruments should be classified according to the domicile or geographical location of the issuer.

....

**SUPERVISION MANUAL (RETAIL MEDIATION ACTIVITIES RETURN)
(AMENDMENT NO 2) INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 156 (General supplementary powers); and
 - (3) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 31 December 2011.

Amendments to the Handbook

- D. The Supervision manual (SUP) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Supervision Manual (Retail Mediation Activities Return) (Amendment No 2) Instrument 2010.

By order of the Board
16 December 2010

Annex

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

SUP 16 Annex 18AR Retail Mediation Activities Return ('RMAR')

...

SECTION A: Balance Sheet

Fixed Assets

Intangible assets	RR0076
Tangible assets	RR0077
Investments	RR0078
TOTAL FIXED ASSETS	RR0079

Current assets

Stocks	RR0081
Debtors (see Memo (1))	RR0082
Investments held as current assets (see Memo (2))	RR0083
Cash at bank and in hand	RR0084
Other assets	RR0085
TOTAL CURRENT ASSETS	RR0086

Liabilities: amounts falling due within one year

Bank loans and overdrafts	RR0088
Other liabilities falling due within one year	RR0089

TOTAL AMOUNTS FALLING DUE WITHIN ONE YEAR	RR0090
--	---------------

Net current assets	RR0091
---------------------------	---------------

Total assets less current liabilities liabilities	RR0092
--	---------------

Other liabilities falling due after more than one year	RR0093
---	---------------

Provisions for liabilities and charges	RR0094
---	---------------

Net assets	RR0095
-------------------	---------------

Memo: guarantees provided by firm	RR0096
--	---------------

Capital and reserves

Capital account (incorporated businesses excluding Limited Liability Partnerships)

Ordinary share capital	RR0100
Preference share capital	RR0101
Share premium account	RR0102
Profit and Loss account	RR0103
Other reserves	RR0104
TOTAL CAPITAL AND RESERVES	RR0105

Capital account (unincorporated businesses and Limited Liability Partnerships)

Sole trader/Partners' capital account/Members' capital	RR0119
Other reserves	RR0120
TOTAL CAPITAL AND RESERVES	RR0121

Memo (1):

Total amount falling due within one year from directors, fellow group undertakings or undertakings in which the firm has a participating interest where included in Debtors.

Memo (2)

Value of shares in group undertakings where such investments are held as current assets.

Notes

Memos (1) and (2) to be completed, where applicable, by all insurance intermediaries subject to MIPRU.

**16 Annex 18BG Notes for completion of the Retail Mediation Activities Return
(‘RMAR’)**

...

NOTES FOR COMPLETION OF THE RMAR

Section A: Balance Sheet

The balance sheet data should be compiled in accordance with generally accepted accounting practice. Incorporated *firms* will already be submitting this information to Companies House under Companies Act requirements, and it would normally be expected that non-incorporated *firms* would compile this data for management purposes. ~~If further assistance is required in completing the balance sheet, professional guidance should be sought.~~

Insurance intermediaries subject to MIPRU should, where debtors include amounts owed by their directors, *group undertakings* or *undertakings* in which the *firm* has a participating interest, enter the total amount falling due to the *firm* within one year in the data entry field entitled:

“Memo (1):

Total amount falling due within one year from directors, fellow *group undertakings* or *undertakings* in which the *firm* has a participating interest where included in Debtors.”

Insurance intermediaries subject to MIPRU should, where they include *shares* in *group undertakings* as part of their investments, where such investments are held as current assets, enter the total value to the *firm* in the data entry field entitled:

“Memo (2):

Value of *shares* in *group undertakings* where such investments are held as current assets.”

If further assistance is required in completing the balance sheet, professional guidance should be sought.

This information will be used by the FSA to monitor the *firm*’s financial position and satisfy itself as to the *firm*’s ongoing solvency. Aggregated data may also be used to inform our supervision activities.

...

**SUPERVISION MANUAL (RETAIL MEDIATION ACTIVITIES RETURN)
(AMENDMENT NO 3) INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 156 (General supplementary powers); and
 - (3) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 31 December 2011.

Amendments to the Handbook

- D. The Supervision manual (SUP) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Supervision Manual (Retail Mediation Activities Return) (Amendment No 3) Instrument 2010.

By order of the Board
16 December 2010

Annex

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

16.12 Integrated Regulatory Reporting

...

16.12.11 R The applicable *data items* referred to in SUP 16.12.4R are set out according to *firm* type in the table below:

Description of data item	Firms prudential category and applicable data items (note 1)							
	BIPRU firms (note 17)			Firms other than BIPRU firms				
	730K	125K and UCITS investment firms	50K	IPRU (INV) Chapter 3	IPRU (INV) Chapter 5	IPRU (INV) Chapter 9	IPRU (INV) Chapter 13	UPRU
...								
Capital adequacy	FSA003 (note 2)	FSA003 (note 2)	FSA003 (note 2)	FSA033 (note 18)	FSA034 or FSA035 (note 14)	FSA031	FSA032 (note 15) or Sections D1 and D2 <u>Section D6</u> RMAR (note 15)	FSA036
...								
...								
Note 15	FSA029, FSA030 and FSA032 must be completed by a <i>firm</i> subject to IPRU(INV) Chapter 13 which is an <i>exempt CAD firm</i> . Section A or Section B RMAR and Sections D1 and D2 <u>Section D6</u> RMAR only apply to a <i>firm</i> subject to IPRU(INV) Chapter 13 which is not an <i>exempt CAD firm</i> . <u>Where a <i>firm</i> submits data items for both RAG 3 and RAG 9, the <i>firm</i> must complete both Sections D1 and D6 RMAR.</u>							
...								

...

16.12.12 R The applicable reporting frequencies for *data items* referred to in SUP 16.12.4R are set out in the table below according to *firm* type. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise.

<i>Data item</i>	<i>BIPRU 730K firm</i>	<i>BIPRU 125K firm and UCITS investment firm</i>	<i>BIPRU 50K firm</i>	<i>UK consolidation group or defined liquidity group</i>	<i>Firm other than BIPRU firms</i>
...					
Section D1 and D2 D6 RMAR					Half yearly (note 2) Quarterly (note 3)
...					

- 16.12.13 R The applicable due dates for submission referred to in SUP 16.12.4R are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period set out in SUP 16.12.12R, unless indicated otherwise.

<i>Data item</i>	Daily	Weekly	Monthly	Quarterly	Half yearly	Annual
...						
Section D1 and D2 D6 RMAR				30 business days	30 business days	
...						

...

- 16.12.15 R The applicable *data items* referred to in SUP 16.12.4R according to type of *firm* are set out in the table below:

Description of data item	<i>Firms prudential category and applicable data items (note 1)</i>							
	<i>BIPRU firms</i>			<i>Firms other than BIPRU firms</i>				
	730K	125K and UCITS investment firms	50K	IPRU (INV) Chapter 3	IPRU (INV) Chapter 5	IPRU (INV) Chapter 9	IPRU (INV) Chapter 13	UPRU
...								

Capital adequacy	FSA003 (note 2)	FSA003 (note 2)	FSA003 (note 2)	FSA033	FSA034 or FSA035 (note 14)	FSA031	Section D1 and D2 <u>D6</u> RMAR or FSA032 (note 15)	FSA036
...								
...								
Note 15	FSA029, FSA030 and FSA032 must be completed by a <i>firm</i> subject to <i>IPRU(INV)</i> Chapter 13 which is an <i>exempt CAD firm</i> . Section A, B, C or F RMAR and Sections D1 and D2 Section <u>D6</u> RMAR only apply to a <i>firm</i> subject to <i>IPRU(INV)</i> Chapter 13 which is not an <i>exempt CAD firm</i> .							
...								

...

- 16.12.16 R The applicable reporting frequencies for *data items* referred to in *SUP* 16.12.15R are set out in the table below according to *firm* type. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise.

<i>Data item</i>	<i>Firm's prudential category</i>				
	<i>BIPRU 730K firm</i>	<i>BIPRU 125K firm and UCITS investment firm</i>	<i>BIPRU 50K firm</i>	<i>UK consolidation group or defined liquidity group</i>	<i>Firm other than BIPRU firms</i>
...					
Section D1 and D2 <u>D6</u> RMAR					Half yearly (note 2) Quarterly (note 3)
...					
...					

...

- 16.12.17 R The applicable due dates for submission referred to in *SUP* 16.12.4R are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period set out in *SUP* 16.12.16R, unless indicated otherwise.

<i>Data item</i>	Daily	Weekly	Monthly	Quarterly	Half yearly	Annual

...						
Section D1 and D2 <u>D6</u> RMAR				30 business days	30 business days	

...

16.12.19A R The applicable *data items* referred to in *SUP* 16.12.4R are set out according to type of *firm* in the table below:

Description of data item	<i>Firm's</i> prudential category and applicable data item (note 1)				
	<i>IPRU(INV)</i> Chapter 3	<i>IPRU(INV)</i> Chapter 5	<i>IPRU(INV)</i> Chapter 9	<i>IPRU(INV)</i> Chapter 13	<i>UPRU</i>
...					
Capital adequacy	FSA033	FSA034 or FSA035 (note 4)	FSA031	FSA032 (note 5) or Section D1 and D2 <u>D6</u> RMAR (note notes 5 and 7)	FSA036
...					
...					
Note 5	FSA032 must be completed by a <i>firm</i> subject to <i>IPRU (INV)</i> Chapter 13 which is an <i>exempt CAD firm</i> . <u>Section D6 RMAR applies to a <i>firm</i> which is not an <i>exempt CAD firm</i>.</u>				
...					

16.12.20 R The applicable reporting frequencies for submission of *data items* referred to in *SUP* 16.12.4R are set out in the table below. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise.

...	
Section D1 and D2 <u>D6</u> RMAR	Half yearly (note 2) Quarterly (note 3)
...	

- 16.12.21 R The applicable due dates for submission referred to in SUP 16.12.4R are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period set out in SUP 16.12.20R.

<i>Data item</i>	Quarterly	Half yearly	Annual
...			
Section D1 and D2 <u>D6</u> RMAR	30 <i>business days</i>	30 <i>business days</i>	
...			

...

- 16.12.22A R The applicable *data items* referred to in SUP 16.12.4R are set out according to type of *firm* in the table below:

Description of data item	<i>Firm's prudential category and applicable data item (note 1)</i>					
		<i>BIPRU 730k firm</i>	<i>BIPRU 125k firm and UCITS investment firm</i>	<i>BIPRU 50k firm</i>	<i>Exempt CAD firm subject to IPRU(INV) Chapter 13</i>	<i>Firms (other than exempt CAD firms) subject to IPRU(INV) Chapter 13</i>
...						
Capital Adequacy	FSA003 (note 2)	FSA003 (note 2)	FSA003 (note 2)	FSA032	Section D1 and D2 <u>D6</u> RMAR (<u>Note 23</u>)	
...						
...						
<u>Note 23</u>	<u>Where a firm submits data items for both RAG 7 and RAG 9, the firm must complete both Sections D1 and D6 RMAR.</u>					

...

- 16.12.23 R The applicable reporting frequencies for *data items* referred to in SUP 16.12.22AR are set out in the table below. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise.

Data item	Frequency				
	Unconsolidated <i>BIPRU</i> investment firm	Solo consolidated <i>BIPRU</i> investment firm	<i>UK</i> <i>Consolidation</i> Group or defined liquidity group	Annual regulated business revenue up to and including £5 million	Annual regulated business revenue over £5 million
...					
Section D1 and D2 <u>D6</u> RMAR				Half yearly	Quarterly
...					

16.12.24 R The applicable due dates for submission referred to in *SUP* 16.12.4R are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period set out in *SUP* 16.12.23R, unless indicated otherwise.

Data item	Daily	Weekly	Monthly	Quarterly	Half yearly	Annual
...						
Section D1 and D2 <u>D6</u> RMAR				30 business days	30 business days	
...						

...

16.12.25A R The applicable *data items* referred to in *SUP* 16.12.4R are set out according to type of *firm* in the table below:

Description of data item	Firms prudential category and applicable data items (note 1)							
	<i>BIPRU</i>			Firms other than <i>BIPRU</i> firms				
	730K	125K	50K	<i>IPRU</i> (<i>INV</i>) Chapter 3	<i>IPRU</i> (<i>INV</i>) Chapter 5	<i>IPRU</i> (<i>INV</i>) Chapter 9	<i>IPRU</i> (<i>INV</i>) Chapter 13	<i>UPRU</i>
...								

Capital adequacy	FSA003 (note 2)	FSA003 (note 2)	FSA003 (note 2)	FSA033	FSA034 or FSA035 (note 14)	FSA031	Section D1 and D2 <u>D6</u> RMAR (note 17) or FSA 032 (note 15)	FSA036
...								

...

- 16.12.26 R The applicable reporting frequencies for *data items* referred to in *SUP* 16.12.25AR are set out according to the type of *firm* in the table below. Reporting frequencies are calculated from a *firm's accounting reference date*, unless indicated otherwise.

<i>Data item</i>	<i>BIPRU 730K firm</i>	<i>BIPRU 125K firm</i>	<i>BIPRU 50K firm</i>	<i>UK consolidation group or defined liquidity group</i>	<i>Firm other than BIPRU firms</i>
...					
Section D1 and D2 <u>D6</u> RMAR					Half yearly (note 2) Quarterly (note 3)
...					

- 16.12.27 R The applicable due dates for submission referred to in *SUP* 16.12.4R are set out in the table below. The due dates are the last day of the periods given in the table below following the relevant reporting frequency period set out in *SUP* 16.12.26R, unless indicated otherwise.

<i>Data item</i>	Daily	Weekly	Monthly	Quarterly	Half yearly	Annual
...						
Section D1 and D2 <u>D6</u> RMAR				30 <i>business days</i>	30 <i>business days</i>	
...						

...

