

CP13/3[★]

Financial Services Authority

Regulatory Reform:

Handbook transitional arrangements,
the appointment of with-profits
committee members and certain
other Handbook amendments

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The Financial Services Authority invites comments on this Consultation Paper. Comments should reach us by 25 February 2013.

Comments may be sent by electronic submission using the form on the FSA's website at: www.fsa.gov.uk/Pages/Library/Policy/CP/2013/cp13-03-response.shtml.

Alternatively, please send comments in writing to:

Conor Rafferty
Policy Risk and Research Division
Financial Services Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

Telephone: 020 7066 2982

Email: cp13_03@fsa.gov.uk

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Despite this, we may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

Copies of this Consultation Paper are available to download from our website – www.fsa.gov.uk. Alternatively, paper copies can be obtained by calling the FSA order line: 0845 608 2372.

Abbreviations used in this paper

2012 Act	Financial Services Act 2012
CBA	Cost benefit analysis
COBS	Conduct of Business sourcebook
CP	Consultation Paper
FCA	Financial Conduct Authority
FEES	Fees Manual
FSMA 2000	Financial Services and Markets Act 2000
GEN	General Provisions
ICOBS	Insurance Conduct of Business sourcebook
LCO	Legal Cutover
MCOB	Mortgages and Home Finance: Conduct of Business sourcebook
PERG	Perimeter Guidance Manual
PRA	Prudential Regulation Authority
SUP	Supervision Manual

1

Overview

Creating the new Handbooks

- 1.1 In CP12/24¹, the FSA set out the approach to creating the FCA and PRA Handbooks and consulted on changes to the existing FSA Handbook required by the introduction of the new regulatory structure. Subsequent consultation papers (CPs²) have covered further proposed changes.
- 1.2 Most provisions in the FSA Handbook will be adopted (or ‘designated’) by the FCA and PRA into their respective Handbooks, according to each regulator’s scope and powers.
- 1.3 We also propose to introduce a number of more substantive changes (covered by the CPs) that are necessary to implement the new regime and to reflect the roles and powers of the new UK regulators. The new FCA and PRA Handbooks will come into force on 1 April 2013, a date which is referred to as ‘legal cutover’ (LCO).

The Financial Services Act

- 1.4 Now that the Financial Services Bill has received Royal Assent, the Financial Services Act 2012³ (the 2012 Act) has been brought into law. The 2012 Act will be supported by a number of secondary legislative measures, including the Transitional Orders, which will set out how the current UK regulatory regime will be transitioned to the new regime.
- 1.5 Although the Transitional Orders have yet to be made, this paper consults on the detailed Handbook provisions which are required to support those Orders and to provide for a corresponding smooth transition under the regulators’ rules, guidance and associated processes. In its October 2012 consultation on draft secondary legislation to be made under the Bill⁴, the Treasury stated: ‘More details on the transitional arrangements to the new regulatory system will be published in the coming months. As a general principle, the

1 CP12/24 is available at: www.fsa.gov.uk/static/pubs/cp/cp12-24.pdf

2 CPs 12/24, 26, 34 and 37

3 www.legislation.gov.uk/ukpga/2012/21/pdfs/ukpga_20120021_en.pdf

4 www.hm-treasury.gov.uk/d/condoc_fin_regulation_draft_secondary_leg.pdf (Paragraph 1.7.)

Government intends to minimise the disruption that could be caused by the transition by grandfathering existing Part IV permissions, controlled functions, rule waivers and modifications, passports, limitations and requirements. Firms do not need to take any action to enable this to happen.’ To address the risk that the final Transitional Orders may differ from our expectations, we have sought to liaise closely with HM Treasury (the Treasury) in developing the proposals in this paper.

Structure of this Consultation Paper

- 1.6 Chapter 2 of this paper considers the introduction of general Handbook transitional provisions, which cover all parts of the Handbooks not covered by other specific transitional arrangements.
- 1.7 Chapter 3 deals with the transitional arrangements for the approved persons regime.
- 1.8 As noted in our CP12/26 (*Regulatory Reform: the PRA and FCA Regimes for Approved Persons*), Chapter 4 of this CP considers the treatment of members of an insurer’s with-profits committee under the approved person regime.
- 1.9 The final chapter of this CP explains the proposed deletion of a number of miscellaneous existing Handbook provisions and some other minor amendments.

Cost benefit analysis

- 1.10 It is our expectation that the changes proposed in this CP will be made by the relevant boards of the FCA and the PRA. As a result, the relevant cost benefit analysis (CBA) requirements are those set out in sections 138I and 138J of the revised version of FSMA 2000.
- 1.11 The transitional measures and amendments in this CP are driven by legal considerations relating to the requirements of the 2012 Act, and the creation of the new UK regulatory structure. These proposals do not address market failures so we do not expect any additional economic benefits to arise. While moving to the new regulatory structure will inevitably create some additional costs for firms and the regulators, we do not believe that the costs associated with these transitional measures and amendments in this CP will be of more than minimal significance. The transitional proposals are intended to help control costs.

Impact on Mutual Societies

- 1.12 As we do not expect our proposals to give rise to costs of more than minimal significance to firms, the impact on mutual societies will not differ from the impact on other FCA or PRA-regulated firms.

Equality and diversity

- 1.13 We have considered the equality and diversity issues that may arise from the proposals in this CP. We have concluded that the proposals do not give rise to discrimination issues and are of low relevance to the equality agenda.

Timetable and next steps

- 1.14 Comments on this CP should reach us by 25 February. We will review all responses, and final rule instruments and policy statements will be issued by the new regulators once the PRA and FCA acquire their relevant legal powers.⁵
- 1.15 We also intend to publish designated versions of the new Handbooks before LCO, to indicate the way in which existing Handbook contents are being transitioned to the PRA and FCA.
- 1.16 We would welcome any comments respondents may have on our cost benefit analysis, our assessment of impacts on mutual societies and on any equality and diversity issues they believe arise from our proposals.

Who should read this Consultation Paper?

- 1.17 This paper should be read by all firms.

CONSUMERS

The proposals in this CP are likely to be of general interest to consumers, since they concern various obligations on firms and impact on regulatory processes that relate to these obligations.

⁵ Where other FSA consultations also cover changes to these Handbook provisions or sections, unrelated to regulatory reform, the various changes will be reconciled at the appropriate time.