16 Annex 18AR Retail Mediation Activities Return ('RMAR')

...

see next page

SECTION D1: Regulatory Capital

Home finance and non-investment insurance firms subject to MIPRU chapter 4

	<u>A</u> Mortgage	<u>B</u> Non- investment insurance	Retail investments
Is the firm exempt from these capital requirements in relation to any of its retail mediation activities?	RR0198	RR0199	RR0200

A

Mortgage and non-investment insurance

	Client money	Non-client money
2 Base requirement	RR0202	RR0203
3 5% of annual income (firms holding client money)	RR0205	
4 2.5% of annual income (firms not holding client money)		RR0206
5 Capital resources requirement (higher of above)	RR0207	RR0208
6 Other FSA capital resources requirements (if applicable) <u>Additional capital resources requirements for PII (if applicable)</u>	RR0210	
7 Additional capital resources requirements for PII (if applicable) <u>Other FSA capital resources requirements (if applicable)</u>	RR0211	
8 TOTAL CAPITAL RESOURCES REQUIREMENT	RR0212	
9 TOTAL CAPITAL RESOURCES	RR0213	See notes
10 TOTAL CAPITAL RESOURCES EXCESS/DEFICIT	RR0214	

Eligible capital resources (mortgage home finance and non-investment insurance)

Incorporated firms

24 Share capital	RR0228
25 Reserves	RR0229
26 Interim net profits	RR323
27 Revaluation reserves	RR0233
28 Eligible subordinated <u>Subordinated</u> loans	RR0234
29 less Investments in own shares	RR0235
30 less Intangible assets	RR0236
31 less interim net losses	RR0237
32 TOTAL CAPITAL RESOURCES	RR0238

IPRU(INV) requirements for personal investment firms (retail investment activities only)

Category of personal investment firm under IPRU(INV)	RR0215a	
Own funds requirement	RR0216	A
Additional own funds requirement for PII (if applicable)		
Other FSA capital requirements (if applicable)		
Total own funds requirement		
Own funds	RR0217	
Surplus/deficit of own funds	RR0218	
	RR0219	RR0219a
Adjusted net current assets requirement (if applicable)	RR0220	D
Adjusted net current assets (if applicable)	RR0221	E
Surplus/deficit (if applicable)	RR0222	F
Expenditure based requirement (if applicable)	RR0223	G
Adjusted Capital/liquid capital (if applicable)	RR0224	H
Surplus/deficit (if applicable)	RR0225	I

Unincorporated firms and limited liability partnerships (LLPs)

33	Capital of a sole trader or partnership or LLP members' capital	RR0240
34	Eligible subordinated <u>Subordinated</u> loans	RR0245
36	Personal assets not needed to meet non-business liabilities less Intangible assets	RR0246 RR0247
37	less interim net losses	RR0248
38	less excess of drawings over profits for a sole trader or p'ship	RR0249
35	TOTAL CAPITAL RESOURCES <u>Personal assets not needed to meet non-business liabilities</u>	
39	TOTAL CAPITAL RESOURCES	RR0250

Delete the text of:

Section D2: Financial Resources – Non-ISD Personal Investment Firms

The deleted text is not shown.

After D1 insert new **Section D6: Capital resources** (overleaf) in the place of Section D2. This text is not underlined:

SECTION D6: CAPITAL RESOURCES

Personal Investment Firms subject to IPRU(INV) chapter 13

1	Base requirement	
2	Expenditure based requirement	
3	Capital resources requirement per IPRU (INV) 13.3.2R	
4	Additional capital resources requirement for PII (if applicable)	
5	Other FSA capital resources requirements (if applicable)	
6	Total capital resources requirement	
7	Capital resources - as below	
8	Surplus / deficit of capital resources	

Capital resources - per IPRU (INV) 13.3.10R

9	Paid up share capital (excluding preference shares redeemable by shareholders within 2 years)	
10	Eligible LLP members' capital	
11	Balances on proprietor's or partners capital and current accounts, less excess LLP members' drawings and excess of current year drawings over current year profits	
12	Share premium account	
13	Retained profits (losses) plus current year net profits (losses) plus other reserves	
14	Revaluation reserves	
15	Subordinated loans	
16	Less: intangible assets	
17	Less: Contingent liabilities	
18	Less: Deficiencies in subsidiaries	

19	Less: Non-trade debtors (including from group and connected companies)	
20	Less: Trade debtors (including from group and connected companies)	
21	Less: Land and buildings (net of any liabilities secured by a charge on the assets)	
22	Less: Investments	
23	Less: Accrued income	
24	Less: Prepayments	
25	Less: Deposits	
26	Less: Other illiquid assets	
27	Personal assets of partnerships or sole traders	
28	CAPITAL RESOURCES	

Section E: Professional Indemnity Insurance (PII) Self-Certification – delete this form in its entirety (deleted text not shown) and replace with new Section E as shown below:

SECTION E: PII Self-Certification

	H	I	J
	Home finance advising/a rranging	Non-inv insurance advising/arranging/d ealing/assisting	Retail investmen t advising/a rranging
1	<i>Professional Indemnity Insurance (PII)</i> Does your firm hold a comparable guarantee or equivalent cover in lieu of PII, or is it otherwise exempt from holding PII in respect of any regulated activities (select as appropriate)?		
2	If your firm does not hold a comparable guarantee or equivalent cover and is not exempt does the firm currently hold PII?		
3	Has your firm renewed its PII cover since the last reporting date		

4	A	B	C	D	E	F	G	H	I	J	O	K	L	M	N
	PII Basic information											PII detailed information			
	Activities covered by the policy								IMD firms should state their indemnity limits in Euros						
PII poli cy	Home finance advising/arr anging	Non-inv insurance advising/arranging/d ealing/assisting	Retail investmen t advising/a rranging	Retro active start date (if any)	Annu alised premi um (Sterli ng)	Ins urer (fro m list)	St art da te	End date	Indemnity Limit (Single) in: Euros/Sterling/ Unlimited	Limit of Indemnity: Single	Indemni ty Limit (Aggreg ate) in: Euros/S terling/ Unlimite d	Limit of Inde mnity : Aggr egate	Busi ness line	Polic y exces s (Sterli ng)	Policy exclu sions
1															
2															
3															

4															
5															
6															
7															
8															
9															
10															

- Annual income as stated on the most recent proposal form
- 5 Amount of additional capital resources required for increased excess(es) (where applicable, total amount for all policies)
- 6
- 7 Total amount of additional capital resources required for policy exclusion(s)
- 8 Total of additional capital resources required

H

16 Annex 18BG Notes for completion of the Retail Mediation Activities Return ('RMAR')

...

**NOTES FOR COMPLETION OF
THE RETAIL MEDIATION ACTIVITIES RETURN ('RMAR')**

Contents

Introduction General notes on the RMAR

...

Section D: Regulatory Capital Resources

...

Introduction: general notes on the RMAR

...

Defined terms

...

Key abbreviations

5. The following table summarises the key abbreviations that are used in these notes:

...	...
CRED <u>CREDS</u>	The Credit unions <u>Unions</u> sourcebook, <u>which is</u> part of the FSA Handbook
...	...
IPRU(INV)	The Interim Prudential sourcebook for investment <u>Investment</u> businesses <u>Businesses</u> , <u>which is</u> part of the FSA Handbook
...	
MIPRU	The Prudential sourcebook for Mortgage and Home Finance Firms, and Insurance Intermediaries
<u>MiFID</u>	<u>The Markets in Financial Instruments Directive</u>
RMAR	Retail Mediation Activities Return, i.e. the information requirements to which these notes refer.
...	...

Scope

6. The following *firms* are required to complete the *RMAR*:

...

(b) *firms with permission to carry on home finance mediation activity;*

(c) ~~*firms (defined as retail investment firms) that have retail customers, and have permission to carry on the following activities in relation to retail investments:*~~

- ~~• *Advising on investments;*~~
- ~~• *Arranging (bringing about) deals in investments;*~~
- ~~• *Making arrangements with a view to transactions in investments; and personal investment firms; and*~~

(d) ~~*personal investment firms*~~ other investment firms that have retail customers (defined as retail investment firms), and have permission to carry on the following activities in relation to retail investments:

- *advising on investments;*
- *arranging (bringing about) deals in investments;*
- *making arrangements with a view to transactions in investments;*

...

NOTES FOR COMPLETION OF THE RMAR

...

Section D: Regulatory Capital Resources

Note: *Home purchase and reversion activity* should be included under the existing mortgage headings in this section of the RMAR.

‘Higher of’ requirements

In this section there are separate calculations of regulatory capital resources and capital resources requirements for the different types of business covered by the data requirements. The calculations are the same, however, for both *home finance mediation activity* and *insurance mediation activity* relating to *non-investment insurance contracts*.

If a *firm* carries on one or both of:

- *home finance mediation activity*, and/or
- *insurance mediation activity* relating to *non-investment insurance contracts*;

and additionally carries on

- *designated investment business* (i.e. is subject to *IPRU(INV)*);

then a **‘higher of’** requirement applies. This is set out in *MIPRU 4.2.5R*, which provides that in these circumstances, the higher of the capital resources requirements relating to the respective activities should apply.

In section D1, therefore, there are separate reporting requirements to establish the appropriate capital requirements for the following groups of activities and/or firms (the requirements have to be completed for all applicable categories) :

- (i) firms carrying on *home finance mediation activity*, and/or *insurance mediation activity* relating to *non-investment insurance contracts* (the capital requirements are the same for both activities, calculated in section D1);
- (ii) *personal investment firms* that carry on *retail investment activities*, but no other *designated investment business*. Capital requirements are calculated in section D2;
- (iii) other *personal investment firms*, and firms that are subject to *MIPRU*, but are also subject to *IPRU(INV)* or *CRED* (see below). These additional capital requirements are not calculated as part of the RMAR.

In each case, it is the higher of the capital requirements that applies and is compared with the applicable calculation of financial resources.

- (i) Section D1 covers the appropriate capital resources and connected requirements in

MIPRU chapter 4 for firms carrying on home finance mediation activity, and/or insurance mediation activity relating to non-investment insurance contracts (the requirements have to be completed for all applicable categories). For such a firm that is also subject to IPRU(INV) or BIPRU, the requirement is the higher of the two capital resources requirements that apply (see MIPRU 4.2.5R) and is compared with the higher of the two capital resources calculations (see MIPRU 4.4.1R).

(ii) Section D6 covers the appropriate capital resources and connected requirements for personal investment firms that carry on retail investment activities. Those firms that carry on designated investment business and are subject to the RMAR, but do not meet the definition of personal investment firm (i.e. are not subject to IPRU(INV)) Chapter 13, are not subject to this section. Such firms, e.g. smaller stockbrokers that advise on retail investments as an incidental part of their business, remain subject to the financial resources requirements associated with their principal regulated activities. These additional capital resources requirements are not calculated as part of the RMAR, although will be relevant for the comparison required under MIPRU 4.2.5R.

Standard 'version 1' Some credit unions credit unions are exempt from the capital resources requirements in MIPRU, under the terms set out in 4.1.8R of that sourcebook, although they have a capital resources requirement under the Credit Unions sourcebook (CRED CREDs). For other credit unions credit unions, the capital resources requirement should be the highest of the amounts required under MIPRU, or CRED CREDs or IPRU(INV) (if applicable).

Note on the scope of Sections D2: firms that carry on designated investment business and are subject to the RMAR, but do not meet the definition of personal investment firm, i.e. are not subject to IPRU(INV) Chapter 13, will not be subject to this section. Such firms, e.g. smaller stockbrokers that advise on retail investments as an incidental part of their business, remain subject to the financial resources requirements associated with their principal regulated activities.

Sub-sections: this section is sub-divided as follows:

D1: in this sub-section, firms are required to complete the regulatory capital sections that are applicable for the types of business undertaken. The personal investment firms referred to in

(ii) above are required to complete section D2 to arrive at the totals required in D1.

D2: this section is completed by personal investment firms that are not subject to the requirements of MiFID and the Capital Adequacy Directive (CAD). It is used to calculate the financial resources and financial resources requirements set out in Chapter 13.10-12 of the Interim Prudential Sourcebook for Investment Businesses (IPRU(INV)). This in turn will provide the totals to be submitted in the D1 fields marked A to I as applicable.

Firms are required to complete the Sections that are applicable for the types of business they undertake. Personal investment firms must complete section D6 to arrive at the totals required in D1 (if D1 is relevant to them). They should calculate

their capital resources for the purpose of Section D6 as per Chapter 13 of (IPRU(INV)).

Guide for the completion of individual fields

Section D1: Guide for the completion of individual fields firms within the scope of MIPRU chapter 4

Is the firm exempt from these capital resources requirements in relation to any of its retail mediation activities?	<p>The <i>firm</i> should indicate here if any <i>Handbook</i> exemptions apply in relation to the capital resources requirements in <i>MIPRU</i> or <i>IPRU(INV)</i> Chapter 13. Examples of <i>firms</i> that may be subject to exemptions include</p> <ul style="list-style-type: none"> • Lloyd's <i>managing agents</i> (<i>MIPRU</i> 4.1.11R); • solo consolidated <i>subsidiaries of banks or building societies</i>; • small <i>credit unions</i> (as defined in <i>MIPRU</i> 4.1.8R); and • <i>investment firms</i> not subject to <i>IPRU(INV)</i> Chapter 13 (unless they additionally carry on <i>home finance mediation activity</i> or <i>insurance mediation activity</i> relating to <i>non-investment insurance contracts</i>).
Home finance and non-investment insurance mediation (see sub paragraph (i) above)	
Base requirement	<p>The minimum capital resources requirements requirement for <i>firms</i> carrying on <i>home finance mediation activity</i> and for <u>and/or</u> <i>insurance mediation activity</i> relating to <i>non-investment insurance contracts</i> are <u>is</u> set out in <i>MIPRU</i> 4.2.11R.</p> <p>If the <i>firm</i> carries on <i>designated investment business</i> as well as <i>home finance mediation activity</i>, <i>insurance mediation activity</i> or both, requirements under both <i>IPRU(INV)</i> and <i>MIPRU</i> need to be considered, as it is the higher of the requirements that needs to be met (see general notes above).</p>
5% of annual income (firms holding client money)	For <i>firms</i> that hold <i>client money</i> or other <i>client</i> assets in relation to <i>insurance mediation activity</i> or <i>home finance mediation activity</i> , this the requirement should be <u>is</u> calculated as 5% of the annual income (see <i>MIPRU</i> 4.2.11R(2)) from the <i>firm's</i> <i>insurance mediation activity</i> , <i>home finance mediation activity</i> , or both.
2.5% of annual income (firms not holding client money)	For <i>firms</i> that do not hold <i>client money</i> or other <i>client</i> assets in relation to <i>insurance mediation activity</i> or <i>home finance mediation activity</i> , this the requirement should be <u>is</u> calculated as 2.5% of the annual income (see <i>MIPRU</i> 4.2.11R(1)) from the <i>firm's</i> <i>insurance mediation activity</i> , <i>home finance mediation activity</i> , or both.
Capital resources requirements requirement (higher of above)	The higher of the base requirement and 5% of annual income (<i>firms</i> that hold <i>client money</i> or other <i>client</i> assets), or the higher of the base requirement and 2.5% of annual income (<i>firms</i> that do not hold <i>client money</i> or other <i>client</i> assets).
Additional capital resources requirements for PII (if applicable)	If the <i>firm</i> has any increased excesses on its PII policies, the total of the additional capital resources requirements required by the tables in <i>MIPRU</i> 3.2.13R or <i>MIPRU</i> 3.2.14R should be recorded here. See also section E of the RMAR.
Other FSA capital resources requirements (if applicable)	The FSA may from time to time impose additional requirements on individual <i>firms</i> . If this is the case for your <i>firm</i> , you should enter the relevant amount here. This excludes capital resources requirements in relation to PII,

	<p>which are recorded below <u>above</u>.</p> <p>There may be additional capital <u>resources</u> requirements imposed on <i>firms</i> that carry on a number of different <i>regulated activities</i>. For example, <i>firms</i> that carry on the activities of <i>home finance providing activity</i> or <i>administering a home finance transaction</i> in addition to <i>home finance mediation activity</i> and/or <i>insurance mediation activity</i>, and are not exempted under <i>MIPRU</i> 4.1.4R, may have an additional requirement under <i>MIPRU</i> 4.2.21R(2).</p> <p><u>If the firm carries on designated investment business as well as home finance mediation activity, insurance mediation activity or both, requirements under both IPRU(INV) or BIPRU and MIPRU must be considered, as it is the higher of the requirements that needs to be met (see general note (i) above). So if the requirement under IPRU(INV) or BIPRU for a firm is higher than MIPRU then you should include the difference here.</u></p>
Additional capital requirements for PII (if applicable)	If the <i>firm</i> has any increased excesses on its PII policies, the total of the additional capital requirements required by the tables in <i>MIPRU</i> 3.2.13R or <i>MIPRU</i> 3.2.14R should be recorded here. See also section E of the RMAR.
TOTAL CAPITAL <u>RESOURCES</u> REQUIREMENT	Appropriate totals from above.
TOTAL CAPITAL RESOURCES	<p>This should be the total of <u>the</u> capital resources calculated in accordance with <i>MIPRU</i> 4 in this section (D1) for incorporated or unincorporated <i>firms</i> as applicable.</p> <p>For <i>firms</i> that are additionally subject to <i>IPRU(INV)</i>, <i>BIPRU</i> or <i>CRED</i>, this should be the higher of the amount calculated in this section ('total capital resources') and the financial resources determined by <i>IPRU(INV)</i>, <i>BIPRU</i> or <i>CRED</i>. See <i>MIPRU</i> 4.4.1R.</p>
TOTAL CAPITAL <u>RESOURCES</u> EXCESS/(DEFICIT)	This should show the amount of capital resources that the <i>firm</i> has in relation to its capital <u>resources</u> requirement.
IPRU(INV) requirements for personal investment firms (retail investment activities only)	<i>Firms</i> that carry on <i>retail investment activities</i> , but no other <i>designated investment business</i> , are subject to this section. It is populated from section D2 (see sub paragraph (ii) above).
Category of personal investment firm under <i>IPRU(INV)</i>	If the <i>firm</i> is subject to Chapter 13 of <i>IPRU(INV)</i> , it should enter here its firm category as defined in <i>IPRU(INV)</i> Appendix 13(1), i.e. A1, A2, A3, B1, B2 or B3.
Own funds requirement	<p>See Section D2</p> <p>The own funds requirement ('OFR') should be calculated in accordance with Chapter 13 of the Interim Prudential Sourcebook for Investment Firms.</p> <p><i>Non MiFID Firms</i> see section <i>IPRU (INV)</i> 13.10</p> <p>For a <i>low resource firm</i>, the OFR is always £10,000.</p>
Additional own funds requirement for PII (if applicable)	If the <i>firm</i> has increased excesses or exclusions on its PII policies, the total of the additional capital requirements required by <i>IPRU(INV)</i> 13.1.4 should be recorded here. See also section E of the RMAR.
Other FSA capital requirements (if applicable)	The FSA may from time to time impose additional requirements on individual <i>firms</i> . If this is the case for your

	<i>firm</i> , you should enter the relevant amount here. This excludes capital requirements in relation to PII, which are recorded above.
Total own funds requirement	Appropriate totals from above.
Own funds	<p>See Section D2 This field should be filled in using the figure for own funds that is derived from the calculation in Section D2.</p> <p>Own funds should be calculated in accordance with Chapter 13 of the Interim Prudential Sourcebook for Investment Firms.</p> <p>Non <i>MiFID Firms</i> see <i>IPRU (INV) 13.10</i> Source data for the own funds calculation should be entered in the separate financial resources section for non <i>MiFID firm</i>.</p>
Surplus/deficit of own funds	<p>See Section D2 This field should be filled in using the figure for surplus/deficit that is derived from the calculation in Section D2.</p> <p>This should show the amount of the <i>firm's</i> own funds in relation to its own funds requirement</p>
Adjusted net current assets requirement (if applicable)	<p>See Section D2 All <i>personal investment firms</i> except <i>low resource firms</i> should at all times have adjusted net current assets of at least £1.</p> <p><i>Low resource firms</i> should enter 'n/a' here.</p>
Adjusted net current assets (if applicable)	<p>See Section D2 All <i>personal investment firms</i> except <i>low resource firms</i> should at all times have adjusted net current assets of at least £1.</p> <p><i>Low resource firms</i> should enter 'n/a' here.</p> <p>This field should be filled in using the figure for adjusted net current assets that is derived from the calculation in Section D2.</p> <p>Adjusted net current assets should be calculated in accordance with Chapter 13 of the Interim Prudential Sourcebook for Investment <i>Firms</i>.</p> <p>Non <i>MiFID Firms</i> see <i>IPRU (INV)13.11</i></p>
Surplus/deficit (if applicable)	<p>See Section D2 All <i>personal investment firms</i>, except <i>low resource firms</i>, should at all times have adjusted net current assets of at least £1.</p> <p><i>Low resource firms</i> should enter 'n/a' here.</p> <p>This field should be filled in using the figure for surplus/deficit that is derived from the calculation in section D2 of the data requirements.</p> <p>This shows whether the <i>firm's</i> net current assets are positive</p>
Expenditure based requirement (if applicable)	<p>See Section D2 All <i>personal investment firms</i>, except <i>low resource firms</i>, should calculate their expenditure based requirement</p>

	<p>(‘EBR’) in accordance with Chapter 13 of the Interim Prudential Sourcebook for Investment Firms.</p> <p><i>Low resource firms</i> should enter ‘n/a’ here.</p> <p><i>Non MiFID Firms</i> see <i>IPRU (INV) 13.12</i></p>
Adjusted Capital/liquid capital (if applicable)	<p>See Section D2</p> <p>This field should be filled in using the figure for adjusted capital/liquid capital that is derived from the calculation in Section D2.</p> <p>Adjusted/liquid capital should be calculated in accordance with Chapter 13 of the Interim Prudential Sourcebook for Investment Firms.</p> <p><i>Non MiFID Firms</i> see <i>IPRU (INV) 13.12</i></p> <p><i>Low resource firms</i> should enter ‘n/a’ here.</p>
Surplus/deficit (if applicable)	<p>See Section D2</p> <p>This field should be filled in using the figure for surplus/deficit that is derived from the calculation in Section D2.</p> <p>This shows the amount of the <i>firm</i>’s adjusted/liquid capital in relation to its expenditure based requirement.</p> <p><i>Low resource firms</i> should enter ‘n/a’ here.</p>
Eligible capital resources (mortgage home finance and non-investment insurance)	
Incorporated firms	
Share capital	Share capital in section A which is eligible for inclusion as <u>regulatory capital resources</u> .
Reserves	These are the audited accumulated profits retained by the <i>firm</i> (after deduction of tax and dividends) and other reserves created by appropriations of share premiums and similar realised appropriations. Reserves also include gifts of capital, for example, from a <i>parent undertaking</i> . Any reserves that have not been audited should not be included in this field unless the <i>firm</i> is eligible to do so under Note 1 of <i>MIPRU 4.4.2R(3)</i> .
Interim net profits	Interim net profits should be verified by the <i>firm</i> ’s external auditor, net of tax or anticipated dividends and other appropriations to be included as capital. Any interim net profits that have not been verified should not be included in this field unless the <i>firm</i> is eligible to do so under Note 1 of <i>MIPRU 4.4.2R(3)</i> .
Revaluation reserves	Revaluation reserves (<u>unrealised reserves arising from revaluation of fixed assets</u>) can only be included here if <u>audited</u> are unrealised reserves arising from the revaluation of fixed assets. They can only be included here if <u>audited unless the firm has an exemption in accordance with Note 1 of MIPRU 4.4.2R</u> .
Eligible subordinated Subordinated loans	Subordinated loans should be included in capital resources on the basis of the provisions in PRU 9.3.56R and PRU 9.3.57R <i>MIPRU 4.4.7R and MIPRU 4.4.8R</i> .
Less: investments in own shares	Amounts recorded in the balance sheet as investments which are invested in the <i>firm</i> ’s own shares should be entered here for deduction.
Less: intangible assets	Any amounts recorded as intangible assets in Section A above should be entered here for deduction.

	The balance sheet value for goodwill does not have to be deducted here until 14 January 2008. See MIPRU 4.4.4R
Less: interim net losses	Interim net losses should be reported where they have not already been incorporated into audited reserves. The figures do not have to be audited to be included.
Unincorporated firms and limited liability partnerships	
Capital of a sole trader or partnership or LLP members' capital	See MIPRU 4.4.2R
Eligible subordinated <u>Subordinated</u> loans	Subordinated loans should be included in capital resources on the basis of the provisions in MIPRU 4.4.7R and MIPRU 4.4.8R.
Personal assets not needed to meet non-business liabilities	<p>MIPRU 4.4.5R and 4.4.6G allow a sole trader or partner to use personal assets to cover liabilities incurred in the firm's business unless:</p> <p>(1) those assets are needed to meet other liabilities arising from:</p> <p>(a) personal activities; or</p> <p>(b) another business activity not regulated by the FSA; or</p> <p>(2) the firm holds client money or other client assets.</p> <p>This field may be left blank if the firm is able to satisfy the capital resources requirements without relying on personal assets.</p>
Less: intangible assets	<p>Any amounts recorded as intangible assets in Section A above should be entered here for deduction.</p> <p>The balance sheet value for goodwill does not have to be deducted here until 14 January 2008. See MIPRU 4.4.3R</p>
Less: interim net losses	Interim net losses should be reported where they have not already been incorporated. The figures do not have to be audited to be included.
Less: excess of drawings over profits for a sole trader or partnership or LLP	Any excess of drawings over profits should be calculated in relation to the period following the date as at which the capital resources are being calculated. The figures do not have to be audited to be included.
Personal assets not needed to meet non-business liabilities	<p>MIPRU 4.4.5R and 4.4.6G allow a sole trader or partner to use personal assets to cover liabilities incurred in the firm's business unless:</p> <p>(1) those assets are needed to meet other liabilities arising from:</p> <p>(a) personal activities; or</p> <p>(b) another business activity not regulated by the FSA;</p> <p>or</p> <p>(2) the firm holds client money or other client assets.</p> <p>This field may be left blank if the firm satisfies the capital resources requirements without relying on personal assets.</p>

Section D2: non-ISD personal investment firms

~~This section is for non-MiFID personal investment firms. Its purpose is to assist in calculating the financial resources data that is required in section D1 above, based on the requirements of IPRU(INV) 13.10 to 13.12.~~

All non-MiFID personal investment firms are required to meet the Own Funds financial resources test as follows:

Own Funds (test 1)

IPRU(INV) requires that all non-MiFID personal investment firms have financial resources of at least £10,000 at all times. The Own Funds test is designed to evaluate firms' adherence to this requirement.

In addition, firms that do not fall within the definition of a low resource firm are required to meet the following additional financial resources tests.

Adjusted Net Current Assets (test 1A)

The purpose of this test is to ensure that the firm has adequate working capital to be able to meet its liabilities as and when they fall due. It does this by taking the firm's net current assets (from the balance sheet), and applying the following actions:

- (1) excluding assets which cannot be realised or recovered within twelve months;
- (2) excluding amounts receivable from connected persons (to the extent that they are not properly secured, except certain allowable deposits);
- (3) valuing investments at current market value.

The resulting balance should be at least £1.

Expenditure Based Requirement (test 2)

This is a capital requirement for personal investment firms that are not low resource firms, based on a firm's overall audited expenditure. The Expenditure Based Requirement is calculated as a fraction of the firm's annual fixed costs which, for this purpose, are based upon the firm's annual expenditure and, in general terms, exclude cost items that would not be incurred were there no income. Thus staff bonuses and partners' profit shares (unless guaranteed) and any shared commissions are not treated as fixed costs for the purposes of the calculation.

Section D6: Capital Resources – Personal Investment Firms subject to IPRU(INV) chapter 13

<p><u>Base requirement</u></p>	<p>The minimum capital resources requirement for a firm is set out in IPRU(INV) 13.3.2R(2).</p> <p>Firms must be aware of the Transitional Provisions in IPRU(INV) Chapter 13.</p>
<p><u>Expenditure-based requirement</u></p>	<p>The requirement is calculated as 1/4 of the firm's fixed annual expenditure as required by IPRU(INV) 13.3.2R(1).</p> <p>For the purposes of the calculation fixed expenditure is that which is inelastic relative to fluctuations in the firm's level of business. Fixed expenditure is likely to include most salaries and staff costs, office rent, payment for the rent or lease of office equipment, and insurance premiums. It may</p>

	<p>be viewed as the amount of funds which a <i>firm</i> would require to enable it to cease business in an orderly manner, should the need arise. Staff bonuses, <i>employees</i> and <i>directors</i>’ profit shares, some interest charges, shared commission and fees payable, emoluments of directors, partners or a sole trader, and other variable expenditure can be deducted for the purposes of the calculation, but the <i>firm</i> will need to identify for itself which costs amount to fixed expenditure.</p> <p><i>Firms</i> must be aware of the Transitional Provisions in <i>IPRU(INV)</i> Chapter 13.</p>
Capital resources requirement per <i>IPRU(INV)</i> 13.3.2R (higher of above)	<p><i>Firms</i> are required to meet the capital resources requirement which is the higher of:</p> <p>(1) the base requirement; and</p> <p>(2) the expenditure-based requirement.</p>
Additional capital resources requirement for PII (if applicable)	<p>If the <i>firm</i> has increased excesses or exclusions on its PII policies, the total of the additional capital resources requirements required by <i>IPRU(INV)</i> 13.1.23R and 13.1.27R should be recorded here. See also section E of the <i>RMAR</i>.</p>
Other <i>FSA</i> capital resources requirements (if applicable)	<p>The <i>FSA</i> may from time to time impose additional requirements on individual <i>firms</i>. If this is the case for your <i>firm</i>, you should enter the relevant amount here. This excludes capital resources requirements in relation to PII, which are recorded above.</p>
Total capital resources requirement	<p>Appropriate totals from above.</p>
Capital Resources - as below	<p>This field should be filled in using the figure for capital resources as calculated in the second part of this Section.</p>
Surplus/deficit of capital resources	<p>This should show the amount of the <i>firm</i>’s capital resources in relation to its capital resources requirement.</p>

Capital resources calculation – per *IPRU(INV)* 13.3.10R

Paid up share capital excluding preference shares redeemable by shareholders within 2 years	<p>Exclude redeemable preference shares which fall due within two years. If preference shares are not redeemable by the shareholder within 2 years, they must be treated in accordance with 13.3.1R and 13.3.14R.</p>
Eligible LLP members’ capital	
Balances on proprietor’s or partners’ capital and current accounts, less excess LLP members’ drawings and excess of current year drawings over current year profits	
Share premium account	
Retained profits (losses) plus current year net profits (losses) plus other reserves	<p>Retained profits (or losses) do not need to be audited and current year net profits (or losses) do not need to be verified.</p>
Revaluation reserves	
Subordinated loans	<p>Subject to the limits set out in 13.3.11R to 13.3.14R.</p>
Less: Intangible assets	<p>Deduct intangible assets in full.</p>
Less: Contingent liabilities	<p>Deduct any contingent liability (including the overdraft of any other company that the firm has guaranteed).</p>
Less: Deficiencies in <i>subsidiaries</i>	<p>Include a deduction for the amount by which the liabilities of any <i>subsidiary</i> (excluding its capital and reserves) exceed its tangible assets. This requirement applies only to the extent that the <i>firm</i> has not already made such a provision in its balance sheet.</p>
Less: Non-trade debtors (including	<p>Deduct amounts in full.</p>

<u>from group and connected companies)</u>	
<u>Less: Trade debtors (including from group and connected companies)</u>	<u>Deduct amounts due and unpaid for more than 90 days.</u>
<u>Less: Land and buildings (net of any liabilities secured by a charge on the assets)</u>	<u>Deduct 30% of the net book value of land and buildings.</u>
<u>Less: Investments</u>	<u>Deduct the applicable percentage for investments as specified in Table 13.3.10.</u>
<u>Less: Accrued income</u>	<u>Deduct amounts receivable after more than 90 days.</u>
<u>Less: Prepayments</u>	<u>Deduct amounts which relate to goods or services to be received or performed after more than 90 days.</u>
<u>Less: Deposits</u>	<u>Deduct amounts other than:</u> <u>(a) cash and balances on current accounts and on deposit accounts with an approved bank or National Savings Bank that can be withdrawn within 90 days;</u> <u>(b) money on deposit with a UK local authority that can be withdrawn within 90 days;</u> <u>(c) money deposited and evidenced by a certificate of tax deposit.</u>
<u>Less: Other illiquid assets</u>	<u>Deduct amounts in full.</u>
<u>Personal assets of partnerships or sole traders</u>	<u>A sole trader or a partnership may include personal assets (based on a current independent valuation) to make up any shortfall in the required capital resources needed to meet its capital resources requirement. The assets must be discounted by the factors used for the calculations above in this Table and must not be needed to meet liabilities arising from personal activities or another business activity not regulated by the FSA.</u>

Section E: Professional Indemnity Insurance

~~Note: Home purchase, reversion and sale and rent back activity should be included under the existing mortgage headings in this section of the RMAR.~~

This section requires *firms* to confirm that they are in compliance with the prudential requirements in relation to professional indemnity insurance (PII).