2

General transitional provisions

- 2.1 To ensure a smooth transition from the existing FSA Handbook to the new FCA and PRA Handbooks, we propose to introduce general transitional provisions covering all parts of the Handbook not covered by a specific transitional arrangement.
- 2.2 The draft instrument containing the general transitional provisions is at Appendix 1.
- 2.3 The proposed approach provides that actions taken before LCO by firms or other persons to whom the rules apply (for example, recognised investment exchanges, recognised auction platform, issuers or sponsors) remain effective after the PRA and FCA Handbooks come into force.
- 2.4 For example, where either Handbook requires a firm or other person to submit a report it has already submitted to the FSA before LCO, it will be treated as if it had been submitted to the new regulator. In addition to actions taken by firms, deemed references to pre-LCO provisions will be read as references to their post-LCO equivalents in the FCA and PRA Handbooks. Similarly, where time has started to run under an FSA provision (for example, relating to the processing of a notification or application), it will not start again at LCO. In relation to record-keeping, where a firm or other person has kept records in compliance with a pre-LCO provision, it will be complying with the equivalent post-LCO provision in the new Handbooks, provided it has retained those records.
- 2.5 The approach to transition to the dual-regulatory structure has been designed to minimise the cost and disruption for firms. In the lead up to and in the period immediately after LCO, the new regulators stand ready to provide assistance to firms to ensure a smooth transition.

Status disclosure transitional arrangements

- 2.6 In CP12/24 we consulted on a proposed transitional period for firms of six months for updating of their business stationery to include the new regulatory status disclosures about

who regulates them, under Chapter 4 of the General Provisions section of the Handbook (GEN 4) – see the general transitionals instrument at Appendix 1 for a draft provision based on the proposal made in CP12/24. We are still considering the responses received to CP12/24 and will be providing feedback in the coming weeks on the transitional period to be provided. We will also cover the read-across to the ‘Who regulates us?’ sections of the KeyFacts disclosure document templates in the FCA’s Conduct of Business sourcebook (COBS), Insurance Conduct of Business sourcebook (ICOBS), and Mortgages and Home Finance: Conduct of Business sourcebook (MCOB).

Q1: Do you have any comments on the proposed approach to introduce general transitional provisions?

3

Transitional arrangements for approved persons

- 3.1** This chapter describes the expected approach to transferring approvals to perform a controlled function, so that approvals granted by the FSA will be deemed to have been granted by either the PRA or FCA.
- 3.2** CP12/26 (*Regulatory Reform: the PRA and FCA Regimes for Approved Persons*) set out the proposed changes to the existing approved persons rules and guidance necessitated by the new regulatory regime. At the time we were not able to provide any detail on the treatment of people who are already approved, or how those approvals will be transferred to the new regulatory system. Following discussion with the Treasury regarding the provisions it is likely to include in their Transitional Orders, this CP can now set out the proposed approach in relation to the new regime.
- 3.3** We will be continuing discussions with the Treasury with a view to ensuring that the regulators' final transitional rules are consistent with the form of the Treasury transitional order. There is a possibility that some modifications to the proposals set out in this CP may be required as a result of those discussions.
- 3.4** CP12/26 indicated that the approvals currently held by individuals will be transferred, or 'grandfathered' to one or other of the new regulators, without a need for firms to make any new application or notification. This remains the intention, and will ensure that no material costs are incurred by firms, approved persons or the FCA and PRA as a result of the transition.
- 3.5** The draft transitional provisions in Appendix 2 are based on the underlying proposals set out in CP12/26. The FSA has received substantial feedback on those proposals, and it is possible that the final rules (i.e. the split of controlled functions between PRA and FCA) may change in response to that feedback. Were that to happen, the detail of the transitional rules would also need to change as a direct consequence, without further consultation. However, we propose that existing approvals would still be transitioned according to the same basic principles set out below.

Firms that will be regulated by the FCA only

- 3.6 As the proposed list of controlled functions for FCA-only firms is the same as the current list of controlled functions (except that CF12; actuarial, CF12A; with-profits actuary, and CF12B; Lloyd's actuary, would not apply), we propose that existing approvals (for significant influence and customer controlled functions) will be carried forward to and be deemed to have been approved by the FCA. This will be automatic with no action by firms or individuals necessary.

Firms that will be regulated by both the PRA and FCA

- 3.7 The CF2 (non-executive director) is the only controlled function which we proposed to split between the two regulators.⁶ On the basis of that split we propose that all existing CF2s would be deemed to have been approved by the FCA.⁷
- 3.8 All other significant influence approvals will be transitioned according to the following two general principles, which will still be followed, even if the division of functions between the PRA and FCA ultimately differs from the proposals in CP12/26:
- Principle 1: Each approval will be deemed to have been given by the regulator which will in future specify that particular controlled function in its rules.
 - Principle 2: Where there are changes between the old FSA framework of functions and the new PRA and FCA framework proposed in CP12/26, firms will not be required to take action to switch existing people to the new framework of functions while they remain in their current role.
- 3.9 As an example of how Principle 1 would operate, based on the CP12/26 proposals, anyone currently approved as CF3 (chief executive) will be deemed to have been approved to perform CF3 by the PRA.
- 3.10 Principle 2 means that if someone's role currently involves a single controlled function 'X', and after legal cutover someone performing that role would require approval to perform a different or additional function, that person will not need to apply for approval of those additional functions. Instead, they will be deemed to have approval by whichever regulator will specify X in its rules, and the transitional rules will provide that the approval for X is sufficient while they remain in that role. If their role changes after LCO and as a result they begin to perform a different or additional controlled function a new approval will be required.
- 3.11 The treatment of a person bidding in emissions auctions, as proposed in Appendix 2, is a special case, in that here the outcome of Principle 2 will be achieved by switching off part

6 CP12/26: www.fsa.gov.uk/library/policy/cp/2012/12-26.shtml

7 Under such an approval the PRA would still be able to take disciplinary action against anyone deemed to have approval by the FCA to perform CF2 (or any other significant influence function) on the basis of sections 64 and 66 of FSMA (as amended by the Financial Services Act 2012) and the proposals in Chapter 4 of CP12/26.

of an existing controlled function. As set out in CP12/26, a PRA's CEO function (CF3) can no longer encompass the bidding element of the customer function (CF30). Rather than require someone currently taking advantage of this to seek a new approval as CF30, we propose instead to say that anyone holding a PRA CF3 function at legal cutover does not need approval for the bidding element of CF30. However, the FCA would still be able to discipline such a person for misconduct in relation to bidding in emissions auctions, in virtue of the powers to write Statements of Principle which apply beyond a person's controlled function, which were conferred in the 2012 Act⁸ and discussed in Chapter 4 of CP12/26.

Q2: Do you agree with the proposed approach to transition existing approvals to either PRA or FCA, in particular the general principles set out at paragraph 3.8 above?

⁸ See s. 64 of FSMA as amended by the Financial Services Act 2012.

4

Members of a with-profits committee within the approved persons regime

- 4.1 Under the FSA's approved persons regime, the non-executive director function (CF2) includes any members of a with-profits committee, who do not otherwise fall within the definition of the director (CF1) or non-executive director functions.⁹
- 4.2 CP12/26 which consulted on our proposals to divide the approved persons regime did not include any proposals on with-profits committee members.¹⁰ It said that these proposals would follow at a later date and that the absence of definite proposals in CP12/26 should not be taken as an indication that with-profits committee members will not require approval.
- 4.3 It is now proposed that with-profits committee members will form part of the PRA's non-executive director function. In line with the existing approach this function would only apply to a person who is not already approved to perform the CF1 function or approved (by either the PRA or the FCA) as a non-executive director at that firm.
- 4.4 People currently approved as CF2 in virtue of their membership of a with-profits committee will have their existing approval 'grandfathered' in line with the approach set out in Chapter 3.
- 4.5 The proposals are covered in the draft instrument at Appendix 2.

Q3: Do you agree that members of a with-profits committee should form part of the PRA's non-executive director function?

⁹ See SUP 10.6.8R(2) in the current FSA Handbook.

¹⁰ See paragraphs 3.31 and 3.32 of CP12/26 *Regulatory reform: the PRA and FCA regimes for Approved Persons* www.fsa.gov.uk/library/policy/cp/2012/12-26.shtml

5

Miscellaneous amendments to the PRA and FCA Handbooks

Introduction

- 5.1 As part of the designation process, the FCA and PRA have identified some FSA Handbook provisions where the designation by one or both of the new regulators would not be appropriate, either because the legal basis or reference has changed, or for other reasons (as explained).
- 5.2 This chapter outlines these provisions and some other minor changes, to avoid any confusion when the designation of the Handbooks is made public.

Not designated by either the PRA or FCA

- 5.3 The provisions listed below will not appear in either the PRA or the FCA Handbook.
- PERG 2.9.12AG: this provision notes that in a paper published in 2004, the Treasury indicated that it intended to modify the scope of the exclusion from regulated activities applicable to the sale of body corporates. The Treasury has not done anything since and it appears there is no intention in the near future to change the rules.
 - PERG 2.11: this section is being deleted because otherwise additional guidance would need to be included for PRA permissions in order to accurately update PERG 2.11. It was felt that the addition of such material could confuse readers and this consideration outweighed the usefulness of the section. In addition, PERG 2 Annex 2 contains adequate information on the permission regime.

- PERG 3A.7: a number of these transitional arrangements relate to the Electronic Money Regulations 2011, the transitional period of which has now expired.
- PERG 8.2.6G: this provision explains that the purpose of FSMA 2000 (as originally enacted) was to bring together the regulation of people who provide financial services. This was relevant in explaining the FSA's position but not the position of the new regulators.
- PERG 11.2.Q19: the question relates to the FSA or HM Treasury's intention to regulate all property investment clubs, which was new at the time of questioning, but is no longer so.
- PERG 15.7: these transitional arrangements relate to the Payment Services Regulations 2009, the transitional period of which has now expired.
- DTR 1.1.3G: this provision refers to the FSA performing its functions as the competent authority under s72(1) of the Act, which is being deleted with no appropriate replacement.
- DTR 1A.1.4G: this provision refers to the FSA performing its functions as the competent authority under s72(1) of the Act, which is being deleted with no appropriate replacement.
- PR 1.1.2G: this provision refers to the FSA performing its functions as the competent authority under s72(1) of the Act, which is being deleted with no appropriate replacement.
- SUP App 2.9.1G: this provision makes a cross-reference to a provision that no longer exists in the PRA or FCA handbooks.
- FIT 1.2.2G: this provision contains an outdated cross-reference that renders it impractical to retain.
- Schedule 4s: currently, Handbook modules have a schedule (Schedule 4 in each case) that lists the powers and related provisions in FSMA that have been exercised by the FSA to make the provisions in the module. We are proposing not to carry forward any of these Schedule 4s at legal cutover, chiefly because of the resources that would be required at this stage in order to update them and align them with the updated FSMA. Details of the powers exercised by the new regulators in making their future Handbooks will be indicated in the relevant Board Instruments that contain the provisions being made. It would be possible to create new updated Schedule 4s after legal cutover, if considered useful.

Amendment to SUP 21

- 5.4 In CP12/24¹¹ we consulted on changes to Chapter 8 of the Supervision Manual (SUP 8) to reflect the 2012 Act's new approach to the FCA and PRA waiving or modifying the way in which their rules apply to regulated firms. We have identified a need for a specific corresponding change to be made to Chapter 21 of the Supervision Manual (SUP 21) which provides a particular form of waiver that the FCA will be minded to give to energy market participants. SUP 21 will only appear in the FCA Handbook and not in the PRA Handbook.
- 5.5 Sub-paragraph (2) of SUP 21.1.2 G needs to be amended to align the factors that the FCA will take into account in deciding whether to grant the waiver with section 138A of the 2012 Act (in the analogous way to the update of SUP 8 on this point). Instead of making reference to the factor that 'the waiver would not result in undue risk to persons whose interests the rules are intended to protect', it now needs to refer to the factor that 'the waiver would not adversely affect the advancement of any of the FCA's operational objectives'.
- 5.6 The text of the proposed amendment to SUP 21.1.2G is set out at Appendix 1.
- 5.7 The change is purely driven by the need to align our Handbook Guidance with the relevant provisions in the Act. The substance of the waiver itself, as set out at SUP 21 Annex 1, is not changing except regarding updated 'editorial' references to the FSA being changed to refer to the FCA and updated cross-references to the 2012 Act. These changes do not require public consultation.
- 5.8 Waivers already granted under SUP 21 will be transitioned under the general transitional arrangements being consulted on in this CP.