Data is required in relation to all PII policies that a *firm* has in place, up to a limit of ten (the system will prompt you to submit data on all applicable policies). If a *firm* has more than ten policies, it should report only on the ten largest policies by premium.

Note on the scope of Section E: *retail investment firms* that fall within the scope of these data requirements, but do not meet the definition of *personal investment firm*, i.e. are not subject to IPRU(INV) 13, will **not** be subject to this section unless they undertake insurance mediation or home finance mediation activities. Insurance mediation activity includes any mediation performed in relation to a contract of insurance and this, for example, will include a life policy.

The PII requirements for *authorised professional firms* ('APFs') that carry on *retail investment activities* are set out in IPRU(INV) 2.3. APFs that carry on *home finance mediation activity* or *insurance mediation activity* are subject to the full requirements of MIPRU 3.

Firms which are subject to the requirements in both ~~IPRU and MIPRU~~ IPRU(INV) 13 but also undertake home finance and/or insurance mediation activity in relation to a non-investment insurance contract must apply the PII rules outlined in IPRU(INV) 13, not MIPRU 3.

Section E: guide for completion of individual fields

Part 1

<p>Does your firm hold a comparable guarantee or equivalent cover in lieu of PII, or is it otherwise exempt from holding PII in respect of any regulated activities (tick as appropriate)?</p>	<p>This question will establish whether a <i>firm</i> is exempt from the requirements and so is not required to hold PII.</p> <p>The conditions for comparable guarantees and other exemptions from the PII requirements for <i>firms</i> carrying on insurance or home finance mediation and subject to <u>MIPRU</u> are set out in <u>MIPRU 3.1.1R</u> paragraphs (3) to (6).</p> <p>Personal investment firms can only be exempted by individual waiver granted by the FSA (unless IPRU(INV) 13.1.7R applies in respect of comparable guarantees) <u>if they have a comparable guarantee that complies with IPRU(INV) 13.1.7R</u>.</p> <p>If the <i>firm</i> is required to hold PII – i.e. is not exempt from holding PII – you should enter 'no' in the data field.</p> <p>A <i>firm</i> is NOT exempt from holding PII if:</p> <ul style="list-style-type: none"> • the <i>firm</i> has a group policy with an insurer; or • the <i>firm</i> has permission for a regulated business that requires PII, but does not currently carry it out; or • it is a <i>personal investment firm</i> meeting the exemption requirements for <i>mortgage intermediaries</i> and <i>insurance intermediaries</i> in <u>MIPRU 3</u>. <p><i>Retail investment firms</i> that do not meet the definition of <i>personal investment firm</i> are not required to complete this section of the RMAR <u>unless they have permission for non-investment insurance or home finance mediation activities</u>.</p>
<p>If the your firm does not hold a comparable guarantee or equivalent cover and is not exempt, does the firm currently hold PII?</p>	<p><i>Firms</i> are required to take out and maintain PII at all times.</p> <p>You should only enter 'n/a' if the <i>firm</i> is exempt from the PII requirements for all the <i>regulated activities</i> forming part of the RMAR.</p>
<p>...</p>	<p>...</p>

Part 2

At this point, if the *firm* has PII policy details to report, it should do so by clicking on the 'add PII policy' button in the summary screen. This will then prompt you to name the sub-section, e.g. 'policy1'. You may also add further sub-sections if the *firm* has two or more policies (up to a maximum of ten).

PII basic information

<p>What activities are covered by the policy(ies)?</p>	<p>You should indicate which <i>regulated activities</i> are covered by the <i>firm</i>'s PII policy or policies.</p>
<p>If your policy excludes all business activities carried on prior to a</p>	<p>Required terms of PII are set out for <i>personal investment firms</i> in IPRU(INV) 13.1.5R <u>IPRU(INV) 13.1.9R to 13.1.18R</u></p>

particular date (i.e. a retroactive start date), then insert the date here, if not please insert 'n/a'.	and for <i>mortgage intermediaries</i> and <i>insurance intermediaries</i> in <i>MIPRU 3.2.4R</i>
...	...
Limit of Indemnity	<p>...</p> <p>Those firms subject to <u>the Insurance Mediation Directive (IMD)</u> requirements should state their limit in Euros; those that are not subject to the <i>IMD</i> should select 'Sterling' from the drop-down list.</p> <p>...</p> <p>For <i>personal investment firms</i>, see <i>IPRU(INV) 13.1.9R 13.1.10R</i> and 13.1.13R and select either 'Euros' or 'Sterling' as applicable.</p> <p>...</p>

...	...
Policy exclusion(s) (only in relation to exclusions you have had in the <u>past</u> or will have during the period covered by the policy)	<p>If there are any exclusions in the <i>firm's</i> PII policy which relate to any types of businesses <u>business</u> or activities <u>activity</u> that the <i>firm</i> has carried out either in the past or during the lifetime of the policy, enter the business type(s) to which the exclusions relate here.</p> <p>...</p>
...	...
Insurer Insurer's name (please select from the drop-down list)	<p>The <i>firm</i> should select the name of the <i>insurance undertaking</i> or Lloyd's syndicate providing cover. If the PII provider is not listed you should select 'other' and enter the name of the <i>insurance undertaking</i> or Lloyd's syndicate providing cover in the free-text box.</p> <p>If a policy is underwritten by more than one <i>insurance undertaking</i> or Lloyd's syndicate, you should select 'multiple' and state the names of all the <i>insurance undertakings</i> or Lloyd's syndicates in the free-text box.</p>
Annual income as stated on the most recent proposal form	<p>This should be the income as stated on the <i>firm's</i> most recent PII proposal form. For a <i>personal investment firm</i>, this is relevant income arising from all of the <i>firm's</i> activities for the last accounting year before the policy began or was renewed (<i>IPRU(INV) 13.1.8R</i>). For <i>insurance intermediaries</i> and <i>home finance intermediaries</i> this is the annual income given in the <i>firm's</i> most recent annual financial statement from the relevant <i>regulated activity</i> or activities (<i>MIPRU 4.3.1R</i> to 4.3.3R).</p>
Amount of additional capital <u>resource</u> required for increased excess(es) (where applicable, total amount for all PII policies)	<p>This should be calculated using the tables in <i>IPRU(INV) 13.1.19R 13.1.27R</i> or <i>MIPRU 3.2.14</i> to 3.2.16R as applicable. The total of additional capital <u>resources</u> (i.e. in relation to all of the <i>firm's</i></p>

	PII policies) should have been be reported under 'additional capital <u>resources</u> requirements for PII' and/or 'additional own funds for PII' in Section D1.
Amount of additional capital resources required for policy exclusion(s)	<i>Personal investment firms</i> only – this should be calculated in line with <i>IPRU(INV)</i> 13.1.23R. The total of additional capital resources (i.e. in relation to all of the <i>firm's</i> PII policies) should have been reported under 'additional capital resources for PII' in section D4 <u>D6</u> .
Total of additional capital resources required	<i>Personal investment firms</i> only – this is the same figure as in section D4 <u>D6</u> , representing the total of additional capital resources required under <i>IPRU(INV)</i> 13.1.23R to 13.1.27R for all of the <i>firm's</i> PII policies.
Total of readily realisable capital resources	<i>Personal investment firms</i> only – you should state here the total of the own funds reported in section D.
Excess/deficit of readily realisable own funds	This field is no longer relevant.

...

**COMPENSATION SOURCEBOOK (DEPOSIT GUARANTEE SCHEMES
DIRECTIVE AMENDMENTS) (NO 2) INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 138 (General rule-making power);
 - (b) section 156 (General supplementary powers);
 - (c) section 157(1) (Guidance);
 - (d) section 213 (The compensation scheme); and
 - (e) section 214 (General); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 31 December 2010.

Amendments to the Handbook

- D. The Compensation sourcebook (COMP) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Compensation Sourcebook (Deposit Guarantee Schemes Directive Amendments) (No 2) Instrument 2010.

By order of the Board
16 December 2010

Annex

Amendments to the Compensation sourcebook (COMP)

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

- 7.2.3C G (1) For example, if the claimant's overall *claim for protected deposits* against a *relevant person* was for ~~£100,000~~120,000, and the *FSCS* paid compensation of ~~£50,000~~85,000 and took assignment of all the claimant's rights in relation to that claim, and made recoveries through those rights in the sum of ~~£80,000~~96,000 (after the costs of recovery and of distribution), then:
- (a) the recovery ratio would be 80% (~~£80,000~~ 96,000 ÷ ~~£100,000~~ 120,000);
 - (b) the compensation shortfall would be ~~£50,000~~ 35,000 (~~£100,000~~ 120,000 - ~~£50,000~~ 85,000);
 - (c) the *FSCS* retention sum would be ~~£40,000~~ 68,000 (80% x ~~£50,000~~ 85,000);
 - (d) the top up payment would be ~~£40,000~~ 28,000 (80% of ~~£50,000~~ 35,000);
 - (e) the total payment to the claimant would be ~~£90,000~~ 113,000 (~~£50,000~~ 85,000 of compensation plus ~~£40,000~~ 28,000 of top up payment); and
 - (f) the total outlay by the *FSCS*, net of the *FSCS* retention sum, would be ~~£10,000~~ 17,000 (20% x ~~£50,000~~ 85,000).
- (2) In the example above, the amount recovered exceeds the amount of compensation. However, *COMP* 7.2.1R also applies where the amount recovered is less than the amount of compensation. Therefore, for example, if the claimant's overall *claim for protected deposits* against a *relevant person* was for ~~£100,000~~ 120,000, and the *FSCS* paid compensation of ~~£50,000~~ 85,000 and took assignment of all the claimant's rights in relation to that claim, and made recoveries through those rights in the sum of ~~£20,000~~ 24,000 (after the costs of recovery and of distribution), then:
- (a) the recovery ratio would be 20% (~~£20,000~~ 24,000 ÷ ~~£100,000~~ 120,000);
 - (b) the compensation shortfall would be ~~£50,000~~ 35,000 (~~£100,000~~ 120,000 - ~~£50,000~~ 85,000);
 - (c) the *FSCS* retention sum would be ~~£10,000~~ 17,000 (20% x

~~£50,000~~ 85,000);

- (d) the top up payment would be ~~£10,000~~ 7,000 (20% of ~~£50,000~~ 35,000);
- (e) the total payment to the claimant would be ~~£60,000~~ 92,000 (~~£50,000~~ 85,000 of compensation plus ~~£10,000~~ 7,000 of top up payment); and
- (f) the total outlay by the FSCS, net of the FSCS retention sum, would be ~~£40,000~~ 68,000 (80% x ~~£50,000~~ 85,000).

...

10.2.3 R Table Limits

This table belongs to COMP 10.2.1R

Type of claim	Level of cover	Maximum payment
<i>Protected deposit or protected dormant account</i>	100% of claim	£50,000 or €50,000 whichever is the greater on the date the relevant person is determined to be in default or the date the protected deposit was due and payable, if later. <u>£85,000</u> [Note: article 7(1) articles 7(1a) and 7(1b) of the <i>Deposit Guarantee Directive</i>] ...
...		

...

Incoming EEA firms that accept deposits through UK branches ~~and have not obtained top-up cover~~

- 16.3.3 R An *incoming EEA firm* that *accepts deposits* through a *UK branch* ~~and has not obtained top-up cover~~ must disclose the following information to any *deposit holder* with that *branch* who is or is likely to be eligible to claim for compensation from the *firm's Home State* compensation scheme.

...

~~Incoming EEA firms that accept deposits through UK branches and have obtained~~

top-up cover

- 16.3.4 R ~~An incoming EEA firm that accepts deposits through a UK branch and has obtained top-up cover must disclose the following information to any protected deposit holder with that firm who is or is likely to be an eligible claimant.~~

"Important information about compensation arrangements

We are part of [insert name of firm] which is based in [insert name of Home State]. Most depositors are covered by [insert name of Home State compensation scheme] compensation scheme which is also based in [insert name of Home State]. In addition, for depositors with our UK branch we have joined the UK compensation scheme, the Financial Services Compensation Scheme (FSCS).

This means that if our bank is unable to meet its financial obligations, eligible depositors with our UK branch could claim up to £ [insert Home State compensation scheme maximum payment for deposits] from the [insert name of Home State compensation scheme] and if they have more saved with us, they could also claim for the remainder up to [insert FSCS maximum payment for protected deposits] from the FSCS.

This is because the [insert name of Home State compensation scheme] is only responsible for paying the first part of the compensation up to £ [insert Home State compensation scheme maximum payment for deposits] and the FSCS is only responsible for paying the second part of compensation – being above £ [insert Home State compensation scheme maximum payment for deposits] and up to [insert FSCS maximum payment for protected deposits].

The FSCS will also try to help depositors with our UK branch, for example, to get in touch with the [insert name of Home State compensation scheme] compensation scheme and to understand the process involved.

For further information on how compensation would apply to you please contact:

- [insert name of firm] by dropping into one of our branches, at [insert website link] or by calling [insert phone number].

General information is also available from:

- the FSCS by calling [insert FSCS phone number] or at www.fscs.org.uk/.
- [insert name of Home State compensation scheme] compensation scheme by contacting [insert relevant phone number and website link]. [deleted]

...

TP 1.1 Transitional Provisions Table

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional Provision	Transitional provision: dates in force	Handbook Provisions: coming into force
...					
<u>24</u>	<u>COMP 10.2.3R</u>	<u>R</u>	<u>The change to the limit for <i>protected deposits</i> made by the Compensation Sourcebook (Deposit Guarantee Schemes Directive Amendments) (No 2) Instrument 2010 does not apply in relation to a <i>claim</i> against a <i>relevant person</i> that was <i>in default</i> before 31 December 2010.</u>	<u>From 31 December 2010 indefinitely</u>	<u>31 December 2010</u>

...

**SENIOR MANAGEMENT ARRANGEMENTS, SYSTEMS AND CONTROLS
(REMUNERATION CODE) (NO 2) INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 139A (General rules about remuneration);
 - (3) section 149 (Evidential provisions);
 - (4) section 156 (General supplementary powers); and
 - (5) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 January 2011.

Amendments to the Handbook

- D. The modules of the FSA Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Senior Management Arrangements, Systems and Controls sourcebook (SYSC)	Annex B
General Prudential sourcebook (GENPRU)	Annex C
Supervision manual (SUP)	Annex D

Notes

- E. In the Annexes to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- F. This instrument may be cited as the Senior Management Arrangements, Systems and Controls (Remuneration Code) (No 2) Instrument 2010.

By order of the Board
16 December 2010

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

discretionary pension benefit (in SYSC 19A) enhanced pension benefits granted on a discretionary basis by a *firm* to an *employee* as part of that *employee's* variable *remuneration* package, but excluding accrued benefits granted to an *employee* under the terms of his company pension scheme.

[**Note:** article 4(49) of the *Banking Consolidation Directive*]

FSB Compensation Standards (in accordance with the definition of “the Implementation Standards” in section 139A(12) of the *Act*) the Implementation Standards for Principles for Sound Compensation Practices issued by the Financial Stability Board on 25 September 2009.

Remuneration Code staff (for a *BIPRU firm* and a *third country BIPRU firm*) has the meaning given in SYSC 19A.3.4R.

remuneration principles proportionality rule (in SYSC 19A) has the meaning given in SYSC 19A.3.3R.

Amend the following definitions as shown.

parent undertaking (1) (in accordance with section 420 of the *Act* (Parent and subsidiary undertaking) and section 1162 of the Companies Act 2006 (Parent and subsidiary undertakings)):

...

(c) (for the purposes of ... SYSC 12 (Group risk systems and controls requirement) and SYSC 19A (Remuneration Code) and in relation to whether an *undertaking* is a parent *undertaking*) an *undertaking* which has the following relationship to another *undertaking* (“S”): ...

remuneration any form of remuneration, including salaries, discretionary pension benefits and benefits of any kind.

[**Note:** paragraph 23 of Annex V to the *Banking Consolidation Directive*]

Remuneration Code SYSC ~~19~~ 19A (Remuneration Code).

<i>Remuneration Code general requirement</i>	SYSC 19.2.1R <u>19A.2.1R.</u>
<i>remuneration committee</i>	a committee or other body responsible for a <i>firm's remuneration policy</i>.
<i>remuneration policy</i>	the policy, procedures and practices established, implemented and maintained in accordance with the <i>Remuneration Code general requirement</i>.
<i>third country BIPRU 730k firm</i>	an <i>overseas firm</i> that: <ul style="list-style-type: none"> (a) is not an <i>EEA firm</i>; (b) has its head office outside the <i>EEA</i>; and (c) would be a <i>BIPRU 730k firm</i> if it had been a <i>UK domestic firm</i>, had carried on all its business in the <i>United Kingdom</i> and had obtained whatever authorisations for doing so as are required under the <i>Act</i>.

Annex B

**Amendments to the Senior Management Arrangements, Systems and Controls
sourcebook (SYSC)**

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

1 Annex 1 Detailed application of SYSC

...

Part 3	Tables summarising the application of the common platform requirements to different types of firm	
3.1	G	The <i>common platform requirements</i> apply in the following two ways (subject to the provisions in Part 2 of this Annex).
3.2	G	For a <i>common platform firm</i> , they apply in accordance with Column A in the table below.
3.3	G	For all other <i>firms</i> apart from <i>insurers, managing agents</i> and the <i>Society</i> , they apply in accordance with Column B in the table below. For these <i>firms</i> , where a <i>rule</i> is shown modified in Column B as 'Guidance', it should be read as <i>guidance</i> (as if "should" appeared in that rule instead of "must") and should be applied in a proportionate manner, taking into account the nature, scale and complexity of the firm's business.

Provision	COLUMN A	COLUMN B
SYSC 4	Application to a common platform firm	Application to all other firms apart from insurers, managing agents and the Society
SYSC 4.1.1R	Rule <u>but SYSC 4.1.1R(2) applies only to a BIPRU firm</u>	Rule <u>but SYSC 4.1.1R(2) applies only to a third country BIPRU firm</u>

...

1.1A.1 G The application of this sourcebook is summarised at a high level in the following table. ...

Type of firm	Applicable chapters
...	
Every other <i>firm</i>	Chapters 4 to 12, 18, 19 <u>19A</u>

...

1.4 Application of SYSC 11 to SYSC ~~19~~ 19A

...

1.4.1 G The application of each of chapters SYSC 11 to SYSC ~~19~~ 19A is set out in those chapters.

...

1.4.2 R A contravention of a rule in SYSC 11 to SYSC ~~19~~ 19A does not give rise to a right of action by a *private person* ...

...

4.1.1 R (1) A *firm* must have robust governance arrangements, which include a clear organisational structure with well defined, transparent and consistent lines of responsibility, effective processes to identify, manage, monitor and report the risks it is or might be exposed to, and internal control mechanisms, including sound administrative and accounting procedures and effective control and safeguard arrangements for information processing systems.

(2) A BIPRU firm and a third country BIPRU firm must comply with the Remuneration Code.

[Note: article 22(1) of the *Banking Consolidation Directive*, article 13(5) second paragraph of *MiFID*]

4.1.2 R For a *common platform firm*, the arrangements, processes and mechanisms referred to in SYSC 4.1.1R must be comprehensive and proportionate to the nature, scale and complexity of the *common platform firm's* activities and must take into account the specific technical criteria described in SYSC 4.1.7R, SYSC 5.1.7R and, SYSC 7 and (for a *BIPRU firm* and a *third country BIPRU firm*) SYSC 19A.

...

~~Remuneration policies~~

4.1.12 G ~~Certain banks, building societies and BIPRU 730k firms will need to comply with the Remuneration Code requirement to establish, implement and maintain an effective remuneration policy that is consistent with effective risk management. See SYSC 19.1 for details of the application of the Remuneration Code. [deleted]~~

...

6.1.4-A G In setting the method of determining the *remuneration of relevant persons* involved in the compliance function, ~~certain banks, building societies and BIPRU 730k firms~~ will also need to comply with the *Remuneration Code*.

~~See SYSC 19.1 for details of the application of the *Remuneration Code*.~~

...

- 7.1.7B G In setting the method of determining the *remuneration of employees* involved in the risk management function, ~~certain banks, building societies and BIPRU 730k firms~~ will also need to comply with the *Remuneration Code*. ~~See SYSC 19.1 for details of the application of the *Remuneration Code*.~~

...

- 12.1.13 R If this *rule* applies under SYSC 12.1.14R to a *firm*, the *firm* must:
- (1) comply with SYSC 12.1.8R(2) in relation to any *UK consolidation group* or *non-EEA sub-group* of which it is a member, as well as in relation to its *group*; and
 - (2) ensure that the risk management processes and internal control mechanisms at the level of any *UK consolidation group* or *non-EEA sub-group* of which it is a member comply with the obligations set out in the following provisions on a consolidated (or sub-consolidated) basis:

...

(da) the *Remuneration Code*;

...

The following new text is inserted after SYSC Chapter 19. SYSC Chapter 19 is deleted in its entirety. The deleted text is not shown struck through and the new text is not underlined.

19A Remuneration Code

19A.1 General application and purpose

Who? What? Where?

- 19A.1.1 R
- (1) The *Remuneration Code* applies to a *BIPRU firm* and a *third country BIPRU firm*.
 - (2) In relation to a *third country BIPRU firm*, the *Remuneration Code* applies only in relation to activities carried on from an establishment in the *United Kingdom*.
 - (3) Otherwise, the *Remuneration Code* applies to a *firm* within (1) in the same way as SYSC 4.1.1R (General Requirements).

- 19A.1.2 G Part 2 of SYSC 1 Annex 1 provides for the application of SYSC 4.1.1R (General Requirements). In particular, and subject to the provisions on group risk systems and controls requirements in SYSC 12, this means that:
- (1) in relation to what the *Remuneration Code* applies to, it:
 - (a) applies in relation to *regulated activities*, activities that constitute *dealing in investment as principal* (disregarding the exclusion in article 15 of the *Regulated Activities Order* (Absence of holding out etc)), *ancillary activities* and (in relation to *MiFID business*) *ancillary services*;
 - (b) applies with respect to the carrying on of *unregulated activities* in a *prudential context*; and
 - (c) takes into account activities of other *group* members; and
 - (2) in relation to where the *Remuneration Code* applies, it applies in relation to:
 - (a) a *firm's UK* activities;
 - (b) a *firm's passported activities* carried on from a *branch* in another *EEA State*; and
 - (c) a *UK domestic firm's* activities wherever they are carried on, in a *prudential context*.

When?

- 19A.1.3 R A *firm* must apply the *remuneration* requirements in SYSC 19A.3 in relation to:
- (1) *remuneration* awarded, whether pursuant to a contract or otherwise, on or after 1 January 2011;
 - (2) *remuneration* due on the basis of contracts concluded before 1 January 2011 which is awarded or paid on or after 1 January 2011; and
 - (3) *remuneration* awarded, but not yet paid, before 1 January 2011, for services provided in 2010.

[Note: article 3(2) of the Third Capital Requirements Directive (Directive 2010/76/EU)]

- 19A.1.4 G Subject to the requirements of SYSC 19A.1.5R, in the *FSA's* view SYSC 19A.1.3R does not require a *firm* to breach requirements of applicable contract or employment law.

[Note: recital 14 of the Third Capital Requirements Directive (Directive

2010/76/EU)]

- 19A.1.5 R (1) This *rule* applies to a *firm* that is unable to comply with the *Remuneration Code* because of an obligation it owes to a *Remuneration Code staff member* under a provision of an agreement made on or before 29 July 2010 (the “provision”).
- (2) A *firm* must take reasonable steps to amend or terminate the provision referred to in (1) in a way that enables it to comply with the *Remuneration Code* at the earliest opportunity.
- (3) Until the provision referred to in (1) ceases to prevent the *firm* from complying with the *Remuneration Code*, the *firm* must adopt specific and effective arrangements, processes and mechanisms to manage the risks raised by the provision.

Purpose

- 19A.1.6 G (1) The aim of the *Remuneration Code* is to ensure that *firms* have risk-focused *remuneration* policies, which are consistent with and promote effective risk management and do not expose them to excessive risk. It expands upon the general organisational requirements in SYSC 4.
- (2) The *Remuneration Code* implements the main provisions of the Third Capital Requirements Directive (Directive 2010/76/EU) which relate to *remuneration*. The Committee of European Banking Supervisors published ‘Guidelines on Remuneration Policies and Practices’ on 10 December 2010. Provisions of the Third Capital Requirements Directive relating to Pillar 3 disclosures of information relating to remuneration have been implemented through amendments to BIPRU 11 (specifically the *rules* and *guidance* in BIPRU 11.5.18R to BIPRU 11.5.21G).
- (3) The *Remuneration Code* also fulfils the FSA’s duty under section 139A of the *Act* (General rules about remuneration) to have *rules* requiring certain *firms* to have and act in accordance with a *remuneration* policy which is consistent with the effective management of risks and with the *FSB Compensation Standards*.

Notifications to the FSA

- 19A.1.7 G (1) The *Remuneration Code* does not contain specific notification requirements. However, general circumstances in which the FSA expects to be notified by *firms* of matters relating to their compliance with requirements under the *regulatory system* are set out in SUP 15.3 (General notification requirements).
- (2) In particular, in relation to *remuneration* matters such circumstances should take into account *unregulated activities* as well as *regulated activities* and the activities of other members of a *group* and would

include each of the following:

- (a) significant breaches of the *Remuneration Code*, including any breach of a *rule* to which the detailed provisions on voiding and recovery in SYSC 19A Annex 1 apply;
 - (b) any proposed *remuneration* policies, procedures or practices which could:
 - (i) have a significant adverse impact on the *firm's* reputation; or
 - (ii) affect the *firm's* ability to continue to provide adequate services to its *customers* and which could result in serious detriment to a *customer* of the *firm*; or
 - (iii) result in serious financial consequences to the *financial system* or to other *firms*;
 - (c) any proposed changes to *remuneration* policies, practices or procedures which could have a significant impact on the *firm's* risk profile or resources;
 - (d) fraud, errors and other irregularities described in SUP 15.3.17R which may suggest weaknesses in, or be motivated by, the *firm's remuneration* policies, procedures or practices.
- (3) Such notifications should be made immediately the *firm* becomes aware, or has information which reasonably suggests such circumstances have occurred, may have occurred or may occur in the foreseeable future.

Individual guidance

- 19A.1.8 G The *FSA's* policy on individual *guidance* is set out in SUP 9. *Firms* should in particular note the policy on what the *FSA* considers to be a reasonable request for *guidance* (see SUP 9.2.5G). For example, where a *firm* is seeking *guidance* on a proposed *remuneration* structure the *FSA* will expect the *firm* to provide a detailed analysis of how the structure complies with the *Remuneration Code*, including the general requirement for *remuneration* policies, procedures and practices to be consistent with and promote sound and effective risk management.

19A.2 General requirement

Remuneration policies must promote effective risk management

- 19A.2.1 R A *firm* must establish, implement and maintain *remuneration* policies, procedures and practices that are consistent with and promote sound and

effective risk management.

[**Note:** Article 22(1) of the *Banking Consolidation Directive*]

- 19A.2.2 G (1) If a *firm's remuneration policy* is not aligned with effective risk management it is likely that *employees* will have incentives to act in ways that might undermine effective risk management.
- (2) The *Remuneration Code* covers all aspects of *remuneration* that could have a bearing on effective risk management including salaries, bonuses, long-term incentive plans, options, hiring bonuses, severance packages and pension arrangements. In applying the *Remuneration Code*, a *firm* should have regard to applicable good practice on *remuneration* and corporate governance, such as guidelines on executive contracts and severance produced by the Association of British Insurers (ABI) and the National Association of Pension Funds (NAPF). In considering the risks arising from its *remuneration* policies, a *firm* will also need to take into account its statutory duties in relation to equal pay and non-discrimination.
- (3) As with other aspects of a *firm's* systems and controls, in accordance with SYSC 4.1.2R *remuneration* policies, procedures and practices must be comprehensive and proportionate to the nature, scale and complexity of the *common platform firm's* activities. What a *firm* must do in order to comply with the *Remuneration Code* will therefore vary. For example, while the *Remuneration Code* refers to a *firm's remuneration* committee and risk management function, it may be appropriate for the *governing body* of a smaller *firm* to act as the *remuneration* committee, and for the *firm* not to have a separate risk management function.
- (4) The principles in the *Remuneration Code* are used by the *FSA* to assess the quality of a *firm's remuneration* policies and whether they encourage excessive risk-taking by a *firm's employees*.
- (5) The *FSA* may also ask *remuneration* committees to provide the *FSA* with evidence of how well the *firm's remuneration* policies meet the *Remuneration Code's* principles, together with plans for improvement where there is a shortfall. The *FSA* also expects relevant *firms* to use the principles in assessing their exposure to risks arising from their *remuneration* policies as part of the *internal capital adequacy assessment process (ICAAP)*.
- (6) The *Remuneration Code* is principally concerned with the risks created by the way *remuneration* arrangements are structured, not with the absolute amount of *remuneration*, which is generally a matter for *firms' remuneration* committees.
- 19A.2.3 G (1) The specific *remuneration* requirements in this chapter may apply only in relation to certain categories of *employee*. But the *FSA* would expect *firms*, in complying with the *Remuneration Code*

general requirement, to apply certain principles on a *firm-wide* basis.