Changes to actions for damages in the PRA Handbook

- 5.9 The Act amends the new regulators' approach to Actions for Damages in their respective Handbooks. Currently (under s.150 of FSMA), unless the rules state otherwise, FSA rules, excluding those directly related to financial resources and certain others, are actionable by a private person (and in some cases other persons) who has suffered a loss as a result of a contravention of the rule. The amended s.138D of amended FSMA proposes that all rules in the PRA Handbook are non-actionable unless stated otherwise.
- 5.10 FEES (Fees Manual) 6 is currently actionable in the FSA Handbook under s.150 of FSMA, but will not be actionable when it is adopted by the PRA, under s.138D of amended FSMA. This is because we have not identified a benefit to private persons in retaining rights of action, either in totality or that would be additional to existing protections. Maintaining action for damages provisions in this circumstance would potentially pose an additional regulatory cost as a result of Handbook maintenance. It will, however, remain actionable in the FCA Handbook.

¹¹ CP12/24: *Regulatory Reform: PRA and FCA regimes relating to aspects of authorisation and supervision*, Chapter 6. This CP is accessible at: www.fsa.gov.uk/library/policy/cp/2012/12-24.shtml

Q4: Do you have any comments on the miscellaneous changes to the Handbooks as set out in this chapter?

Annex 1

Compatibility statement

1. This paper consults on rules which we expect to be made by the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA) in 2013. As such, this section sets out the compatibility of these rules with the PRA and FCA's general duties, in line with the amendments to the Financial Services and Markets Act 2000 (FSMA) as set out in the Financial Services Act 2012.
2. We are therefore commenting on the compatibility of our proposals against the duties and objectives of the PRA and FCA. This also includes an assessment of the policy's impact on mutual societies in Chapter 1.

Financial Conduct Authority (FCA)

3. In discharging its general functions (including making rules) the FCA must, so far as is reasonably possible, act in a way which (a) is compatible with its strategic objective, and (b) which advances one or more of its general objectives (section 1B(1) FSMA amended by the Financial Services Act 2012). It must also, so far as is compatible with advancing the consumer protection objective or the market integrity objective, discharge its general functions in a way that promotes effective competition in the interests of consumers.
4. The strategic objective of the FCA is ensuring that the relevant markets function well. The operational objectives of the FCA are: securing an appropriate degree of protection for consumers; protecting and enhancing the integrity of the UK financial system; and, promoting effective competition in the interests of consumers.
5. In discharging its general functions the FCA must have regard to the regulatory principles (section 1B(5)(a) FSMA as amended by the Financial Services Act 2012).
6. The draft regulatory principles of the FCA are stated in section 3B of FSMA as amended by the Financial Services Act 2012. Of those listed, the following are relevant to our proposals:

- the need to use the resources of each regulator in the most efficient and economic way; and
- the principle that a burden or restriction that is imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction.

Prudential Regulation Authority

7. Section 138J(2)(d) of FSMA (as amended by the Financial Services Act 2012) states the consultation undertaken by the PRA must include an explanation of the PRA's reasons for believing that making the proposed rules is compatible with its general objective, the need to have regard to the regulatory principles and the need to have regard to minimising any adverse effect on competition that the way in which it discharges functions may have.
8. The PRA's general objective is, when discharging its general functions, so far as is reasonably possible, to advance the promotion of safety and soundness of PRA authorised person (section 2B(1) and 2B(2) FSMA as amended by the Financial Services Act 2012.
9. The PRA's insurance objective is, when discharging its general functions so far as relating to a PRA-regulated activity relating to the effecting or carrying out of contracts of insurance or PRA authorised persons carrying out that activity to act, as far as is reasonably possible, in a way that is compatible with its general objective and to contribute to the securing of an appropriate degree of protection for those who are or may become policyholders (section 2C(1) and 2C(2) FSMA as amended by the Financial Services Act 2012.
10. Section 2H(1) FSMA as amended by the Financial Services Act 2012 requires the PRA to have regard to the regulatory principle to minimise any adverse effect on competition and the regulatory principles set out in section 3B FSMA as amended by the Financial Services Act 2012, of the regulatory principles listed the following are relevant to our proposals:
 - the need to use the resources of each regulator in the most efficient and economic way; and
 - the principle that a burden or restriction that is imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction.

Compatibility

11. In relation to both the PRA and the FCA we believe our proposals on both the approved persons provisions and the general Handbook transitionals are compatible with the FCA's strategic objective and regulatory principles and the PRA's objective and regulatory principles.

We also consider that the proposals advance the FCA's operational objectives and are compatible with the competition requirements imposed on both regulators.

12. If no transitional provisions were made firms and other persons would incur costs in order to obtain new permissions from the FCA and PRA under the Financial Services Act 2012. Until new permissions had been obtained, firms and other persons might need to stop certain activities eg persons currently approved would need to cease their participation in a firm until a new approval had been obtained. All provisions in this CP aim to keep to a minimum the cost and administration necessary to adjust to the new regulatory environment. They ensure that resource is not diverted from the main business of firms and other persons and that there is no interruption of activities.

Annex 2

List of questions

- Q1:** Do you have any comments on the proposed approach to introduce general transitional provisions?

- Q2:** Do you agree with the proposed approach to transition existing approvals to either PRA or FCA, in particular the general principles set out at paragraph 3.7 above?

- Q3:** Do you agree that members of a with-profits committee should form part of the PRA's non-executive director function?

- Q4:** Do you have any comments on the miscellaneous changes to the Handbooks as set out in this chapter?

Appendix 1

Draft Handbook text on the general transitional provisions including amendments to SUP 21.1.2 G

**GENERAL TRANSITIONAL AND MISCELLANEOUS PROVISIONS LEGAL
CUTOVER INSTRUMENT 2013**

Powers exercised by the Financial Conduct Authority

- A. The Financial Conduct Authority (“FCA”) 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 137A (The FCA’s general rules);
 - 2) section 137R (General supplementary powers);
 - 3) section 139A (Power of the FCA to give guidance);
- B. The rule making powers referred to above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

Powers exercised by the Prudential Regulation Authority

- C. The Prudential Regulation Authority (“PRA”) 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 137G (The PRA’s general rules);
 - 2) section 137R (General supplementary powers);
- D. The rule making powers referred to above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

Commencement

- E. This instrument comes into force on 1 April 2013.

Amendments to the Handbook

- F. The General Provisions sourcebook (GEN) is amended in accordance with Annex A to this instrument.
- G. The Supervision manual (SUP) is amended in accordance with Annex B to this instrument.

Citation

H. This instrument may be cited as the General Transitional and Miscellaneous Provisions Legal Cutover Instrument 2013.

By order of the Board of the Financial Conduct Authority

[*date*]

By order of the Board of the Prudential Regulation Authority

[*date*]

Annex A
General Provisions sourcebook (GEN)

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

GEN TP 1.1 and 1.2 are deleted in their entirety. The deleted text is not shown.

GEN TP 1.3(3) Transitional Provisions applying to GEN only

(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>13</u>	<u>GEN 4.3.1</u>	<u>R</u>	<u>A firm is not required to comply with GEN 4.3.1R</u>	<u>From <i>cutover</i>, for six months</u>	<u><i>Cutover</i></u>

After GEN TP 1.3(3) insert TP 2.1 and TP 2.2, as set out below. The following text is all new and not underlined.

GEN TP 2.1

Table: 1 Transitional Provisions applying across the FCA and PRA Handbooks

(1)	The purpose of these transitional provisions is to assist a smooth transition at <i>cutover</i> . They comprise various technical provisions that will apply across the whole <i>FCA</i> and <i>PRA Handbooks</i> and achieve results that most people would probably expect to apply in any event.
(2)	These transitional provisions consist of general transitional provisions, which apply at a high level of generality, and more specific transitional provisions in relation to record keeping and <i>notification rules</i> .
(3)	The more specific transitional provisions relating to record keeping and <i>notification rules</i> override the general transitional provisions. Both the general and the more specific

	transitional provisions do not apply if the context requires otherwise and are subject to any more specific transitional provision elsewhere in the <i>FCA</i> and <i>PRA Handbooks</i> relating to the matter.
(4)	Definitions for these transitional provisions, additional to those in the <i>Glossary</i> , are provided at paragraph 15 of the table.

GEN TP 2.2

Table 2: Transitional Provisions applying across the FCA and PRA Handbooks

(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 provision in the <i>FCA and PRA Handbooks</i> , unless the context otherwise requires and subject to any more specific transitional provision relating to the matter	R	<u>Acts under pre-cutover provisions</u> Anything done (or having effect as done) under, or for the purposes of, any pre-cutover provision has effect as if done under, or for the purposes of, any substantially similar provision in the FCA and PRA Handbooks.	From <i>cutover</i>	<i>Cutover</i>
2	Paragraph 1	G	For example, a <i>firm</i> may rely on action to establish the best price, taken shortly before <i>cutover</i> for the purposes of the <i>FSA</i> 's best execution rule, for the purposes of compliance with the <i>FCA</i> 's best execution rule, even if the transaction is <i>executed</i> after <i>cutover</i> .	From <i>cutover</i>	<i>Cutover</i>
3	Every provision in the <i>FCA and PRA Handbooks</i> , unless the context otherwise	R	<u>Series of events</u> If the application of any provision in the FCA or PRA Handbooks is dependent on	From <i>cutover</i>	<i>Cutover</i>

	requires and subject to any more specific transitional provision relating to the matter		the occurrence of a series of events, some of which occur before, and some of which occur after, <i>cutover</i>, the provision applies with respect to the events that occur after <i>cutover</i>.		
4	Paragraph 3	G	For example, a <i>firm</i> which <i>executes</i> an aggregated order shortly before <i>cutover</i> must comply with COBS 11.3.8R (Requirement for fair allocation) if the allocation occurs after <i>cutover</i> .	From <i>cutover</i>	<i>Cutover</i>
5	Every provision in the <i>FCA and PRA Handbooks</i> , unless the context otherwise requires and subject to any more specific transitional provision relating to the matter	R	<u>Deemed references to pre-cutover provisions</u> Any reference (express or implied) in a provision in the <i>FCA</i> or <i>PRA Handbooks</i> to a provision of, or made under, the <i>Act</i> is to be read (so far as the context permits and according to the context) as being or including, in relation to times, circumstances and purposes before <i>cutover</i>, a reference to any substantially similar pre-cutover provision.	From <i>cutover</i>	<i>Cutover</i>
6	Paragraph 5	G	For example, SUP 11.6.4R requires a <i>firm</i> authorised by the <i>FCA</i> to notify the <i>FCA</i> when a change in <i>control</i> , previously notified under SUP 11.4.2R, has taken place. Such a <i>firm</i> must notify a change in <i>control</i> that takes place after <i>cutover</i> , even if previously notified under SUP 11.4.2R as made by the <i>FSA</i> (and SUP 11.6.4R is to be read as referring to	From <i>cutover</i>	<i>Cutover</i>

			that pre-cutover provision).		
7	Every provision in the <i>FCA and PRA Handbooks</i> , unless the context otherwise requires and subject to any more specific transitional provision relating to the matter	R	<u>Time starting before cutover</u> If, at <i>cutover</i>, time has begun to run for any purpose under any pre-cutover provision applicable to a <i>firm</i> or other person, then: (1) time will be regarded as having started to run, for the purposes of any substantially similar provision in the <i>FCA</i> or <i>PRA Handbooks</i>, when it started to run for that other purpose; and (2) the <i>firm</i> or other person will be relieved of its obligation to comply with the relevant pre-cutover provision if and to the extent that it complies with the substantially similar provision as extended by this transitional provision.	From <i>cutover</i>	<i>Cutover</i>
8	Paragraph 7	G	For example, certain <i>firms</i> were required to submit product sales data reports within 20 <i>business days</i> of the end of the quarter by <i>SUP</i> 16.11.3R as made by the <i>FSA</i> . If the end of the quarter fell five days before <i>cutover</i> , the <i>firms</i> must still submit the report within 20 <i>business days</i> , but in accordance with <i>SUP</i> 16.7.8R as made by the <i>FCA</i> .	From <i>cutover</i>	<i>Cutover</i>
9	Every <i>rule</i> in the <i>FCA and PRA Handbooks</i> requiring a record to be made or retained (see schedule 1), unless the	R	<u>Record keeping</u> A <i>firm</i> or other person will not contravene a rule in the <i>FCA</i> or <i>PRA Handbooks</i> requiring a record to be	From <i>cutover</i>	<i>Cutover</i>