- (2) In particular, the *FSA* considers that *firms* should apply the principle relating to guaranteed variable *remuneration* on a *firm-wide* basis (Remuneration Principle 12(c); SYSC 19A.3.40R to SYSC 19A.3.43G).
- (3) The *FSA* would also expect *firms* to apply at least the principles relating to risk management and risk tolerance (Remuneration Principle 1); supporting business strategy, objectives, values and long-term interests of the firm (Remuneration Principle 2); conflicts of interest (Remuneration Principle 3); governance (Remuneration Principle 4); risk adjustment (Remuneration Principle 8); pension policy (Remuneration Principle 9); personal investment strategies (Remuneration Principle 10); payments related to early termination (Remuneration Principle 12(e)) and deferral (Remuneration Principle 12(g)) on a *firm-wide* basis.

Record-keeping

- 19A.2.4 G In line with the record-keeping requirements in SYSC 9, a *firm* should ensure that its *remuneration* policies, practices and procedures are clear and documented. Such policies, practices and procedures would include performance appraisal processes and decisions.

Interpretation of references to remuneration

- 19A.2.5 R (1) In this chapter references to *remuneration* include *remuneration* paid, provided or awarded by any *person* to the extent that it is paid, provided or awarded in connection with *employment* by a *firm*.
- (2) Paragraph (1) is without prejudice to the meaning of *remuneration* elsewhere in the *Handbook*.
- 19A.2.6 G *Remuneration* includes, for example, payments made by a seconding organisation which is not subject to the *Remuneration Code* to a secondee in respect of their *employment* by a *firm* which is subject to the *Remuneration Code*.

19A.3 Remuneration principles for banks, building societies and investment firms

Application: groups

- 19A.3.1 R (1) A *firm* must apply the requirements of this section at *group*, *parent undertaking* and *subsidiary undertaking* levels, including those *subsidiaries* established in a country or territory which is not an *EEA State*.
- (2) Paragraph (1) does not limit SYSC 12.1.13R(2)(da) (which relates to the application of the *Remuneration Code* within *UK consolidation*

groups and non-EEA sub-groups).

[**Note:** Paragraph 23 (final, unnumbered point) of Annex V to the *Banking Consolidation Directive*]

- 19A.3.2 G SYSC 12.1.13R(2)(da) requires the *firm* to ensure that the risk management processes and internal control mechanisms at the level of any *UK consolidation group* or *non-EEA sub-group* of which a *firm* is a member comply with the obligations set out in this section on a consolidated (or sub-consolidated) basis. In the *FSA's* view, the requirement to apply this section at *group, parent undertaking* and *subsidiary undertaking* levels (as provided for in SYSC 19A.3.1R(1)) is in line with the requirements in article 73(3) of the *Banking Consolidation Directive* concerning the application of systems and controls requirements to *groups* (as implemented in SYSC 12.1.13R).

Application: categories of staff and proportionality

- 19A.3.3 R (1) This section applies in relation to *Remuneration Code staff*, except as set out in (3).
- (2) When establishing and applying the total *remuneration* policies for *Remuneration Code staff*, a *firm* must comply with this section in a way and to the extent that is appropriate to its size, internal organisation and the nature, the scope and the complexity of its activities (the *remuneration principles proportionality rule*).
- (3) Paragraphs (1) and (2) do not apply to the requirement for significant *firms* to have a *remuneration* committee (SYSC 19A.3.12R).

[**Note:** Paragraph 23 of Annex V to the *Banking Consolidation Directive*]

[**Note:** In addition to the *guidance* in this section which relates to the *remuneration principles proportionality rule*, the *FSA* has given *guidance* on the division of *firms* into categories for the purpose of providing a framework for the operation of the *remuneration principles proportionality rule*. This *guidance* was published in Policy Statement 10/20 'Revising the Remuneration Code' and is available at <http://www.fsa.gov.uk/Pages/Library/Policy/Policy/index.shtml>.]

- 19A.3.4 R *Remuneration Code staff* comprises categories of staff including senior management, risk takers, staff engaged in control functions and any *employee* receiving total remuneration that takes them into the same *remuneration* bracket as senior management and risk takers, whose professional activities have a material impact on the *firm's* risk profile.

[**Note:** paragraph 23 of Annex V to the *Banking Consolidation Directive*]

- 19A.3.5 R A *firm* must:
- (1) maintain a record of its *Remuneration Code staff* in accordance with the general record-keeping requirements (SYSC 9); and

- (2) take reasonable steps to ensure that its *Remuneration Code staff* understand the implications of their status as such, including the potential for *remuneration* which does not comply with certain requirements of the *Remuneration Code* to be rendered void and recoverable by the *firm*.

19A.3.6 G (1)

In the *FSA*'s view:

- (a) a *firm*'s staff includes its *employees*;
- (b) a *person* who performs a *significant influence function* for, or is a *senior manager* of, a *firm* would normally be expected to be part of the *firm*'s *Remuneration Code staff*;
- (c) the table in (2) provides a non-exhaustive list of examples of key positions that should, subject to (d), be within a *firm*'s definition of staff who are 'risk takers';
- (d) *firms* should consider how the examples in the table in (2) apply in relation to their own organisational structure (as the description of suggested business lines in the first row may be most appropriate to a *firm* which *deals on its own account* to a significant extent);
- (e) *firms* may find it useful to set their own metrics to identify their 'risk takers' based, for example, on trading limits; and
- (f) a *firm* should treat a *person* as being *Remuneration Code staff* in relation to *remuneration* in respect of a given performance year if they were *Remuneration Code staff* for any part of that year.

[**Note:** The *FSA* has given *guidance* on the application of particular rules on *remuneration* structures in relation to individuals who are *Remuneration Code staff* for only part of a given performance year. This *guidance* was published in Policy Statement 10/20 'Revising the Remuneration Code' and is available at <http://www.fsa.gov.uk/Pages/Library/Policy/Policy/index.shtml>.]

(2) High-level category	Suggested business lines
Heads of significant business lines (including regional heads) and any individuals or groups within their control who have a material impact on the <i>firm</i> 's risk profile	Fixed income Foreign exchange Commodities Securitisation

	<p>Sales areas</p> <p>Investment banking (including mergers and acquisitions advisory)</p> <p>Commercial banking</p> <p>Equities</p> <p>Structured finance</p> <p>Lending quality</p> <p>Trading areas</p> <p>Research</p>
<p>Heads of support and control functions and other individuals within their control who have a material impact on the <i>firm's</i> risk profile</p>	<p>Credit / market / operational risk</p> <p>Legal</p> <p>Treasury controls</p> <p>Human resources</p> <p>Compliance</p> <p>Internal audit</p>

Remuneration Principle 1: Risk management and risk tolerance

- 19A.3.7 R A *firm* must ensure that its *remuneration* policy is consistent with and promotes sound and effective risk management and does not encourage risk-taking that exceeds the level of tolerated risk of the *firm*.

[**Note:** Paragraph 23(a) of Annex V to the *Banking Consolidation Directive*]

Remuneration Principle 2: Supporting business strategy, objectives, values and long-term interests of the firm

- 19A.3.8 R A *firm* must ensure that its *remuneration* policy is in line with the business strategy, objectives, values and long-term interests of the *firm*.

[**Note:** Paragraph 23(b) of Annex V to the *Banking Consolidation Directive*]

Remuneration Principle 3: Avoiding conflicts of interest

- 19A.3.9 R A *firm* must ensure that its *remuneration* policy includes measures to avoid conflicts of interest.

[**Note:** Paragraph 23(b) of Annex V to the *Banking Consolidation Directive*]

Remuneration Principle 4: Governance

- 19A.3.10 R A *firm* must ensure that its *governing body* in its *supervisory function* adopts and periodically reviews the general principles of the *remuneration* policy and is responsible for its implementation.

[**Note:** Paragraph 23(c) of Annex V to the *Banking Consolidation Directive* and Standard 1 of the *FSB Compensation Standards*]

- 19A.3.11 R A *firm* must ensure that the implementation of the *remuneration* policy is, at least annually, subject to central and independent internal review for compliance with policies and procedures for *remuneration* adopted by the *governing body* in its *supervisory function*.

[**Note:** Paragraph 23(d) of Annex V to the *Banking Consolidation Directive* and Standard 1 of the *FSB Compensation Standards*]

- 19A.3.12 R
- (1) A *firm* that is significant in terms of its size, internal organisation and the nature, the scope and the complexity of its activities must establish a *remuneration* committee.
 - (2) The *remuneration* committee must be constituted in a way that enables it to exercise competent and independent judgment on *remuneration* policies and practices and the incentives created for managing risk, capital and liquidity.
 - (3) The chairman and the members of the *remuneration* committee must be members of the *governing body* who do not perform any executive function in the *firm*.
 - (4) The *remuneration* committee must be responsible for the preparation of decisions regarding *remuneration*, including those which have implications for the risk and risk management of the *firm* and which are to be taken by the *governing body* in its *supervisory function*.
 - (5) When preparing such decisions, the *remuneration* committee must take into account the long-term interests of shareholders, investors and other stakeholders in the *firm*.

[**Note:** Paragraph 24 of Annex V of the *Banking Consolidation Directive* and Standard 1 of the *FSB Compensation Standards*]

[**Note:** The *guidance* referred to in the Note to SYSC 19A.3.3R also gives *guidance* on proportionality in relation to *remuneration* committees.]

- 19A.3.13 G
- (1) A *firm* should be able to demonstrate that its decisions are consistent with an assessment of its financial condition and future prospects. In particular, practices by which *remuneration* is paid for potential future revenues whose timing and likelihood remain uncertain should be evaluated carefully and the *governing body* or *remuneration* committee (or both) should work closely with the *firm*'s risk function

in evaluating the incentives created by its *remuneration* system.

- (2) The *governing body* and any *remuneration* committee are responsible for ensuring that the *firm's remuneration* policy complies with the *Remuneration Code* and where relevant should take into account relevant guidance, such as that issued by the Basel Committee on Banking Supervision, the International Association of Insurance Supervisors (IAIS) and the International Organization of Securities Commissions (IOSCO).
- (3) The periodic review of the implementation of the *remuneration* policy should assess compliance with the *Remuneration Code*.
- (4) Guidance on what the *supervisory function* might involve is set out in SYSC 4.3.3G.

Remuneration Principle 5: Control functions

19A.3.14 R A *firm* must ensure that *employees* engaged in control functions:

- (1) are independent from the business units they oversee;
- (2) have appropriate authority; and
- (3) are *remunerated*:
 - (a) adequately to attract qualified and experienced staff; and
 - (b) in accordance with the achievement of the objectives linked to their functions, independent of the performance of the business areas they control.

[**Note:** Paragraph 23(e) of Annex V to the *Banking Consolidation Directive* and Standard 2 of the *FSB Compensation Standards*]

19A.3.15 E (1) A *firm's* risk management and compliance functions should have appropriate input into setting the *remuneration* policy for other business areas. The procedures for setting *remuneration* should allow risk and compliance functions to have significant input into the setting of individual *remuneration* awards where those functions have concerns about the behaviour of the individuals concerned or the riskiness of the business undertaken.

- (2) Contravention of (1) may be relied on as tending to establish contravention of the *rule* on *employees* engaged in control functions having appropriate authority (SYSC 19A.3.14R(2)).

19A.3.16 R A *firm* must ensure that the *remuneration* of the senior officers in risk management and compliance functions is directly overseen by the *remuneration* committee referred to in SYSC 19A.3.12R, or, if such a committee has not been established, by the *governing body* in its *supervisory*

function.

[**Note:** Paragraph 23(f) of Annex V to the *Banking Consolidation Directive*]

- 19A.3.17 G (1) This Remuneration Principle is designed to manage the conflicts of interest which might arise if other business areas had undue influence over the *remuneration* of *employees* within control functions. Conflicts of interest can easily arise when *employees* are involved in the determination of *remuneration* for their own business area. Where these could arise they need to be managed by having in place independent roles for control functions (including, notably, risk management and compliance) and human resources. It is good practice to seek input from a *firm's* human resources function when setting *remuneration* for other business areas.
- (2) The need to avoid undue influence is particularly important where *employees* from the control functions are embedded in other business areas. This Remuneration Principle does not prevent the views of other business areas being sought as an appropriate part of the assessment process.
- (3) The *FSA* would generally expect the ratio of the potential variable component of *remuneration* to the fixed component of *remuneration* to be significantly lower for *employees* in risk management and compliance functions than for *employees* in other business areas whose potential bonus is a significant proportion of their *remuneration*. *Firms* should nevertheless ensure that the total *remuneration* package offered to those *employees* is sufficient to attract and retain staff with the skills, knowledge and expertise to discharge those functions. The requirement that the method of determining the *remuneration* of *relevant persons* involved in the compliance function must not compromise their objectivity or be likely to do so also applies (see *SYSC* 6.1.4R(4)).

Remuneration Principle 6: Remuneration and capital

- 19A.3.18 R A *firm* must ensure that total variable *remuneration* does not limit the *firm's* ability to strengthen its capital base.

[**Note:** Paragraph 23(i) of Annex V to the *Banking Consolidation Directive* and Standard 3 of the *FSB Compensation Standards*]

- 19A.3.19 G This Remuneration Principle underlines the link between a *firm's* variable *remuneration* costs and the need to manage its capital base, including forward-looking capital planning measures. Where a *firm* needs to strengthen its capital base, its variable *remuneration* arrangements should be sufficiently flexible to allow it to direct the necessary resources towards capital building.

Remuneration Principle 7: Exceptional government intervention

- 19A.3.20 R A *firm* that benefits from exceptional government intervention must ensure that:
- (1) variable *remuneration* is strictly limited as a percentage of net revenues when it is inconsistent with the maintenance of a sound capital base and timely exit from government support;
 - (2) it restructures *remuneration* in a manner aligned with sound risk management and long-term growth, including when appropriate establishing limits to the *remuneration* of *senior personnel*; and
 - (3) no variable *remuneration* is paid to its *senior personnel* unless this is justified.

[**Note:** Paragraph 23(k) of Annex V to the *Banking Consolidation Directive* and Standard 10 of the *FSB Compensation Standards*]

- 19A.3.21 G The *FSA* would normally expect it to be appropriate for the ban on paying variable *remuneration* to *senior personnel* of a *firm* that benefits from exceptional government intervention to apply only in relation to *senior personnel* who were in office at the time that the intervention was required.