	context otherwise requires and subject to any more specific transitional provision relating to the matter		made, or retained, to the extent that the <i>firm</i> or other person: (1) made a record of the matter before <i>cutover</i>, in accordance with the <i>rule</i> or with a substantially similar pre-cutover provision applicable to the <i>firm</i> or other person; and (2) retains that record as if the <i>rule</i> was in force when the record was made.		
10	Every <i>rule</i> in the <i>FCA and PRA Handbooks</i> requiring a record to be made or retained (see schedule 1), unless the context otherwise requires and subject to any more specific transitional provision relating to the matter	G	This transitional provision makes specific provision, in relation to record keeping, for the matters covered by paragraph 1. It is included for clarity and overrides those general transitional provisions.	From <i>cutover</i>	<i>Cutover</i>
11	Every <i>rule</i> in the <i>FCA and PRA Handbooks</i> requiring a record to be made or retained (see schedule 1), unless the context otherwise requires and subject to any more specific transitional provision relating to the matter	R	A <i>firm</i> or other person must retain a record, in accordance with a <i>rule</i> in the <i>FCA</i> or <i>PRA Handbooks</i>, requiring a record of that sort to be retained, if the <i>firm</i> or other person was required to make and retain that record before <i>cutover</i> under a substantially similar pre-cutover provision applicable to the <i>firm</i> or other person.	From <i>cutover</i>	<i>Cutover</i>
12	Paragraph 9	G	This transitional provision makes specific provision, in relation to records, for the matters covered by paragraphs 5 and 7. It is included for clarity and	From <i>cutover</i>	<i>Cutover</i>

			overrides those general transitional provisions.		
13	Every <i>notification rule</i> in the <i>FCA and PRA Handbooks</i> (see Schedule 2), unless the context otherwise requires and subject to any more specific transitional provision relating to the matter	R	<u>Notification</u> A <i>firm</i> (or its auditor, appointed actuary or appropriate actuary) or other person will not contravene a <i>notification rule</i> in the <i>FCA</i> or <i>PRA Handbooks</i> to the extent that notice of the relevant matter was given to the <i>FSA</i> before <i>cutover</i> in accordance with: (1) the <i>notification rule</i> ; or (2) a substantially similar pre-cutover provision applicable to the <i>firm</i> or other person.	From <i>cutover</i>	<i>Cutover</i>
14	Paragraph 13	G	This transitional provision makes specific provision, in relation to notifications, for the matters covered by paragraphs 1 and 3. It is included for clarity and overrides those general transitional provisions.	From <i>cutover</i>	<i>Cutover</i>
15	As paragraphs 1 to 14	R	<u>Definitions</u> In these transitional provisions: (1) "pre-cutover provision" means a provision repealed or revoked by or under the Financial Services Act 2012 or a rule or section of guidance of the <i>FSA</i> , including (where the context permits) any relevant provision which it replaced before <i>cutover</i> ;	From <i>cutover</i>	<i>Cutover</i>
			(2) "substantially similar" means substantially similar		

			in purpose and effect; and		
			(3) a reference to a "provision" in the FCA or PRA Handbooks means every type of provision, including rules, guidance, provisions in codes, and so on.		
16	Paragraph 17	G	<u>Application for provisions which are not rules</u> The purpose of paragraph 17 is to ensure that the transitional provisions in paragraphs 1 to 8 apply throughout the <i>FCA</i> and <i>PRA Handbooks</i> .	From <i>cutover</i>	<i>Cutover</i>
17	<i>Statements of Principle, the Code of Practice for Approved Persons and Code of Market Conduct</i> and directions, requirements, guidance and other provisions in the <i>FCA</i> and <i>PRA Handbooks</i> (that is, provisions with the status letter "D" or "G" in the margin or heading) unless the context otherwise requires and subject to any more specific transitional provision relating to the matter	P	The provisions in paragraphs 1 to 10 apply to every person to whom the provisions referred to in column (2) apply as if the rules in those paragraphs were part of those provisions.	From <i>cutover</i>	<i>Cutover</i>

Annex B
Amendments to the Supervision manual (SUP)

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

21.1 Form of waiver for energy participants

...

21.1.2 G *Energy market participants* should bear in mind that section ~~148~~
138A of the *Act* requires that in order to give a *waiver* of particular
[FCA] *rules*, the ~~FSA~~ FCA must be satisfied that:

- (1) compliance with the *rules*, or with the *rules* as unmodified, would be unduly burdensome or would not achieve the purpose for which the *rules* were made; and
- (2) the *waiver* would not ~~result in undue risk to persons whose interests the *rules* are intended to protect~~ adversely affect the advancement of any of the *FCA's* operational objectives.

Appendix 2

Draft Handbook text
on the approved persons
transitional provisions
including text on
members of a with-profits
committee within the
approved persons regime

**APPROVED PERSONS TRANSITIONALS AND MISCELLANEOUS PROVISIONS
LEGAL CUTOVER INSTRUMENT 2013**

Powers exercised by the Financial Conduct Authority

- A. The Financial Conduct 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 137A (The FCA’s general rules);
 - (5) section 137T (General supplementary powers); and
 - (6) section 139A (Power of the FCA to give guidance).
- B. The rule-making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

Powers exercised by the Prudential Regulation Authority

- C. The Prudential Regulation 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 137G (The PRA’s general rules); and
 - (5) section 137T (General supplementary powers).
- D. The rule-making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

Commencement

- E. This instrument comes into force on 1 April 2013.

Amendments to the Handbook

- F. The Supervision manual (SUP) is amended in accordance with the Annex below.

Citation

- G. This instrument may be cited as the Approved Persons Transitionals and Miscellaneous Provisions Legal Cutover Instrument 2013.

By order of the Board of the Financial Conduct Authority

[*date*]

By order of the Board of the Prudential Regulation Authority

[*date*]

Annex

Amendments to the Supervision manual (SUP)

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

[*Editor's note:* Cross references to the approved persons chapters of the Supervision Manual are to the draft version of SUP 10A and SUP 10B as set out in CP12/26 (Regulatory reform: the PRA and FCA regimes for Approved Persons). No account is taken of the proposed changes in CP12/36 (The regulation and supervision of benchmarks)]

10B.6 PRA-governing functions

Non-executive director function (PRA) (CF2 PRA)

10B.6.3 G ...

10B.6.3A R If a firm is a long-term insurer, the non-executive director function (PRA) is also the function of acting in the capacity of an individual who, as a member of a committee having the purpose of a with-profits committee, has responsibility in relation to governance arrangements for with-profits business under COBS 20.3 (Principles and Practices of Financial Management). This does not apply to an individual performing:

- (1) the director function; or
- (2) the PRA firm non-executive director function (FCA).

...

Insert the following new section after SUP TP 1. The text is not underlined.