Remuneration Principle 8: Profit-based measurement and risk adjustment

- 19A.3.22 R (1) A *firm* must ensure that any measurement of performance used to calculate variable *remuneration* components or pools of variable *remuneration* components:
- (a) includes adjustments for all types of current and future risks and takes into account the cost and quantity of the capital and the liquidity required; and
 - (b) takes into account the need for consistency with the timing and likelihood of the firm receiving potential future revenues incorporated into current earnings.
- (2) A *firm* must ensure that the allocation of variable *remuneration* components within the *firm* also takes into account all types of current and future risks.

[**Note:** Paragraph 23(n) of Annex V to the *Banking Consolidation Directive* and Standard 4 of the *FSB Compensation Standards*]

- 19A.3.23 G (1) This Remuneration Principle stresses the importance of risk adjustment in measuring performance, and the importance within that process of applying judgment and common sense. A *firm* should ask the risk management function to validate and assess risk-adjustment techniques, and to attend a meeting of the *governing body* or *remuneration* committee for this purpose.

- (2) A number of risk-adjustment techniques and measures are available, and a *firm* should choose those most appropriate to its circumstances. Common measures include those based on economic profit or economic capital. Whichever technique is chosen, the full range of future risks should be covered. The *FSA* expects a *firm* to be able to provide it with details of all adjustments that the *firm* has made under a formulaic approach.
- (3) The *FSA* expects that a *firm* will apply qualitative judgments and common sense in the final decision about the performance-related components of variable *remuneration* pools.
- (4) A *firm's governing body* (or *remuneration* committee where appropriate) should take the lead in determining the measures to be used. It should offer the appropriate checks and balances to prevent inappropriate manipulation of the measures used. It should consult closely and frequently with the *firm's* risk management functions, in particular those relating to operational, market, credit and liquidity risk.
- 19A.3.24 G (1) Long-term incentive plans should be treated as pools of variable *remuneration*. Many common measures of performance for long-term incentive plans, such as earnings per *share* (EPS), are not adjusted for longer-term risk factors. Total shareholder return (TSR), another common measure, includes in its measurement dividend distributions, which can also be based on unadjusted earnings data. If incentive plans mature within a two to four year period and are based on EPS or TSR, strategies can be devised to boost EPS or TSR during the life of the plan, to the detriment of the true longer-term health of a *firm*. For example, increasing leverage is a technique which can be used to boost EPS and TSR. *Firms* should take account of these factors when developing risk-adjustment methods.
- (2) *Firms* that have long-term incentive plans should structure them with vesting subject to appropriate performance conditions, and at least half of the award vesting after not less than five years and the remainder after not less than three years.
- (3) Long-term incentive plan awards may be included in the calculation of the deferred portion of variable *remuneration* only if upside incentives are adequately balanced by downside adjustments. The valuation of the award should be based on its value when the award is granted, and determined using an appropriate technique.
- 19A.3.25 R Assessments of financial performance used to calculate variable *remuneration* components or pools of variable *remuneration* components must be based principally on profits.
- 19A.3.26 G (1) Performance measures based primarily on revenues or turnover are unlikely to pay sufficient regard to the quality of business undertaken

or services provided. Profits are a better measure provided they are adjusted for risk, including future risks not adequately captured by accounting profits.

- (2) Management accounts should provide profit data at such levels within the *firm's* structure as to enable a *firm* to see as accurate a picture of contributions of relevant staff to a *firm's* performance as is reasonably practicable. If revenue or turnover is used as a component in performance assessment, processes should be in place to ensure that the quality of business undertaken or services provided and their appropriateness for *clients* are taken into account.

19A.3.27 R A *firm* must ensure that its total variable *remuneration* is generally considerably contracted where subdued or negative financial performance of the *firm* occurs, taking into account both current *remuneration* and reductions in payouts of amounts previously earned.

[**Note:** Paragraph 23(q) of Annex V to the *Banking Consolidation Directive* and Standard 5 of the *FSB Compensation Standards*]

19A.3.28 G Where a *firm* makes a loss the *FSA* would generally expect no variable *remuneration* to be awarded. Variable *remuneration* may nevertheless be justified, for example, to incentivise *employees* involved in new business ventures which could be loss-making in their early stages.

Remuneration Principle 9: Pension policy

19A.3.29 R A *firm* must ensure that:

- (1) its pension policy is in line with its business strategy, objectives, values and long-term interests;
- (2) when an *employee* leaves the *firm* before retirement, any *discretionary pension benefits* are held by the *firm* for a period of five years in the form of instruments referred to in SYSC 19A.3.47R(1); and
- (3) in the case of an *employee* reaching retirement, *discretionary pension benefits* are paid to the *employee* in the form of instruments referred to in SYSC 19A.3.47R(1) and subject to a five-year retention period.

[**Note:** Paragraph 23(r) of Annex V to the *Banking Consolidation Directive*]

Remuneration Principle 10: Personal investment strategies

19A.3.30 R (1) A *firm* must ensure that its *employees* undertake not to use personal hedging strategies or *remuneration-* or liability-related *contracts of insurance* to undermine the risk alignment effects embedded in their *remuneration* arrangements.

(2) A *firm* must maintain effective arrangements designed to ensure that

employees comply with their undertaking.

[**Note:** Paragraph 23(s) of Annex V to the *Banking Consolidation Directive* and Standard 14 of the *FSB Compensation Standards*]

- 19A.3.31 G In the *FSA's* view, circumstances in which a *person* will be using a personal hedging strategy include entering into an arrangement with a third party under which the third party will make payments, directly or indirectly, to that *person* that are linked to or commensurate with the amounts by which the *person's remuneration* is subject to reductions.

Remuneration Principle 11: Avoidance of the Remuneration Code

- 19A.3.32 R A *firm* must ensure that variable *remuneration* is not paid through vehicles or methods that facilitate the avoidance of the *Remuneration Code*.

[**Note:** Paragraph 23(t) of Annex V to the *Banking Consolidation Directive*]

Remuneration Principle 12: Remuneration structures – introduction

- 19A.3.33 G Remuneration Principle 12 consists of a series of *rules, evidential provisions* and *guidance* relating to *remuneration* structures.

- 19A.3.34 G (1) Taking account of the *remuneration principles proportionality rule*, the *FSA* does not generally consider it necessary for a *firm* to apply the *rules* referred to in (2) where, in relation to an individual (“X”), both the following conditions are satisfied:
- (a) Condition 1 is that X’s variable *remuneration* is no more than 33% of total *remuneration*; and
 - (b) Condition 2 is that X’s total *remuneration* is no more than £500,000.
- (2) The *rules* referred to in (1) are those relating to:
- (a) guaranteed variable *remuneration* (SYSC 19A.3.40R);
 - (b) retained *shares* or other instruments (SYSC 19A.3.47R);
 - (c) deferral (SYSC 19A.3.49R); and
 - (d) performance adjustment (SYSC 19A.3.51R).

[**Note:** The *FSA* has also given *guidance* on the application of certain *rules* on *remuneration* structures in relation to individuals who are *Remuneration Code staff* for only part of a given performance year. This guidance was published in Policy Statement 10/20 ‘Revising the Remuneration Code’ and is available at

<http://www.fsa.gov.uk/Pages/Library/Policy/Policy/index.shtml>.]

Remuneration Principle 12(a): Remuneration structures – general requirement

- 19A.3.35 R A *firm* must ensure that the structure of an *employee's remuneration* is consistent with and promotes effective risk management.

Remuneration Principle 12(b): Remuneration structures – assessment of performance

- 19A.3.36 R A *firm* must ensure that where *remuneration* is performance-related:
- (1) the total amount of *remuneration* is based on a combination of the assessment of the performance of:
 - (a) the individual;
 - (b) the business unit concerned; and
 - (c) the overall results of the *firm*; and
 - (2) when assessing individual performance, financial as well as non-financial criteria are taken into account.

[**Note:** Paragraph 23(g) of Annex V to the *Banking Consolidation Directive* and Standard 6 of the *FSB Compensation Standards*]

- 19A.3.37 G Non-financial performance metrics should form a significant part of the performance assessment process and should include adherence to effective risk management and compliance with the *regulatory system* and with relevant overseas regulatory requirements. Poor performance as assessed by non-financial metrics such as poor risk management or other behaviours contrary to *firm* values can pose significant risks for a *firm* and should, as appropriate, override metrics of financial performance. The performance assessment process and the importance of non-financial assessment factors in the process should be clearly explained to relevant *employees* and implemented. A 'balanced scorecard' can be a good technique.

- 19A.3.38 R A *firm* must ensure that the assessment of performance is set in a multi-year framework in order to ensure that the assessment process is based on longer-term performance and that the actual payment of performance-based components of *remuneration* is spread over a period which takes account of the underlying business cycle of the *firm* and its business risks.

[**Note:** Paragraph 23(h) of Annex V to the *Banking Consolidation Directive*]

- 19A.3.39 G The requirement for assessment of performance to be in a multi-year framework reflects the fact that profits from a *firm's* activities can be volatile and subject to cycles. The financial performance of *firms* and individual *employees* can be exaggerated as a result. Performance assessment on a moving average of results can be a good way of meeting this requirement. However, other techniques such as good quality risk adjustment and deferral of a sufficiently large proportion of *remuneration* may also be useful.

Remuneration Principle 12(c): Remuneration structures – guaranteed variable remuneration

19A.3.40 R A *firm* must not award, pay or provide guaranteed variable *remuneration* unless it:

- (1) is exceptional;
- (2) occurs in the context of hiring new *Remuneration Code staff*; and
- (3) is limited to the first year of service.

[**Note:** Paragraph 23(j) of Annex V to the *Banking Consolidation Directive* and Standard 11 of the *FSB Compensation Standards*]

19A.3.41 E (1) A *firm* should not award, pay or provide guaranteed variable *remuneration* in the context of hiring new *Remuneration Code staff* ('X') unless:

- (a) it has taken reasonable steps to ensure that the *remuneration* is not more generous in either its amount or terms (including any deferral or retention periods) than the variable *remuneration* awarded or offered by X's previous employer; and
- (b) it is subject to appropriate performance adjustment requirements.

(2) Contravention of (1) may be relied on as tending to establish contravention of the *rule* on guaranteed variable *remuneration* (SYSC 19A.3.40R).

19A.3.42 G Guaranteed variable *remuneration* should be subject to the same deferral criteria as other forms of variable *remuneration* awarded by the *firm*.

19A.3.43 G In the *FSA's* view, variable *remuneration* can be awarded to *Remuneration Code staff* in the form of retention awards where it is compatible with the *Remuneration Code general requirement* to do so. The *FSA* considers this is likely to be the case only where a *firm* is undergoing a major restructuring and a good case can be made for retention of particular key staff members on prudential grounds. Proposals to give retention awards should form part of any notice of the restructuring proposals required in accordance with *Principle 11* and the general notification requirements in *SUP 15.3*.

Remuneration Principle 12(d): Remuneration structures – ratios between fixed and variable components of total remuneration

19A.3.44 R A *firm* must set appropriate ratios between the fixed and variable components of total *remuneration* and ensure that:

- (1) fixed and variable components of total *remuneration* are

appropriately balanced; and

- (2) the fixed component represents a sufficiently high proportion of the total *remuneration* to allow the operation of a fully flexible policy on variable *remuneration* components, including the possibility to pay no variable *remuneration* component.

[**Note:** Paragraph 23(l) of Annex V to the *Banking Consolidation Directive*]

Remuneration Principle 12(e): Remuneration structures – payments related to early termination

- 19A.3.45 R A *firm* must ensure that payments related to the early termination of a contract reflect performance achieved over time and are designed in a way that does not reward failure.

[**Note:** Paragraph 23(m) of Annex V to the *Banking Consolidation Directive* and Standard 12 of the *FSB Compensation Standards*]

- 19A.3.46 G *Firms* should review existing contractual payments related to termination of employment with a view to ensuring that these are payable only where there is a clear basis for concluding that they are consistent with the *Remuneration Code general requirement*.

[**Note:** Standard 12 of the *FSB Compensation Standards*]

Remuneration Principle 12(f): Remuneration structures – retained shares or other instruments

- 19A.3.47 R (1) A *firm* must ensure that a substantial portion, which is at least 50%, of any variable *remuneration* consists of an appropriate balance of:
- (a) *shares* or equivalent ownership interests, subject to the legal structure of the *firm* concerned, or *share*-linked instruments or equivalent non-cash instruments in the case of a non-listed *firm*; and
 - (b) where appropriate, *capital instruments* which are eligible for inclusion at stage B1 of the calculation in the *capital resources table*, where applicable that adequately reflects the credit quality of the *firm* as a going concern.
- (2) The instruments in (1) must be subject to an appropriate retention policy designed to align incentives with the longer-term interests of the *firm*.
- (3) This *rule* applies to both the portion of the variable *remuneration* component deferred in accordance with SYSC 19A.3.49R and the portion not deferred.

[**Note:** Paragraph 23(o) of Annex V to the *Banking Consolidation Directive*]

and Standard 8 of the *FSB Compensation Standards*]

- 19A.3.48 G (1) The Committee of European Banking Supervisors has given guidance on the interpretation of the Directive provision transposed by SYSC 19A.3.47R(3). Its Guidelines provide that this requirement means that the 50% minimum threshold for instruments must be applied equally to the non-deferred and the deferred components; in other words, *firms* must apply the same chosen ratio between instruments and cash for their total variable *remuneration* to both the upfront and deferred components. (Guidelines on Remuneration Policies and Practices, 10 December 2010, paragraph 133.)
- (2) This simplified example illustrates the operation of (1). The variable remuneration of a material risk taker (X) is 100, and by SYSC 19A.3.49R(3) X is required to defer 60%. X's upfront component is 40 and X's deferred component is 60. At least 20 of X's upfront component, and at least 30 of X's deferred component, must be in instruments referred to in SYSC 19A.3.47R(1).

Remuneration Principle 12(g): Remuneration structures – deferral

- 19A.3.49 R (1) A *firm* must not award, pay or provide a variable *remuneration* component unless a substantial portion of it, which is at least 40%, is deferred over a period which is not less than three to five years.
- (2) *Remuneration* under (1) must vest no faster than on a pro-rata basis.
- (3) In the case of a variable *remuneration* component:
- (a) of a particularly high amount, or
- (b) payable to a *director* of a *firm* that is significant in terms of its size, internal organisation and the nature, scope and complexity of its activities;
- at least 60% of the amount must be deferred.
- (4) Paragraph (3)(b) does not apply to a *non-executive director*.
- (5) The length of the deferral period must be established in accordance with the business cycle, the nature of the business, its risks and the activities of the *employee* in question.

[**Note:** Paragraph 23(p) of Annex V to the *Banking Consolidation Directive* and Standards 6 and 7 of the *FSB Compensation Standards*]

- (6) £500,000 is a particularly high amount for the purpose of (3)(a).
- (7) Paragraph (6) is without prejudice to the possibility of lower sums being considered a particularly high amount.
- 19A.3.50 G (1) Deferred *remuneration* paid in *shares* or *share-linked* instruments

should be made under a scheme which meets appropriate criteria, including risk adjustment of the performance measure used to determine the initial allocation of shares. Deferred *remuneration* paid in cash should also be subject to performance criteria.