SUP TP 2 Transitional provisions relating to SUP 10A and SUP 10B: Transition from the FSA to the FCA and PRA

TP 2.1 Transition to the FCA

2.1.1 R An *approved person* who was, as at *cutover*, approved by the *FSA* to perform a *controlled function* specified by the *FSA* set out in column 1 of the table in SUP TP 2.1.2R in relation to a *firm*, is deemed to be approved by the *FCA* to perform the *FCA-controlled function* in the same row of column 2 in that table in relation to that *firm*. Column 3 states whether this applies in relation to all *firms* or just *FCA-authorised persons*.

2.1.2 R Table: FSA controlled functions transitioned to the FCA
[FCA]

FSA controlled function	FCA controlled function into which approved person transitioned	Firms to which transitional relates
Director function (CF1)	<i>Director function (CF1)</i>	<i>All firms</i>
Non-executive director function (CF2)	<i>Non-executive director function (CF2)</i>	<i>All firms</i>
Chief executive function (CF3)	<i>Chief executive function (CF3)</i>	<i>FCA-authorised persons only</i>
Partner function (CF4)	<i>Partner function (CF4)</i>	<i>All firms</i>
Director of unincorporated association function (CF5)	<i>Director of unincorporated association function (CF5)</i>	<i>All firms</i>
Small friendly society function (CF6)	<i>Small friendly society function (CF6)</i>	<i>All firms</i>
Apportionment and oversight function (CF8)	<i>Apportionment and oversight function (CF8)</i>	<i>All firms</i>
Compliance oversight function (CF10)	<i>Compliance oversight function (CF10)</i>	<i>All firms</i>
CASS operational oversight function (CF10A)	<i>CASS operational oversight function (CF10A)</i>	<i>All firms</i>
Money laundering reporting function (CF11)	<i>Money laundering reporting function (CF11)</i>	<i>All firms</i>
Systems and controls function (CF28)	<i>Systems and controls function (CF28)</i>	<i>FCA-authorised persons only</i>
Significant management function (CF29)	<i>Significant management function (CF29)</i>	<i>All firms</i>
Customer function (CF30)	<i>Customer function (CF30)</i>	<i>All firms</i>

TP 2.2 Transition to the PRA

2.2.1 [PRA] R An *approved person* who was, as at *cutover*, approved by the *FSA* to perform a *controlled function* in relation to a *PRA-authorised person* specified by the *FSA* set out in column 1 of the table in *SUP TP 2.2.2R* is deemed to be approved by the *PRA* to perform the *PRA-controlled function* in the same row of column 2 in that table in relation to that *firm*.

2.2.2 [PRA] R Table: FSA controlled functions transitioned to the PRA

FSA controlled function	PRA controlled function
Chief executive function (CF3)	<i>Chief executive function</i> (CF3)
Actuarial function (CF12)	<i>Actuarial function</i> (CF12)
With-profits actuary function (CF12A)	<i>With-profits actuary function</i> (CF12A)
Lloyd's actuary function (CF12B)	<i>Lloyd's actuary function</i> (CF12B)
Systems and controls function (CF28)	<i>Systems and controls function</i> (CF28)

TP 2.3 Switching off of certain PRA-controlled functions

2.3.1 [PRA] R If:

- (1) a *person* is deemed by *SUP TP 2* to have received approval from the *FCA* or the *PRA* to perform a *controlled function* listed in column 2 of the table in *SUP TP 2.3.2R* in relation to a *PRA-authorised person*;
- (2) that approval is still in force;
- (3) at *cutover* that *person* is performing for that *firm* the function in the same row in column 3 of that table;
- (4) the *person* does not have approval from the *PRA* to perform the *PRA-controlled function* listed in column 4 of the same row; and
- (5) that *person* is still performing the function in (3);

that function in column 3 does not form part of that *PRA-controlled function* as respects that *firm* and *person*.

2.3.2 [PRA] R Table: PRA-controlled functions switched off

	Controlled function	Job being done by approved person	PRA-controlled function switched off
(1) (see Notes 1 and 2)	<i>Any FCA governing function</i>	Chief financial officer (see SUP 10B.8.1R(1))	<i>Systems and controls function (CF28)</i>
(2) (see Notes 1 and 2)	<i>Any FCA governing function</i>	Chief risk officer (see SUP 10B.8.1R(2))	<i>Systems and controls function (CF28)</i>
(3) (see Notes 1 and 2)	<i>Any FCA governing function</i>	Chief internal auditor (see SUP 10B.8.1R(3))	<i>Systems and controls function (CF28)</i>
(4) (see Note 1)	<i>PRA chief executive function</i>	Chief financial officer (see SUP 10B.8.1R(1))	<i>Systems and controls function (CF28)</i>
(5) (see Note 1)	<i>PRA chief executive function</i>	Chief risk officer (see SUP 10B.8.1R(2))	<i>Systems and controls function (CF28)</i>
(6) (see Note 1)	<i>PRA chief executive function</i>	Chief internal auditor (see SUP 10B.8.1R(3))	<i>Systems and controls function (CF28)</i>
(7)	<i>Non-executive director function (CF2)</i>	Chairman of the governing body (see SUP 10B.6.1R(1))	<i>Non-executive director function (PRA) (CF2 PRA)</i>
(8)	<i>Non-executive director function (CF2)</i>	Senior independent director (see SUP 10B.6.1R(2))	<i>Non-executive director function (PRA) (CF2 PRA)</i>
(9)	<i>Non-executive director function (CF2)</i>	Chairman of the risk committee (see SUP 10B.6.1R(3))	<i>Non-executive director function (PRA) (CF2 PRA)</i>
(10)	<i>Non-executive director function (CF2)</i>	Chairman of the audit committee (see SUP 10B.6.1R(4))	<i>Non-executive director function (PRA) (CF2 PRA)</i>

(11)	<i>Non-executive director function</i> (CF2)	Chairman of the remuneration committee (see <i>SUP</i> 10B.6.1R(5))	<i>Non-executive director function</i> (<i>PRA</i>) (CF2 <i>PRA</i>)
(12)	<i>Non-executive director function</i> (CF2)	Acting in the capacity of a <i>non-executive director</i> of a <i>parent undertaking</i> or <i>holding company</i> (see <i>SUP</i> 10B.6.2R)	<i>Non-executive director function</i> (<i>PRA</i>) (CF2 <i>PRA</i>)
Note 1: Only applies if <i>SUP</i> 10.6.2R(1) in the <i>FSA</i> 's Handbook (no need for separate approval for the <i>FSA</i> 's systems and controls function if approved for certain of the <i>FSA</i> 's governing functions) applied at <i>cutover</i> .			
Note 2: Does not apply if the only <i>controlled function</i> in column 2 is the <i>non-executive director function</i> (<i>FCA</i>) or the function described in <i>SUP</i> 10A.6.8R).			