- (2) The *FSA* would generally expect a *firm* to have a *firm*-wide policy (and *group*-wide policy, where appropriate) on deferral. The proportion deferred should generally rise with the ratio of variable *remuneration* to fixed *remuneration* and with the amount of variable *remuneration*. While any variable *remuneration* component of £500,000 or more paid to *Remuneration Code staff* must be subject to 60% deferral, *firms* should also consider whether lesser amounts should be considered to be 'particularly high' taking account, for example, of whether there are significant differences within *Remuneration Code staff* in the levels of variable *remuneration* paid.

Remuneration Principle 12(h): Remuneration structures – performance adjustment, etc.

- 19A.3.51 R A *firm* must ensure that any variable *remuneration*, including a deferred portion, is paid or vests only if it is sustainable according to the financial situation of the *firm* as a whole, and justified according to the performance of the *firm*, the business unit and the individual concerned.

[**Note:** Paragraph 23(q) of Annex V to the *Banking Consolidation Directive* and Standards 6 and 9 of the *FSB Compensation Standards*]

- 19A.3.52 E (1) A *firm* should reduce unvested deferred variable *remuneration* when, as a minimum:
- (a) there is reasonable evidence of *employee* misbehaviour or material error; or
 - (b) the *firm* or the relevant business unit suffers a material downturn in its financial performance; or
 - (c) the *firm* or the relevant business unit suffers a material failure of risk management.
- (2) For performance adjustment purposes, awards of deferred variable *remuneration* made in *shares* or other non-cash instruments should provide the ability for the *firm* to reduce the number of *shares* or other non-cash instruments.
- (3) Contravention of (1) or (2) may be relied on as tending to establish contravention of the *rule* on performance adjustment (*SYSC* 19A.3.51R).
- 19A.3.53 G (1) Variable *remuneration* may be justified, for example, to incentivise *employees* involved in new business ventures which could be loss-making in their early stages.

- (2) The *governing body* (or, where appropriate, the *remuneration committee*) should approve performance adjustment policies, including the triggers under which adjustment would take place. The *FSA* may ask *firms* to provide a copy of their policies and expects *firms* to make adequate records of material decisions to operate the adjustments.

Effect of breaches of the Remuneration Principles

- 19A.3.54 R (1) The detailed provisions on voiding and recovery in SYSC 19A Annex 1 apply in relation to the prohibitions on *Remuneration Code staff* being *remunerated* in the ways specified in:
- (a) SYSC 19A.3.40R (guaranteed variable *remuneration*);
 - (b) SYSC 19A.3.49R (non-deferred variable *remuneration*); and
 - (c) SYSC 19A Annex 1.7R (replacing payments recovered or property transferred).
- (2) This *rule* does not apply in relation to the prohibition on *Remuneration Code staff* being *remunerated* in the way specified in SYSC 19A.3.40R (guaranteed variable *remuneration*) if both the conditions in paragraphs (2) and (3) of that *rule* are met.
- (3) This *rule* does not apply in relation to *Remuneration Code staff* (X) in respect of whom both the following conditions are satisfied:
- (a) Condition 1 is that X's variable *remuneration* is no more than 33% of total *remuneration*; and
 - (b) Condition 2 is that X's total *remuneration* is no more than £500,000.
- (4) In relation to (3):
- (a) references to *remuneration* are to *remuneration* awarded or paid in respect of the relevant performance year;
 - (b) the amount of any *remuneration* is:
 - (i) if it is money, its amount when awarded;
 - (ii) otherwise, whichever of the following is greatest: its value to the recipient when awarded; its market value when awarded; and the cost of providing it;
 - (c) where *remuneration* is, when awarded, subject to any condition, restriction or other similar provision which causes the amount of the *remuneration* to be less than it otherwise would be, that condition, restriction or provision is to be

ignored in arriving at its value; and

- (d) it is to be assumed that the member of *Remuneration Code staff* will remain so for the duration of the relevant performance year.

- 19A.3.55 G (1) Section 139A(9) of the *Act* enables the *FSA* to make *rules* that render void any provision of an agreement that contravenes specified prohibitions in the *Remuneration Code*, and that provide for the recovery of any payment made, or other property transferred, in pursuance of such a provision. *SYSC 19A.3.54R* (together with *SYSC 19A Annex 1*) is such a *rule* and renders void provisions of an agreement that contravene the specified prohibitions on guaranteed variable *remuneration*, non-deferred variable *remuneration* and replacing payments recovered or property transferred. This is an exception to the general position set out in section 151(2) of the *Act* that a contravention of a *rule* does not make any transaction void or unenforceable.
- (2) *SYSC TP 3.6R* provides that *SYSC 19A.3.54R* and *SYSC 19A Annex 1* apply, until 1 January 2012, only in relation to a *firm* that was subject to the version of the *Remuneration Code* that applied before 1 January 2011.

19A Annex 1 Detailed provisions on voiding and recovery

Rendering contravening provisions of agreements void

- 1 R Any provision of an agreement that contravenes a prohibition on *persons* being *remunerated* in a way specified in a *rule* to which this annex applies (a “contravening provision”) is void.
- 2 R A contravening provision that, at the time a *rule* to which this annex applies was made, is contained in an agreement made before that time is not rendered void by 1R unless it is subsequently amended so as to contravene such a *rule*.
- 3 G The effect of 2R, in accordance with section 139A(11) of the *Act*, is to prevent contravening provisions being rendered void retrospectively. Contravening provisions may however be rendered void if they are contained in an agreement made after the *rule* containing the prohibition is made by the *FSA* but before the *rule* comes into effect.
- 4 R For the purposes of this chapter it is immaterial whether the law which (apart from this annex) governs a contravening provision is the law of the *United Kingdom*, or of a part of the *United Kingdom*.

Recovery of payments made or property transferred pursuant to a void contravening provision

- 5 R In relation to any payment made or other property transferred in pursuance of a contravening provision, a *firm* must take reasonable steps to:
- (1) recover any such payment made or other property transferred by the *firm*; and
 - (2) ensure that any other *person* (“P”) recovers any such payment made or other property transferred by that *person*.
- 6 G The *rule* in 5R(2) would, for example, apply in the context of a secondment. Where a *group* member seconds an individual to a *firm* and continues to be responsible for the individual’s *remuneration* in respect of services provided to the *firm*, the *firm* would need to take reasonable steps to ensure that the *group* member recovers from the secondee any *remuneration* paid in pursuance of a contravening provision.

Replacing payments recovered or property transferred

- 7 R (1) A *firm* must not award, pay or provide variable *remuneration* to a *person* whose *remuneration* has caused the *firm* to breach a contravening provision (the “contravening *remuneration*”) unless the *firm* has obtained a legal opinion stating that the award, payment or provision of the *remuneration* complies with the *Remuneration Code*.
- (2) This *rule* applies only to variable *remuneration* relating to a performance year to which the contravening *remuneration* related.
- (3) The legal opinion in (1) must be properly reasoned and be provided by an appropriately qualified independent individual.

Notification to the FSA

- 8 G The *FSA* considers any breach of a *rule* to which this annex applies to be a significant breach which should be notified to the *FSA* in accordance with *SUP* 15.3.11R (Breaches of rules and other requirements in or under the Act). Such a notification should include information on the steps which a *firm* or other *person* has taken or intends to take to recover payments or property in accordance with 5R.

Amend the following as shown:

TP 3 Remuneration code

- 1 R ~~TP 3 applies to a *firm* that is unable to comply with the *Remuneration Code* general requirement because of an obligation it owes to an *employee* (the “obligation”) under an agreement entered into on or before 18 March 2009~~

- (the “agreement”)- [deleted]
- 2 R ~~A firm’s compliance with the obligation shall not cause it to be in breach of the *Remuneration Code general requirement* provided that the firm complies with 3R. [deleted]~~
- 3 R (1) ~~Where a firm is entitled to amend the agreement in a way that enables it to comply with the *Remuneration Code general requirement* it must do so at the earliest opportunity and no later than 31 March 2010.~~
- (2) ~~Otherwise, a firm must:~~
- (a) ~~take reasonable steps to amend the obligation or terminate the agreement at the earliest opportunity;~~
- (b) ~~amend the obligation or terminate the agreement no later than 31 December 2010; and~~
- (c) ~~adopt specific and effective arrangements, processes and mechanisms to manage the risks raised by the obligation. [deleted]~~
- 4 G ~~By 1 January 2010, a firm should have at least initiated a review of the extent to which the measurement of performance for any existing long term incentive plans takes account of future risks. The FSA may discuss the timing of that review and any remedial action with the firm. [deleted]~~
- 5 G (1) The FSA recognises that firms may require additional time to comply in full with the requirements of the *Remuneration Code* where they were not subject to the version of the *Remuneration Code* that applied before 1 January 2011. The FSA considers that a firm may be able to rely on the proportionality provisions in SYSC 4.1.2R and the *remuneration principles proportionality rule* to justify not complying with the requirements of the *Remuneration Code* relating to *remuneration* structures by 1 January 2011 provided it takes reasonable steps to comply as soon as reasonably possible and in any event by 1 July 2011.
- (2) On a similar basis and on the same timescales set out in (1), a firm which was subject to the previous version of the *Remuneration Code* may be able to justify not complying with the requirement to pay 50% of variable remuneration in shares or other non-cash instruments (SYSC 19A.3.47R).
- 6 R Until 1 January 2012, SYSC 19A.3.54R and SYSC 19A Annex 1 (on voiding and recovery) apply only in relation to a firm that was subject to the version of the *Remuneration Code* that applied before 1 January 2011.

Sch 4 Powers exercised

The following powers and related provisions in the <i>Act</i> have been exercised by the <i>FSA</i> to make <i>rules</i> in <i>SYSC</i> :
Section 138 (General rule-making power)
<u>Section 139A (General rules about remuneration)</u>
...

Sch 5 Rights of action for damages

...

Sch 5.4

G	...					
	<i>SYSC</i> 11 to <i>SYSC</i> 19 <u>19A</u>					

Annex C

Amendments to the General Prudential sourcebook (GENPRU)

In this Annex, underlining indicates new text and striking through indicates deleted text.

1.2.31 R ...

- (4) Business risk means any risk to a *firm* arising from changes in its business, including the risk that the *firm* may not be able to carry out its business plan and its desired strategy. It also includes risks arising from a *firm's remuneration policy* (see also the *Remuneration Code* which applies to ~~certain banks, building societies and BIPRU 730k~~ BIPRU firms and the detailed application of which is set out in SYSC 19A.1).

...

Annex D

Amendments to the Supervision manual (SUP)

In this Annex, underlining indicates new text and striking through indicates deleted text.

13A Annex 1 Application of the Handbook to Incoming EEA Firms

...		
(1) Module of Handbook	(2) Potential application to an incoming EEA firm with respect to activities carried on from an establishment of the firm (or its appointed representative) in the United Kingdom	(3) Potential application to an incoming EEA firm with respect to activities carried on other than from an establishment of the firm (or its appointed representative) in the United Kingdom
...
<i>SYSC</i>	... <i>SYSC 18 applies.</i> <i>SYSC 19A does not apply to an incoming EEA firm when acting as such.</i>	... <i>SYSC 19A does not apply.</i>
...

**PRUDENTIAL SOURCEBOOK FOR BANKS, BUILDING SOCIETIES AND
INVESTMENT FIRMS (REMUNERATION DISCLOSURES) INSTRUMENT 2010**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 139A (General rules about remuneration);
 - (3) section 156 (General supplementary powers); and
 - (4) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 January 2011.

Amendments to the Handbook

- D. The Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU) is amended in accordance with the Annex to this instrument.

Notes

- E. In the Annex to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- F. This instrument may be cited as the Prudential Sourcebook for Banks, Building Societies and Investment Firms (Remuneration Disclosures) Instrument 2010.

By order of the Board
16 December 2010

Annex

Amendments to the Prudential sourcebook for Banks, Building Societies and Investment Firms (BIPRU)

In this Annex, underlining indicates new text.

11.5 Technical criteria on disclosure: General requirements

...

Disclosures: remuneration

- 11.5.18 R A firm must disclose the following information, including regular, at least annual, updates, regarding its remuneration policy and practices for those categories of staff whose professional activities have a material impact on its risk profile:
- (1) information concerning the decision-making process used for determining the remuneration policy, including if applicable, information about the composition and the mandate of a remuneration committee, the external consultant whose services have been used for the determination of the remuneration policy and the role of the relevant stakeholders;
 - (2) information on the link between pay and performance;
 - (3) the most important design characteristics of the remuneration system, including information on the criteria used for performance measurement and risk adjustment, deferral policy and vesting criteria;
 - (4) information on the performance criteria on which the entitlement to shares, options or variable components of remuneration is based;
 - (5) the main parameters and rationale for any variable component scheme and any other non-cash benefits;
 - (6) aggregate quantitative information on remuneration, broken down by business area;
 - (7) aggregate quantitative information on remuneration, broken down by senior management and members of staff whose actions have a material impact on the risk profile of the firm, indicating the following:
 - (a) the amounts of remuneration for the financial year, split into fixed and variable remuneration, and the number of beneficiaries;

- (b) the amounts and forms of variable remuneration, split into cash, shares, share-linked instruments and other types;
- (c) the amounts of outstanding deferred remuneration, split into vested and unvested portions;
- (d) the amounts of deferred remuneration awarded during the financial year, paid out and reduced through performance adjustments;
- (e) new sign-on and severance payments made during the financial year, and the number of beneficiaries of those payments;
- (f) the amounts of severance payments awarded during the financial year, number of beneficiaries and highest such award to a single person.

[Note: Paragraph 15 of Annex XII to the *Banking Consolidation Directive*.]

11.5.19 **G** The FSA would normally consider the requirements to publish disclosures in accordance with BIPRU 11.3.8R and 11.3.9R in respect of BIPRU 11.5 as a whole to meet the requirement in paragraph 15 of Annex XII to the *Banking Consolidation Directive* to publish “regular, at least annual, updates” (as implemented in BIPRU 11.5.18R).

- 11.5.20 **R** (1) A firm that is significant in terms of its size, internal organisation and the nature, scope and the complexity of its activities must also disclose the quantitative information referred to in BIPRU 11.5.18R at the level of senior personnel.
- (2) Firms must comply with the requirements set out in BIPRU 11.5.18R in a manner that is appropriate to their size, internal organisation and the nature, scope and complexity of their activities and without prejudice to the UK or other national transposition of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

[Note: Paragraph 15 of Annex XII to the *Banking Consolidation Directive*.]

[Note: The FSA has given guidance for the purpose of providing a framework for complying with the disclosure requirements of BIPRU 11.5.18R in accordance with the proportionality test set out in BIPRU 11.5.20R(2). The guidance divides firms into four tiers, and indicates which requirements should be complied with for each tier. It was published in Policy Statement 10/21 ‘Implementing CRD requirements on the disclosure of remuneration: Feedback on CP10/27 and final rules’ and is available at <http://www.fsa.gov.uk/Pages/Library/Policy/Policy/index.shtml>.

11.5.21 **G** In the FSA’s view, the exemptions from disclosure provided for in BIPRU

11.3.5R (materiality) and BIPRU 11.3.6R (proprietary or confidential information) are unlikely to apply to the disclosure required by BIPRU 11.5.18R (having regard, amongst other things, to the fact that the requirements set out in BIPRU 11.5.18R are to be complied with in the manner described in BIPRU 11.5.20R(2)).