TP 2.4 Examples of how SUP TP 2 works

2.4.1 G The table in *SUP* TP 2.4.2G gives a few example of how *SUP* TP 2 works in the case of a *PRA-authorised person*.
[FCA/
PRA]

2.4.2 G Table: Examples of how SUP TP 2 works
[FCA/
PRA]

Example	Effect of transitionals	Comments
(1) Approved to perform the <i>FSA</i> 's director function immediately before <i>cutover</i>	Deemed approved by the <i>FCA</i> to perform the <i>director function</i>	
(2) Approved to perform the <i>FSA</i> 's systems and controls function immediately before <i>cutover</i>	Deemed approved by the <i>PRA</i> to perform the <i>PRA systems and controls function</i>	
(3) Approved to perform the <i>FSA</i> 's director function and chief executive function immediately before <i>cutover</i>	Deemed approved by the <i>FCA</i> to perform the <i>director function</i> . Deemed approved by the <i>PRA</i> to perform the <i>chief executive function</i> .	

<p>(4) Approved to perform the <i>FSA's</i> director function immediately before <i>cutover</i>. Was also performing the role of chief risk officer</p>	<p>Deemed approved by the <i>FCA</i> to perform the <i>director function</i>. Does not need separate approval to perform the <i>FCA systems and controls function</i> or the <i>PRA systems and controls function</i>.</p>	<p>Is not performing the <i>FCA systems and controls function</i> because that function does not apply in relation to a <i>PRA-authorised person</i>.</p> <p>Is not performing the <i>PRA systems and controls function</i> because of <i>SUP TP 2.3.1R</i>.</p>
<p>(5) Same as (4). After <i>cutover</i> takes on the job of chief internal auditor.</p>	<p>At <i>cutover</i>, same as example (4). Will need <i>PRA</i> approval when takes on the job of chief internal auditor.</p>	
<p>(6) Approved to perform the <i>FSA's</i> director function immediately before <i>cutover</i>. Was also performing the role of chief risk officer. After <i>cutover</i> resigns as director.</p>	<p>At <i>cutover</i>, same as example (4). Will need <i>PRA</i> approval when resigns as director.</p>	<p>This is because <i>SUP TP 2.3</i> only switches off the <i>PRA systems and controls function</i> for as long as the <i>person</i> still holds the relevant <i>FCA controlled function</i>.</p>
<p>(7) Approved to perform the <i>FSA's</i> non-executive director function immediately before <i>cutover</i>.</p>	<p>Deemed to be approved by the <i>FCA</i> to perform the <i>non-executive director function</i> (CF2).</p>	<p>Normally the <i>non-executive director function</i> (CF2) only applies in relation to <i>FCA-authorised persons</i>. However, for the purpose of the transitionals in <i>SUP TP 2</i>, it also applies in relation to <i>PRA-authorised persons</i>.</p>
<p>(8) Same as (7). The <i>person</i> was acting as chairman of the <i>governing body</i>.</p>	<p>Same as (7).</p>	<p>Same as (7). Also, the <i>non-executive director function</i> (<i>PRA</i>) does not apply</p>

(9) Approved to perform the <i>FSA's</i> non-executive director function immediately before <i>cutover</i> . Later, takes on the role of chairman of the <i>governing body</i> .	Deemed to be approved by the <i>FCA</i> to perform the <i>non-executive director function</i> (CF2) at <i>cutover</i> . Will need <i>PRA</i> approval when becomes chairman.	
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TP 2.5 Transitional provisions relating to bidding in emissions auctions

2.5.1 R *SUP* TP 2.5 deals with an *approved person* in relation to a *PRA-authorised*
[FCA] *person* who:

- (1) immediately before *cutover*, fell within *SUP* 10.6.2AR (*FSA's* governing functions include certain functions relating to *bidding in emissions auctions*); and
- (2) immediately before *cutover* was not approved to perform the *FSA's* customer *controlled function* in relation to that *firm*.

2.5.2 R If that *person* is deemed by *SUP* TP 2.1.1R to be approved to perform an
[FCA] *FCA governing function* to which *SUP* 10A.6.3R(2) (the part of the *customer function* relating to *bidding in emissions auctions* included in *governing functions*) applies, *SUP* 10A.6.3R(2) applies.

2.5.3 R In any other case *SUP* 10A.10.7R(7) does not apply in relation to that
[FCA] *person* and that *firm*.

TP 2.6 Transitional provisions relating to with-profits committee members

2.6.1 R The list of functions in *SUP* 10B.6.3AR(1) and (2) (list of functions which
[PRA] excuse a member of a *with-profits committee* from need to be approved for the *non-executive director function* (*PRA*)) includes the *non-executive director function* for which deemed approval is given under *SUP* TP 2.1.1R.

2.6.2 G *SUP* 10B.6.3AR(1) and (2) include the *director function* and the *PRA firm*
[PRA] *non-executive director function* (*FCA*), including those who perform those functions under the transitional requirements of *SUP* TP 2.

Appendix 3

Designation of Handbook Provisions

FSA Handbook provisions will be ‘designated’ to create a FCA Handbook and a PRA Handbook on the date that the regulators exercise their legal powers to do so. Please visit our website¹ for further details about this process.

We plan to designate the Handbook Provisions which we are proposing to create and/or amend within this Consultation Paper as follows:

Handbook Provision	Designation
SUP 21.1.2 G	FCA
GEN TP 1.3 (3)	Shared
GEN TP 2.1 Table 1	Shared
Gen TP 2.2 Table 2	Shared
SUP 10B.6.3 A	PRA
SUP TP 2.1	FCA
SUP TP 2.2	PRA
SUP TP 2.3	PRA
SUP TP 2.4	Shared
SUP TP 2.5	FCA
SUP TP 2.6	PRA

¹ One-minute guide <http://media.fsahandbook.info/latestNews/One-minute%20guide.pdf>

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The Financial Services Authority
25 The North Colonnade Canary Wharf London E14 5HS
Telephone: +44 (0)20 7066 1000 Fax: +44 (0)20 7066 1099
Website: www.fsa.gov.uk

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